

## **RESOLUTION NO. 11648**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE, CALIFORNIA, RESCINDING AND REPLACING RESOLUTION NO. 11597 REGARDING THE APPLICATION AND LOTTERY PROCESS TO SELL "SAFE AND SANE" FIREWORKS PURSUANT TO ORANGE MUNICIPAL CODE CHAPTER 8.13.**

**WHEREAS**, City of Orange voters approved Ordinance No. 10-24 allowing for the use, possession and discharge of "safe and sane" fireworks; and

**WHEREAS**, Ordinance No. 10-24 repealed and replaced the then-existing Orange Municipal Code Chapter 8.13; and

**WHEREAS**, Orange Municipal Code Chapter 8.13, as established by Ordinance No. 10-24, provides that the City shall permit the sale, possession and discharge of "safe and sane" fireworks for private display within the City, in accordance with rules and regulations adopted by ordinance or resolution of the City Council, relating to the following: who may sell fireworks, the time periods in which they may be sold and discharged, the location where they may be discharged and the manner in which they may be discharged, stored, disposed of etc., Permits which may be required relating to fireworks, and similar provisions to protect the public health, safety, and welfare; and

**WHEREAS**, the City Council desires to adopt this Resolution to rescind and replace Resolution No. 11597 and reestablish rules and regulations to sell Safe and Sane Fireworks.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

#### **SECTION 1:**

Resolution No. 11597 is hereby rescinded and replaced upon the effective date of this resolution.

#### **SECTION 2:**

The City Manager is hereby authorized to implement this resolution pursuant to Orange Municipal Code Chapter 8.13.

#### **SECTION 3:**

The maximum number of Permits issued to Qualified Organizations, shall be 12 Permits per two-year cycle

- A. Permits issued pursuant to Chapter 8.13 of the Orange Municipal Code and this Resolution to sell Safe and Sane Fireworks shall be for a term of two-years.
- B. Qualified Organizations that receive a Permit through the application and lottery process further described in Subsections D through H of this Section shall be prohibited from participating in the immediate application and lottery process after their two-year Permit cycle has completed.
- C. Four of the maximum number of Permits shall be for Orange High School, El Modena High School, Richland Continuation High School, and Orange Lutheran High School. The Permit for each high school shall incorporate all of the high school sports teams, affiliated civic groups, student groups, booster clubs, other school organizations, etc. Each high school shall be responsible for how the Permit is administered and utilized. None of the aforementioned high schools are required to complete an application for the lottery since each high school will automatically receive a Permit to sell Safe and Sane Fireworks. In the event that any of the four high schools elects to not participate in the sale of Safe and Sane Fireworks, then the Permit will be included as an additional lottery Permit available to qualified organizations. However, Qualified Organizations receiving a Permit that was initially reserved for the aforementioned high schools shall only be for a term of one-year.
- D. All other Qualified Organizations interested in receiving a Permit must file applications with the City Manager's Office or its designee beginning the first business day of January, continuing up to 5:30 p.m. on the last business day in January of the same year, at which time the filing period for that year will be closed.
- E. In drawing from the pool of Qualified Organizations that submitted completed applications, the City Manager's Office or its designee shall conduct a lottery during a City Council meeting using some means of random selection. The first 8 applicants to be randomly selected shall be granted a Permit upon completion of all Permit application requirements. An additional number of applicants shall be randomly selected in the event that one or more of the initial 8 applicants fails to obtain a Permit. Additional applicants shall be considered for a Permit in the order they were drawn.
- F. In addition to the requirements of Orange Municipal Code Chapter 8.13, Qualified Organizations must be organized primarily for veterans, patriotic, welfare, civic betterment, religious, athletic, educational, youth development or charitable purposes; must have their principal and permanent meeting place within the City; provide direct and regular community services and benefits to the residents of the City; and have bona fide members who either reside in the City, are employed in the City, or are owners or operators of a business or other establishment located in the City.
- G. Qualified Organizations may only submit one application to be included in the lottery for a Safe and Sane Fireworks Permit. If more than one application is submitted on

behalf of any nonprofit organization or educational institution, including from their respective affiliated organizations, the City shall disregard one or all of the applications at its sole discretion. Any attempt to transfer an application shall void that application and may preclude an applicant from participating in the lottery in future years.

H. On forms and applications provided by the City, Qualified Organizations shall provide:

- a. The proposed location of the fireworks stand.
- b. The name, address and 24-hour telephone number of one or more responsible adults who will be in charge of and responsible for the fireworks stand during the period fireworks are sold, displayed, or stored at such location.
- c. Written permission from the owner of record and/or lessor and/or management company of the property upon which said fireworks stand is proposed to be located.
- d. Proof of the applicant's status as a Qualified Organization.
- e. Date when the applicant was organized and established.
- f. The names and addresses of the officers, if any, of the applicant.
- g. The name, address, and California State Fire Marshal's license number of any wholesaler or distributor from whom the Qualified Organization proposes to purchase for resale.
- h. The manner, method, and times regarding how the applicant proposes to sell Safe and Sane Fireworks.
- i. A copy of the requisite retail sales Permit issued by the Office of the California State Fire Marshal.
- j. Copy of a City of Orange business license.
- k. Evidence of a temporary sales tax Permit from the California State Board of Equalization.

This shall be not be construed as to limit the City from requesting additional information to effectuate the intent and purposes of this Resolution and Orange Municipal Code Chapter 8.13.

#### **SECTION 4:**

Permittees shall provide certificates of insurance evidencing the following minimum limits with a California admitted carrier with a current A.M. Best's rating of no less than an A.

- A. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. The City of Orange its officers, elected or appointed officials, employees, agents and volunteers must be named as certificate holder and as additional insured by separate attached endorsement.
- B. Any deductibles, self-insured retentions, or similar forms of coverage limitations or modifications must be declared to and approved by the City.
- C. Permittee shall include all sub-Permittees or subcontractors, if any, as insured under its policies or shall furnish separate certificates and endorsements for each sub-Permittees or subcontractors. All coverage for sub-Permittees shall be subject to all of the requirements stated herein.

#### **SECTION 5:**

Permittees agree, as a condition of receiving a Permit, to protect, defend, indemnify, and hold harmless, the City, the City Council, the City's officers, elected or appointed officials, employees, agents, and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands, and defense costs, however caused, resulting from death or injury and/or damage to property, arising directly or indirectly out of the obligations or operations undertaken by Permittee by virtue of the Permit issuance, caused in whole or in part by any act or omission of the Permittee, any subcontractors, anyone directly or indirectly employed, volunteers, or anyone for whose acts any of them may be liable, including but not limited to, concurrent active negligence, except where caused by the sole active negligence or willful misconduct of the City.

In the event of an injury, claim, lawsuit, or any other dispute, the Permittee will conduct all legal defenses to those injuries, claims, lawsuits, or any other disputes, including the defense of the City if applicable, at its sole cost and expense, and at no cost or expense to the City.

The City shall approve selection of Permittee's counsel. This defense and indemnity obligation shall apply to all claims and liability regardless of whether any defenses and insurance policies are applicable. The policy limits do not act as a limitation upon the indemnification to be provided by Permittee.

#### **SECTION 6:**

Pursuant to Section 12635.5 of the Health and Safety Code, the City will require each applicant receiving a Permit to pay a fee to the City a pro rata portion of the actual and reasonable costs the City incurred that is related to any of the following:

- (1) Processing and issuing Permits.
- (2) Inspection of fireworks stands.

- (3) Public education and awareness campaigns regarding the safe and responsible use of safe and sane fireworks, and the dangers and risks posed by the use of illegal fireworks.
- (4) Enforcing the provisions of the code of the City with respect to the sale and use of safe and sane fireworks, including extra personnel time and cleanup of the fireworks trash and debris. "Extra personnel time" means employee or contracted employee time that the City would not otherwise incur but for the sale and use of safe and sane fireworks.
- (5) Fire operation and suppression efforts that are directly related to safe and sane fireworks.

Costs shall be allocated among Permittees in proportion to gross sales as shown on each Permittee's sales and use tax return for the applicable period.

The pro rata share of costs shall not exceed 7 percent of the gross sales of the fireworks sold in the City during the applicable period. The fee will be calculated annually and due September 2<sup>nd</sup>.

#### **SECTION 7:**

The City Council hereby determines that the adoptions of Measure AA, Resolution 11593, this resolution, and Ordinance No. 01-25 are exempt from review under the California Environmental Quality Act because allowing and regulating safe and sane fireworks sales in the City on the Fourth of July cannot be expected to have a significant environmental effect because such sales already occur without compliance with law or regulation to ensure the public health, safety and welfare, and therefore this project regulates existing activity for the protection of the environment and other public values rather than allowing wholly new activity. Therefore, these provisions of the State CEQA Guidelines apply: section 15061(b)(3) – the "common sense" exception, section 15305 – the categorical exemption for minor alterations to land use limitations, and section 15308 – the categorical exemption for actions by regulatory agencies to protect the environment.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2025

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Daniel R. Slater, Mayor, City of Orange

**ATTEST:**

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Pamela Coleman, City Clerk, City of Orange

**APPROVED AS TO FORM:**

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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 Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2025 by the following vote:

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

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Pamela Coleman, City Clerk, City of Orange