

ORDINANCE NO. 02-26

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING CHAPTER 8.13 OF THE ORANGE MUNICIPAL CODE TO IMPOSE STRICT LIABILITY ON SOCIAL HOSTS FOR ALLOWING, FACILITATING, OR FAILING TO PREVENT THE USE OR DISCHARGE OF ILLEGAL FIREWORKS AND ESTABLISHING ENFORCEMENT PENALTIES AND ADMINISTRATIVE FINES

WHEREAS, California Constitution, Article XI, Section 7, authorizes the City of Orange (“City”) to adopt and enforce local police, sanitary, and other ordinances and regulations that are not in conflict with general laws; and

WHEREAS, California Health & Safety Code section 101450 empowers the City Council to take measures necessary to preserve and protect public health, including adopting ordinances, regulations, and orders that are not in conflict with general laws; and

WHEREAS, the discharge of illegal fireworks is a common problem faced by many jurisdictions in California, including the City of Orange (“City”) and surrounding communities; and

WHEREAS, the upcoming holiday season, particularly Independence Day, and other celebrations such as New Year's Eve, present an immediate and recurring threat of catastrophic wildfires caused by illegal fireworks, especially given California’s extended fire season and climate conditions that create extreme fire danger; and

WHEREAS, the City of Orange currently regulates fireworks pursuant to Chapter 8.13 of the Orange Municipal Code and is compatible with the State Firework Law (California Health and Safety Code Section 12500 et seq.); and

WHEREAS, the City of Orange only permits the use of safe and sane fireworks as defined by State law on July 4th of each year between the hours of noon and 10:00 p.m. in approved areas within the city limits; and

WHEREAS, the City’s Police Department responds to numerous firework complaint calls during holiday periods; and

WHEREAS, the City’s existing fireworks prohibition lacks adequate enforcement mechanisms to hold social hosts accountable, resulting in continued illegal fireworks activity that poses an immediate threat to life and property; and

WHEREAS, illegal fireworks can cause serious burns, eye injuries, and other traumatic injuries requiring immediate medical attention, and delayed implementation of this Ordinance would risk continued illegal fireworks activity during upcoming holidays, directly threatening public health; and

WHEREAS, the City's Police Department has encountered operational difficulties in accurately identifying and citing responsible parties for violations of Chapter 8.13 when illegal fireworks are discharged or used at private residences or neighborhood block parties, particularly during large, crowded gatherings. To expand the enforcement tools available to both law enforcement and code enforcement, the City seeks to adopt "social host liability" regulations. These regulations would impose strict liability on the property owner, host, or any person in possession or control of the property for permitting any individual to sell, possess, ignite, explode, project, discharge, or otherwise use illegal fireworks on property owned or controlled by that person in violation of this chapter, regardless of the owner's, host's or responsible person's intent, knowledge, or negligence; and

WHEREAS, the City wishes to adopt this Social Host Liability Ordinance to help deter illegal fireworks activity and provide enhanced enforcement mechanisms during the upcoming holiday season; and

WHEREAS, the City Council has identified the discharge of illegal fireworks as a public nuisance, and finds that there should be an increase in enforcement and penalties for the discharge of illegal fireworks; and

WHEREAS, the City Council finds that illegal fireworks also pose significant year-round risks to public health, safety, and welfare, including fire hazards, property damage, and disturbances of the peace to residents.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

The subject Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines (Guidelines) Sections 15060(c)(2) and 15060(c)(3) because review and evaluation of potential impact of the Ordinance demonstrate that it will not result in a direct or reasonably foreseeable indirect physical change in the environment, and it is not a "project" as defined in Guideline 15378 and the Ordinance regulates conduct and enforcement procedures and does not authorize or result in any physical development or change to the environment; any resulting enforcement activity is indirect, speculative, and not a reasonably foreseeable physical change.

SECTION II:

Section 8.13.020 of the Orange Municipal Code, "Health and Safety – Fireworks – Definitions," is hereby amended to read as follows:

8.13.020 Definitions.

The following words and phrases, as used in this chapter, are defined as follows:

“Adjacent” means any public or private street, sidewalk, alley, parkway, park area, or other right-of-way that directly abuts the property where the activity occurs or is located within two hundred (200) feet of the host’s private property.

“City Manager” means the City Manager or his or her designee.

“Code Enforcement Personnel” has the same meaning as defined in Orange Municipal Code Section 2.80.010, as may be amended.

“Dangerous fireworks” means "dangerous fireworks" as defined in Health and Safety Code Sections 12505 and 12561 and the relevant Sections of Title 19, Code of Regulations, Division 1, Chapter 6 as may be amended.

“Fire Chief” means the Fire Chief or his or her designee.

“Fireworks” has the same meaning as California Health and Safety Code Section 12511, as may be amended.

“Fireworks stand” means any building, counter, or other structure of a temporary nature used in the sale, offering for sale or display for sale of safe and sane fireworks.

“Fireworks wholesaler” means any person, other than an importer, exporter or manufacturer selling directly to wholesalers, who sells fireworks to a retailer or any other person for resale.

“Gathering” is a party, gathering, event, or other social function where a group of three or more persons have assembled or are assembling for a social occasion or social activity.

“Illegal fireworks” means any of the following:

1. Dangerous fireworks of twenty-five (25) pounds or less.
2. Altered safe and sane fireworks.
3. Any other combustible device or explosive substance the use, possession, or discharge of which is prohibited by applicable City, State, or Federal law.

“Permit application” means a form provided by the City used to determine eligibility to participate in the safe and sane fireworks lottery.

“Permit” means a certificate issued by the Fire Chief that allows a qualified organization chosen by way of a lottery to sell safe and sane fireworks for the dates and times listed on the permit.

Issuance of a permit does not confer to permittee ANY PROPERTY RIGHT and the City may at its sole discretion, without notice or opportunity for hearing, revoke the permit.

“Permittee” means a qualified organization that has received a permit to sell safe and sane fireworks.

“Property” means any of the following:

1. Any private property, including but not limited to any home, residence, yard, courtyard, grounds, balcony, porch, roof, parking lot, vacant lot, park, playground, field, apartment, condominium, townhouse, hotel, motel, other dwelling unit, hall, meeting facility, or any types of commercial or industrial premises, whether occupied temporarily or permanently; whether used as a dwelling or not, or for a private display, or gathering; and whether owned, leased, rented, or otherwise used, with or without compensation.
2. Public property, including but not limited to any publicly owned or controlled facility, area, right-of-way, sidewalk, street, alley, parking lot or grounds that are rented, reserved, permitted, or otherwise used for private display, or gathering, including space within a public park or other governmental facility, with or without compensation.

“Public display of fireworks” means any event where the public is admitted or allowed to view the display or discharge of safe and sane fireworks, including private, theatrical or civic performances.

“Qualified organization” means any nonprofit, including, but not limited to, 501(c)(3) or other charity as defined by federal or state law, or a group which is an integral part of or recognized by a nonprofit or charity and in existence for at least one year prior to submitting a permit application or an elementary, junior high and/or high school and/or school district and recognized affiliates or public and/or private community college, college and/or university that serves, in whole or in part, the residents of the City and is located within the boundaries of the City. An organization either administratively or criminally guilty of violating any local, state or federal law or that had a permit revoked within 24 calendar months prior to the organization's submittal of a permit application shall not be a qualified organization.

“Response costs” means those reasonable and necessary costs directly incurred by Code Enforcement Personnel for a response to a violation of this chapter or other applicable provisions of this Code, and include the cost of providing law enforcement, firefighting, public work services and/or other emergency services at the scene of the violation, including, without limitation, the following:

1. Salaries and benefits of any Code Enforcement Personnel and/or other City Officials for the time spent responding to, remaining at, or otherwise dealing with the violation, and the administrative costs attributable to the response(s); and

2. The cost of any medical treatment to or for any Code Enforcement Personnel and/or other City Officials injured responding to, remaining at, or leaving the scene of the violation; and
3. The cost of repairing any equipment or material used by Code Enforcement Personnel, other City Officials or damage to City property, and the cost of the use of any such equipment and/or material, in responding to, remaining at, or leaving the scene of the violation; and
4. The costs associated with the handling, processing, photography, storage, transportation, and disposal of any illegal fireworks, including any reimbursement to the Office of the State Fire Marshal for fireworks seized pursuant to this chapter or applicable law.

“Safe and sane fireworks” means safe and sane fireworks as defined in Health and Safety Code Sections 12529 and 12562 and Title 19, Code of Regulations, Division 1, Chapter 6 as may be amended.

“Social host” or “Host” means any of the following:

1. Any person responsible for private property in the City of Orange, including but not limited to an owner, landlord, lessee, trustee, tenant, property manager, or anyone lawfully in possession or control; and/or
2. Any person with the right to use, possess, or occupy public or private property by ownership, lease, permit, license, rental agreement, or contract or anyone lawfully in possession or control; and/or
3. Any person who hosts, organizes, supervises, officiates, conducts, controls, manages, permits, allows, promotes, sponsors, aids, abets, accepts responsibility, or is otherwise responsible for any spectators, private display, or gathering on private or public property, or on any adjacent public or private street.

“Spectator” means any person who is present at the time illegal fireworks are ignited, exploded, projected, discharged, possessed, sold, or otherwise used, for the purpose of viewing, observing, watching, gathering, participating in, engaging in, or otherwise witnessing such activity, whether occurring on private or public property, or on any adjacent public or private street.

“Strictly liable” means legally responsible for a violation or wrongful act regardless of intent, knowledge, negligence, fault, or participation, and regardless of whether the person knew, reasonably should have known of, authorized, or failed to prevent the conduct giving rise to the violation or wrongful act.

SECTION III:

Section 8.13.030 of the Orange Municipal Code, “Health and Safety – Fireworks – Administrative Regulations,” is hereby amended to read as follows:

8.13.030 Administrative Regulations.

Unless specifically provided for in the Orange Municipal Code, the City Manager may from time to time adopt reasonable administrative policies, procedures, enforcement measures, rules, and regulations consistent with this chapter as necessary to implement, administer, and enforce its provisions. Such rules and regulations shall have the force and effect of law, and failure to comply shall constitute a violation of this chapter. All rules and regulations shall be published in advance and filed with the City Clerk for public inspection.

SECTION IV:

Section 8.13.140 of the Orange Municipal Code “Health and Safety – Fireworks – Seizure of Fireworks,” is hereby amended to read as follows:

8.13.140 Seizure of Fireworks.

The Fire Chief or any designated Code Enforcement Personnel may seize, take, remove, abate or cause to be removed, at the expense of the permittee, fireworks wholesaler, or any person, whichever is applicable, all stocks of fireworks offered, possessed, stored, or exposed for sale, or held in violation of this chapter or applicable law.

SECTION V:

Section 8.13.180 “Health and Safety – Fireworks – Host, Minor, and Spectator; Strict Liability,” is hereby added to the Orange Municipal Code to read as follows:

8.13.180 Host, Minor, and Spectator; Strict Liability.

- A.** A host is strictly liable for any violation involving the ignition, explosion, projection, discharge, use, possession, sale, or display of illegal fireworks, occurring on property owned, leased, occupied, or otherwise under the control of the host, or on any adjacent public or private street as defined in this chapter.
- B.** A host has an affirmative duty to take any and all reasonable steps to prevent the ignition, explosion, projection, discharge, use, possession, sale, or display of illegal fireworks, on private or public property, or on any adjacent public or private street.
- C.** This section shall not apply to:
 - 1.** The possession, manufacture, storage, display, sale, use, or discharge of fireworks authorized by applicable City, State, or Federal law.
 - 2.** Public displays or theatrical performances of fireworks activities conducted by pyrotechnic operators licensed by the State Fire Marshal operating pursuant to that

license with required City permits and approvals, including spectators lawfully present at such activities.

3. A host, property owner, or responsible person in possession or control of the property who, before any other person reports a violation, promptly contacts law enforcement or Code Enforcement Personnel to request assistance in removing any involved person, illegal fireworks, from the property or any adjoining public or private street, or in terminating the unlawful activity to achieve compliance with this chapter.
- D. Any parent, guardian, or person with care, custody, or control of a minor under eighteen (18) years of age is strictly liable for any violation arising from the minor's ignition, explosion, projection, discharge, use, possession, sale, or display of illegal fireworks, on private or public property, or on any adjacent public or private street. Presence at the time of the violation is not required to impose liability. Any such violation may also be separately attributed to the minor to the extent permitted by law.
- E. Any person present as a spectator during the ignition, explosion, projection, discharge, use, possession, sale, or display of illegal fireworks, on private or public property, or on any adjacent public or private street, may be deemed a responsible person under this chapter when substantial evidence demonstrates active participation in, direction of, or material assistance in the violation.
- F. Upon identifying the ignition, explosion, projection, discharge, use, possession, sale, or display of illegal fireworks, a law enforcement or other Code Enforcement Personnel may issue a written notice to any person, host, minor, spectator, or other responsible person stating that a violation of this chapter or other applicable provisions of this Code has occurred and that subsequent violations may result in enforcement action and/or the assessment of response costs.

SECTION VI:

Section 8.13.190 "Health and Safety – Fireworks – Block Party Permit or Special Event Permit Restrictions," is hereby added to the Orange Municipal Code to read as follows:

8.13.190 Block Party Permit or Special Event Permit Restrictions.

- A. Any person, firm, host, or corporation that applies for and receives a Block Party Permit, Special Event Permit, or other City-required permit, license, or approval pursuant to the City Code to reserve, use, close, or restrict access to a private or public property, or any adjacent public or private street, shall comply with all imposed conditions. Such conditions include, but are not limited to, taking any and all reasonable measures to prevent the ignition, explosion, projection, discharge, possession, sale, display, or other use of any illegal fireworks.
- B. Any violation of a permit, license, or approved condition shall result in strict liability and constitute violation under this chapter.

- C. Any person, firm, host, or corporation required to obtain, but failing to obtain, a Block Party Permit, Special Event Permit, or other City-required permit, license, or approval pursuant to the Code shall likewise constitute a violation under this chapter.

SECTION VII:

Section 8.13.200 “Health and Safety – Fireworks – Enforcement,” is hereby added to the Orange Municipal Code to read as follows:

8.13.200 Enforcement.

- A. No limitation on other remedies. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- B. This Chapter provides a nonexclusive and cumulative method of enforcement. The City may pursue any and all other remedies authorized by this Code and applicable law, whether concurrently, separately, or consecutively, including but not limited to administrative and criminal enforcement under Chapter 1.08 and/or 1.10, civil actions (including injunctive relief), and nuisance abatement procedures. This Chapter supplements all other remedies available under the Orange Municipal Code, state law, and other applicable regulations.
- C. Strict liability offense. A violation of this chapter is expressly declared as a strict liability offense against any person, host, minor, spectator, or other responsible person including any and all response costs resulting from such violation or act.
- D. Responsible persons; joint liability. For enforcement purposes, any person, host, minor, spectator, or other responsible person may be deemed a responsible person and cited separately and cumulatively. The City may issue citations to any and all responsible persons, including the individual who ignited, exploded, projected, discharged, possessed, sold, displayed, or otherwise used illegal fireworks, as well as the host.
- E. Rebuttable presumption of notice. The record owner of the property, as shown on the County’s latest equalized assessment roll, and any person, host, or other responsible person in lawful possession or control of the property, shall be rebuttably presumed to have notice of any activity involving illegal fireworks, occurring or discharging on private property, or on any adjacent public or private street.
- F. Any violation of this chapter or other applicable provisions of this Code may be remedied by a civil action brought by the City Attorney. The City may recover any response costs and reasonable attorney’s fees and costs of suit in any civil action brought by the City Attorney to remedy any violation of this chapter or other applicable provisions of this Code.
- G. Any person found in violation of any applicable Sections 8.13.040, 8.13.050, 8.13.070, and/or 8.13.130 of the Orange Municipal Code may be subject to an administrative citation and/or misdemeanor in accordance with Chapter 1.08 and/or 1.10 of the Orange Municipal Code.

Each and every act of ignition, explosion, projection, discharge, possession, sale, display, permit, or other use of any fireworks shall constitute a separate violation and may be cited against any person, host, minor, or other responsible party.

1. Progressive fines as established by resolution of the City Council shall be as follows:

- a. 1st Violation within a thirty-six (36) month period.
- b. 2nd Violation within a thirty-six (36) month period.
- c. 3rd and subsequent Violation within a thirty-six (36) month period.

H. Any violation of this chapter as it relates to any host, minor or spectator under Section 8.13.180, may be subject to administrative citation and/or misdemeanor pursuant to Orange Municipal Code Chapter 1.08 and/or 1.10. Each and every act of ignition, explosion, projection, discharge, possession, display, sale, or other use of any illegal fireworks, constitutes a separate violation.

1. Progressive fines as established by resolution of the City Council shall be as follows:

- a. 1st Violation within a thirty-six (36) month period.
- b. 2nd Violation within a thirty-six (36) month period.
- c. 3rd and subsequent Violation within a thirty-six (36) month period.

I. Any person, firm, host, or corporation that violates this chapter in connection with a Block Party Permit, Special Event Permit, or any other City required permit or license under Section 8.13.190, including applying for and receiving such permit or failing to obtain such permit or license, may be subject to an administrative citation and/or misdemeanor pursuant to Orange Municipal Code Chapter 1.08 and/or 1.10. Each and every act of ignition, explosion, projection, discharge, possession, display, sale, or other use of illegal fireworks constitutes a separate violation.

1. Progressive fines as established by resolution of the City Council shall be as follows:

- a. 1st Violation within a thirty-six (36) month period.
- b. 2nd Violation within a thirty-six (36) month period.
- c. 3rd and subsequent Violation within a thirty-six (36) month period.

J. Appeals of Fines. Administrative fines issued under this chapter may be appealed in accordance with Chapter 1.10 upon payment of an administrative appeal fee as established by resolution of the City Council. The appeal fee is intended to offset City costs associated with report preparation, evidence compilation, and hearing officer services.

- K. Response Costs.** In addition to any fines or penalties which may otherwise be levied by the City pursuant to this chapter, the City shall be entitled to recover from any person, host, minor, spectator, or other responsible person found to be in violation of this chapter or other applicable provisions of this Code, the City's full response costs. Payment for response costs shall be remitted to the City of Orange within 30 calendar days of the date of the notice. The amount of any response costs imposed shall be deemed a civil debt due and owing to the City that is collectible in any manner allowed by law.
- 1. Appeal of Response Costs.** A challenge of the response costs may be made to the City Manager or designee. Such notice of appeal must be submitted in writing within 14 calendar days of receipt of the City's Notice of Response Costs and filed with the City Clerk's Office along with payment of an appeal fee in an amount established by resolution of the City Council. The notice of appeal shall briefly state the grounds of appeal and be signed by the appealing party. Said appeal shall be heard by the City Manager or designee as soon as practical. The appellant and any Code Enforcement Personnel shall be allowed to introduce evidence and call witnesses at the hearing. The decision by the City Manager or designee shall be in writing and shall be final.
- L. State Fines.** To the extent required by State law, any applicable fines collected pursuant to this chapter shall be administered in accordance with California Health and Safety Code section 12726, as may be amended from time to time. As provided therein, a specified percentage of all administrative fines or penalties collected by the City shall be remitted to the Controller of the State of California for deposit into the State Fire Marshal Fireworks Enforcement and Disposal Fund pursuant to California Health and Safety Code section 12728, as may be amended from time to time.

SECTION VIII:

If any section, subdivision, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION IX:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2026.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Nathalie Adourian, City Attorney, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 28th day of April, 2026, and thereafter at the regular meeting of said City Council duly held on the _____ day of _____, 2026 was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange