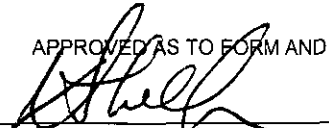


FILED
OFFICE OF THE CITY CLERK
OAKLAND

04 MAY 24 PM 1:04

APPROVED AS TO FORM AND LEGALITY


City Attorney

INTRODUCED BY COUNCILMEMBER _____

ORDINANCE No. 12601 C.M.S.

**EMERGENCY ORDINANCE REPEALING CHAPTER 8.06.010
OF THE OAKLAND MUNICIPAL CODE WHICH PROHIBITS THE
FIRING AND EXPLOSION OF FIREWORKS AND OTHER
PYROTECHNICAL DEVICES AND ADDING CHAPTER 8.06.030
PROHIBITING THE SALE, TRANSFER, POSSESSION AND USE OF
FIREWORKS WITHIN CITY LIMITS**

WHEREAS, Chapter 8.06, entitled "Explosives and Fireworks" provides at section 8.06.010 that it is unlawful for any person to at any time fire or explode, cause to be fired or exploded, any blank cartridge, bomb, rocket, firecracker, roman candle, squib, colored fire, torpedo, mine, torch or any combustible or explosive device, or preparation, or fireworks, or firecrackers, of any kind whatsoever, or by whatever name known, within the limits of the City; and

WHEREAS, the City of Oakland finds that half of all injuries sustained each year in fireworks related accidents occur among those who are ages fifteen years and younger; and

WHEREAS, the City of Oakland is at risk of a particularly long and dangerous wildfire season; and

WHEREAS, Oakland communities are subjected to the inflow and use of fireworks in the months prior to July 4th Independence Day; and

WHEREAS, on a daily basis, the Oakland Fire Department and the Oakland Police Department are receiving calls for service and complaints from citizens and Neighborhood Services Coordinators that illegal fireworks are being detonated; and

WHEREAS, the City of Oakland desires to provide in one section of the Municipal Code provisions that prohibit not only the firing and explosion of explosives and fireworks, but also the possession, sale, and transfer of such materials and penalties for violations thereof; and

WHEREAS, in order to adequately protect the health and safety of Oakland residents during the upcoming fire season and Independence Day celebrations the Fire and Police Departments must immediately commence enforcement of these provisions; and

WHEREAS, for the forgoing reasons the City Council declares that it is necessary to pass this ordinance as an Emergency Ordinance pursuant to City Charter section 213 in order to preserve the public health and safety in an emergency;

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

Section 1. Chapter 8.06.010 of Title 8, Health and Safety, of the Oakland Municipal Code hereby is repealed.

~~8.06.010 Prohibited--Exceptions.~~

~~It is unlawful for any person to at any time fire or explode, cause to be fired or exploded, any blank cartridge, bomb, rocket, firecracker, roman candle, squib, colored fire, torpedo, mine, torch, or any combustible or explosive device, or preparation, or fireworks, or firecrackers, of any kind whatsoever, or by whatever name known, within the limits of the city; provided, that the use of fireworks at such public displays of fireworks inside the limits of the city as may be given with the joint written consent of the Director of Fire Services and the Chief of Police of said city, shall not be unlawful. Provided, further, however, that if such public display of fireworks is to be held within any public park or other property under the jurisdiction of the city, the written consent of the City Manager or a designee must also be obtained, and the City Manager or a designee shall have the right to require the posting of any bond, or taking out of any insurance, that it may deem necessary. (Prior code § 2-2.14)~~

Section 2. Section 8.06.030 Sale, Transfer, Possession and Use of Fireworks

Prohibited – Exceptions hereby is adopted to read as follows:

A. Prohibitions.

1. It is unlawful for any person at any time to sell, or advertise for sale, any firework or pyrotechnical device as defined under state law, including but not limited to, California Health and Safety Code §§ 12505, 12508, 12511, 12512, 12526 and 12529, within the city limits.
2. It is unlawful for any person to at any time to transfer to another any firework or pyrotechnical device as defined under state law, including but not limited to, California Health and Safety Code §§ 12505, 12508, 12511, 12512, 12526 and 12529, within the city limits.
3. It is unlawful for any person at any time to possess any firework or pyrotechnical device as defined under state law, including but not limited to, California Health and Safety Code §§ 12505, 12508, 12511, 12512, 12526 and 12529, within the city limits.
4. It is unlawful for any person at any time to use or cause to be detonated any firework or pyrotechnical device as defined under state law, including

but not limited to, California Health and Safety Code §§ 12505, 12508, 12511, 12512, 12526 and 12529, within the city limits.

5. Any person found in violation of any provision of section 8.06.030, and sixteen (16) years of age or older may be issued a citation in accordance with the provisions of this section.
6. In addition to the actions authorized pursuant to the above, every parent, guardian or other person, having the legal care, custody or control of any person under the age of eighteen years, who knows or reasonably should know that a minor is in violation of this Chapter, may be issued a citation in accordance with the provisions of this section.
7. Any person in violation of the provisions of section 8.06.030, involving any firework or pyrotechnical device designated as "Dangerous fireworks" within California Health and Safety Code § 12505, or involving any fireworks designated "Exempt fireworks" within California Health and Safety Code § 12508 shall be subject to a fine of no less three hundred and fifty dollars (\$350.00) and no more than one thousand dollars (\$1000.00).
8. Any person in violation of the provision of section 8.06.030, involving any firework or pyrotechnical device designated "Safe and Sane" within California Health and Safety Code § 12529 shall be subject to a fine of no less than two hundred and seventy dollars (\$270.00) and no more than three hundred and fifty dollars (\$350.00).

B. Exceptions.

1. The City Administrator may issue permits for professional displays of fireworks and the use, but not sale of fireworks for purposes of cultural celebrations or business promotion. The City Administrator shall promulgate a separate set of regulations and fees governing the issuance of such permits for (1) large public fireworks displays; and (2) small fireworks displays for cultural celebrations and business promotions; provided however, that the City Administrator may issue permits prior to promulgating regulations and establishing fees, until the end of the year of 2004.
2. Further, if any display of fireworks is to be held within any public park or other property under the jurisdiction of the City, the City Administrator shall have the right to require the posting of any bond, or taking out of any insurance, that he or she may deem necessary.
3. The provisions of this ordinance relating to the sale, use, and/or detonation of fireworks set forth herein at Section 2, subsections A(1) and A(4), apply to all persons within the city limits, including any person authorized to possess or transport fireworks, by means of a valid permit, license or other authorization by a state or federal agency specifically

authorized to regulate fireworks as defined by state law, including, but not limited to, California Health and Safety Code §§ 12505, 12508, 12511, 12512, 12526 and 12529. This ordinance shall not limit, expand, or otherwise affect the rights or obligations of any person authorized to possess or transport fireworks, by means of a valid permit, license or other authorization by a state or federal agency specifically authorized to regulate fireworks as defined by state law, including, but not limited to, California Health and Safety Code §§ 12505, 12508, 12511, 12512, 12526 and 12529.

Section 3. Severability.

This chapter shall be enforced to the full extent of the authority of the City. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application; and to this end the provisions of this chapter are declared to be severable and are intended to have independent validity.

Section 4. Effective Date.

Pursuant to City Charter section 213 this Emergency Ordinance may be introduced and adopted at the same meeting and will take effect immediately if passed by six affirmative votes.

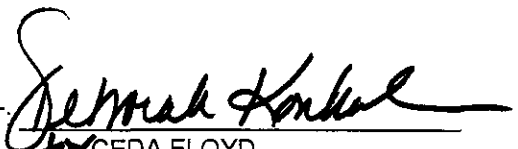
IN COUNCIL, OAKLAND, CALIFORNIA, MAY 18 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, ~~AND PRESIDENT~~
~~DE LA FUENTE - 7~~

NOES- 0
ABSENT- 0

EXCUSED - DE LA FUENTE - 1

ATTEST: 
CEDRA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California