

ORDINANCE NO. 6816

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE AMENDING SECTION
16.16.140 OF CHAPTER 16.16 OF TITLE 16 OF THE ROSEVILLE MUNICIPAL CODE
REGARDING REGULATIONS FOR FIREWORKS

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. Section 16.16.140 of Chapter 16.16 of Title 16 of the Roseville Municipal Code is hereby amended to read as follows:

16.16.140. Regulations for fireworks.

A. Chapter 56, Section 5608.1 of the California Fire Code, as adopted by the city, is hereby amended to read as follows:

5608.1 General. Outdoor fireworks displays, use of pyrotechnics before a proximate audience and pyrotechnic special effects in theatrical and group entertainment productions shall comply with California Code of Regulations, Title 19, Division 1, Chapter 6- Fireworks, and this chapter.

B. Prohibited Fireworks. Except as otherwise provided in this section, no person shall possess, manufacture, sell, use, display or explode any dangerous fireworks including, but not limited to, any rocket, firecracker, roman candle, squib, torpedo, wire core sparkler, wooden core sparkler, black cartridge, aerial shell or other combustible device or explosive substance or any kind of fireworks, by whatsoever name known, or any altered safe and sane fireworks within the city.

C. Public Displays. Public displays of fireworks may be given under permit issued by the fire code official consistent with state law where such displays will take place under the direction and supervision of a state of California licensed pyrotechnic operator.

D. Public Notice. Applicants for a fireworks public display permit shall provide notice to the surrounding community prior to the public display in accordance with standards approved by the fire code official.

E. Safe and Sane Fireworks. It shall not be unlawful to possess, use, display or discharge, within the city, those fireworks that are defined and classified as "safe and sane fireworks" by Health and Safety Code section 12529, as may be amended from time to time, during the period from noon on the 28th of June through 11:59 pm on the 4th of July of the same calendar year. Any fireworks that are not defined and classified as "safe and sane fireworks" by Health and Safety Code Section 12529, as may be amended from time to time, are "dangerous fireworks" for purposes of this section..

F. Host Liability. No host shall knowingly allow any person to violate a provision of this section on the host's property. For purposes of this section, "host" means: (i) any person having ownership, control, the right to use, and/or possess a property; and/or (ii) is responsible for hosting, organizing, supervising, officiating, conducting, and/or accepts responsibility for a gathering. Additionally, for purposes of this section, "knowingly" shall mean that a person knew or reasonably should have known, looking

at the totality of the circumstances. The provisions of this section shall not apply to:

1. The possession, manufacture, storage, display, sale, use, or discharge of fireworks as permitted under federal law, state law, and/or this section;
 2. A host who seeks immediate assistance from any law enforcement agency to remove any person who refuses to abide by the host's performance of the duties imposed by this section, or to terminate the gathering because the host has been unable to prevent violation of this section, despite having taken reasonable steps to do so;
 3. A host who seeks immediate medical assistance to provide care for a person in danger, due to a violation of this section.
- G. Sale of Safe and Sane Fireworks. The sale of "safe and sane fireworks", authorized and labeled in accordance with Health and Safety Code section 12529, as may be amended from time to time, within the city, shall be permitted only between noon and 10:00 p.m. on the 28th of June of each year and 9:00 a.m. through 10:00 p.m. on June 29th through the 4th of July of the same calendar year.
- Exception: No person shall sell or offer to sell or expose for sale any safe and sane fireworks to any person under the age of 18 years.
- H. Permits. It is unlawful for any person, firm, or corporation to sell safe and sane fireworks within the city without having first applied for and received a city permit therefor, in addition to the required state license.
- I. Permit Requirements. The following are requirements for an application for a permit to sell safe and sane fireworks in the city:
1. No permit to sell safe and sane fireworks shall be issued to any person or business entity except nonprofit organizations.
 - a. "Nonprofit organization" means: (i) any nonprofit association, charity or corporation organized pursuant to the Internal Revenue Code or California Revenue and Taxation Code; or (ii) a group which is an integral part of a recognized national organization having such tax-exempt status; or (iii) an organization officially affiliated with and officially recognized by: (A) an elementary school, middle school, and/or high school and/or school district that serves, in whole or in part, the residents of the city, or (B) a public and/or private community college, college and/or university which is located within the boundaries of the city.
 2. Any nonprofit organization that is qualified to sell safe and sane fireworks must meet all of the following criteria for a continuous period of not less than one full year preceding submittal of an application for a permit to sell fireworks required by this section and which continues to meet the criteria for the duration of any permit to sell fireworks issued by the city.
 - a. The organization must have its principal and permanent meeting place within the city.
 - b. The organization must have a demonstrated benefit or provide a service to the citizens of Roseville.
 - c. The organization must have a minimum bona fide membership of at least 20 members who either reside in the city or are owners or operators of a business

or other establishment located in the city or attest that the otherwise qualified organization will have a minimum of 20 volunteers to staff a fireworks booth. The organization shall provide documentation demonstrating the minimum bona fide membership to the satisfaction of the fire chief.

- d. The organization must not have been found by any court of competent jurisdiction or city administrative hearing officer to be in violation of any civil or criminal local, state or federal law within 24 calendar months prior to the organization's submittal of an application for a permit to sell fireworks.
 - e. All applications for permits shall be accompanied by a California State Board of Equalization temporary sales tax permit.
 - f. All applications for permits shall be in writing to the fire department on forms supplied by the city.
 - g. Applications must be filed 30 days prior to the actual sale or display.
 - h. Applications shall set forth the proposed location of the fireworks stand.
 - i. Applications shall be accompanied by a certificate of insurance in a form approved by the city attorney showing public liability insurance coverage in a minimum amount of \$1,000,000.00.
 - j. All applications for permits shall be accompanied by a retail sales permit issued by the California State Fire Marshal.
 - k. Applicants shall furnish such other data or information as may be required relating to the issuance of such fireworks permits.
 - l. Applications shall identify the name, organizational form, address of the principal meeting place, number of members, the purpose of the organization or corporation and the date it came into existence within the city. Only those organizations that are located within the city limits will be allowed to sell fireworks. Each organization, and its affiliated groups, will be limited to no more than one booth.
 - m. Every application shall designate one or more individuals as the fireworks stand safety officer. That individual shall be required to attend a fireworks stand operators safety seminar and orientation session conducted or approved by the city's fire department prior to issuance of the permit. The fireworks stand safety officer(s) must attend the seminar each year regardless of whether or not they have previously attended such a seminar in the past.
 - n. Each application shall be accompanied by the applicable permit fee. Such fee shall be nonrefundable. The fee shall be used to defray the expense of administering the provisions of this section and to provide safety and informational material and programming relative to fireworks.
- J. Permit Revocation. The fire chief may suspend or revoke any permit upon proof that the permitted organization or corporation, or any of its members, has violated any of the provisions of this section relating to fireworks. If the fire chief determines that the suspension occurred too late in the limited sales period to have the necessary deterrent

effect, he or she may disqualify the permitted person or organization from obtaining a permit for a period of up to two additional years. Such additional disqualifications may be appealed to the city manager in writing within 15 calendar days of the action.

- K. Number of Permits Issued. Except as otherwise provided, not more than 15 permits for fireworks shall be issued during any one calendar year. In the event more than 15 applications for permits are received, priorities for issuing of permits shall be determined by the fire chief as follows:
 - 1. First priority shall be to those applicants who received a permit in the prior calendar year and actually operated a fireworks stand. Provided, however, that such priority shall expire after five consecutive years, and that nothing herein shall be construed so as to permit more than one fireworks stand per organization.
 - 2. Second priority shall be to those otherwise qualified organizations.
 - 3. In the event that the number of applicants within a given class of priority exceeds the number of permits remaining to be granted, then the selection of permittees shall be by lot. Such lottery shall be conducted in public by the fire chief who shall notify all applicants at least five days in advance of the date and time of the lottery.
- L. Temporary Fireworks Stands. Retail sales of safe and sane fireworks are permitted only from within a temporary fireworks stand and subject to the following provisions:
 - 1. No person other than the permitted organization shall operate the fireworks stand for which the permit is issued or share or otherwise participate in the profits of the operation of such stand.
 - 2. No person other than the individuals who are members of the permitted organization shall sell or otherwise participate in the sale of safe and sane fireworks.
 - 3. Each fireworks stand shall have a responsible adult in attendance and in charge of the stand at all times while it is being used for the display or storage of safe and sane fireworks.
 - 4. Each fireworks stand shall have a fireworks stand safety officer in attendance and in charge at all times while it is being used for the sale or the offering for sale of safe and sane fireworks.
 - 5. All safe and sane fireworks shall be retained or stored at the approved location of the fireworks stand, and in no event shall fireworks, other than those which have been sold, be removed from the approved fireworks stand location to any other place within the city.
 - 6. There shall be no drinking or possession of alcoholic beverages in or about the fireworks stand or storage site at any time.
 - 7. Fireworks stands may only be located on property zoned C-C, G-C, M-1, or M-2.
 - 8. No fireworks stand shall be located within 25 feet of any other building or within 50 feet of any gasoline station, fuel pump, storage tank, generator or bulk plant.

9. Fireworks stands shall be located at least 100 feet apart from any other fireworks stand.
 10. Fireworks stands shall comply with the provisions of the Building Code as determined by and at the discretion of the building official. All stands shall be erected under the supervision of the building official. The building official shall require that stands be constructed in a manner which will reasonably insure safety of attendants and patrons.
 11. Temporary electrical wiring within the fireworks stand shall be prohibited.
 12. Electrically powered equipment shall be located at least 10 feet from the fireworks stand.
 13. Each stand shall have at least two approved exits located at opposite ends of the stand.
 14. Any relocation of a fireworks stand shall be subject to prior approval of the fire chief.
 15. Each fireworks stand shall be provided with two two-and-one-half-gallon "water-type" fire extinguishers approved by the fire chief, in good working order and easily accessible for use in case of fire. Such fire extinguishers shall be kept at or immediately near the fireworks stand.
 16. All weeds and combustible materials shall be cleared from the location of the fireworks stand, to a distance of at least 30 feet.
 17. When the fireworks stand is not being used for the sale and/or display of fireworks, all fireworks shall be stored in a manner consistent with one of the following:
 - a. Within a reinforced, heavy metal, fully-enclosed container, walk-in type drop box, or its equivalent, as approved by the fire code official; or
 - b. Returned daily to the licensed fireworks wholesaler for storage at an approved location.
- M. Igniting Fireworks Near Stand. It is unlawful to discharge or ignite fireworks of any type within 25 feet of a fireworks stand.
- N. Removal of Fireworks Stand. Fireworks stands shall be removed from the temporary locations by noon on the 6th day of July, and all accompanying litter shall be cleared from the locations by that time.
- O. Penalties. It is unlawful and a public nuisance to violate any of the provisions of this section. Violation of this section shall be charged as a misdemeanor. Additionally, the city shall be entitled to recover response costs required to address any provision of this section, including from a host. "Response costs" shall mean those reasonable and necessary costs directly incurred by city personnel for a response to an illegal discharge or illegal storage of fireworks, and include the cost of providing law enforcement, firefighting, and/or other emergency services at the scene of the violation.
- P. Civil Injunction. The violation of any provision of this section shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of city, create a cause of action for injunctive relief.
- Q. Administrative Remedies. In addition to the civil remedies and criminal penalties set forth herein, any person that violates the provisions of this section may be subject to administrative remedies, as set forth by city ordinance, including the recovery of any response cost. Each individual dangerous firework and/or illegal discharge or storage may be charged as a

separate violation.

- R. Cumulative Remedies, Procedures and Penalties. Unless otherwise expressly provided, the remedies, procedures and penalties provided by this section are cumulative to each other and to any others available under state law or other city ordinances.
- S. Effect on Criminal Prosecution. Nothing in the adoption or administration of this section shall be construed as affecting the ability to initiate or continue concurrent or subsequent criminal prosecution for any violation of the provisions of this code or any state law arising out of the same circumstances necessitating the application of this section.
- T. Severability. The provisions of this section are hereby declared to be severable. If any section, sentence, clause, phrase, word, portion or provision of the ordinance codified in this section is held invalid, or unconstitutional, or unenforceable, by any court of competent jurisdiction, such holding shall not affect, impair, or invalidate any other section, sentence, clause, phrase, word, portion, or provision of said ordinance which can be given effect without the invalid portion. In adopting said ordinance, the city council affirmatively declares that it would have approved and adopted said ordinance even without any portion which may be held invalid or unenforceable.

SECTION 2. This ordinance shall be effective at the expiration of thirty (30) days from the date of adoption.

SECTION 3. The City Clerk is hereby directed to cause this ordinance to be published in full at least once within fourteen (14) days after it is adopted in a newspaper of general circulation in the City, or shall within fourteen (14) days after its adoption cause this ordinance to be posted in full in at least three (3) public places in the City and enter in the Ordinance Book a certificate stating the time and place of said publication by posting.

PASSED AND ADOPTED by the City Council of the City of Roseville this 15th day of May 2024, by the following vote on roll call:

AYES COUNCILMEMBERS: Bernasconi, Alvord, Roccucci

NOES COUNCILMEMBERS: None

ABSENT COUNCILMEMBERS: Houdesheldt, Mendonsa



VICE MAYOR

ATTEST:



City Clerk