

COUNCIL AGENDA – NOVEMBER 5, 2013

SUBJECT: SECOND READING – ORDINANCE 1799, AMENDING CHAPTER 12,  
ARTICLE II: FIREWORKS

SOURCE: ADMINISTRATIVE SERVICES/CITY CLERK DIVISION

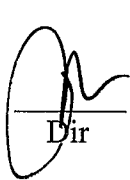
COMMENT: Ordinance No. 1799, An Ordinance of the City Council of the City of Porterville Amending the Municipal Code, Chapter 12, Article II: Fireworks Related to Application Process, Regulations, and Penalties, was given first reading on October 15, 2013, and has been printed.

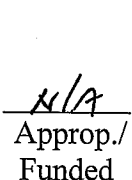
While preparing for publication of the ordinance, staff noticed the need to correct wording in the title of the ordinance. The minor changes are non-substantive, and therefore do not warrant another first reading.

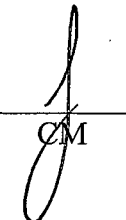
RECOMMENDATION: That the Council give Second Reading to Ordinance No. 1799, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1799

Item No. 20

  
Dir

  
Approp./  
Funded

  
CM

ORDINANCE NO. 1799

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
AMENDING THE MUNICIPAL CODE, CHAPTER 12, ARTICLE II: FIREWORKS  
RELATED TO APPLICATION PROCESS, REGULATIONS, AND PENALTIES

WHEREAS: The City allows sale and discharge of "safe and sane" fireworks within the City limit in honor of the Independence Day holiday (June 28 through July 4, annually); and

WHEREAS: The fireworks stakeholders group, comprised of locally represented non-profit groups, had requested a meeting to voice concerns related to the application timeframes and regulations; and

WHEREAS: The group noted that additional time after the annual lottery is held, and before fireworks sales were authorized, would allow for additional planning and coordination of volunteer efforts; and

WHEREAS: The group requested additional flexibility regarding regulations on canopies for use as shade structures adjacent to the sales stand. Additionally, the stakeholder group requested that in lieu of the annual safety meeting, a poster identifying fireworks safety regulations be located inside each stand; and

WHEREAS: Clarification of the actions meriting assessment of penalties was needed for enforcement purposes; and

WHEREAS: A public hearing was held before the City Council on October 15, 2013, pursuant to the Municipal Code of the City.

NOW, THEREFORE, BE IT ORDAINED: That the Council of the City of Porterville does ordain as follows:

SECTION 1. *Purpose*: The purpose of this ordinance is to address issues that have arisen since the writing of the ordinance. It is also the intent to address grammatical issues that have been discovered.

SECTION 2. Chapter 12, Article II, Section 2.1: DEFINITIONS is amended as follows:

Paragraph 7, Line 2: SAFE AND SANE FIREWORKS: Shall mean any fireworks which do not fall within the definition of "dangerous fireworks" or "exempt fireworks" per Health and Safety Code Section 12529. The California State Fire Marshal's seal of registration shall be applied to all classified fireworks and pyrotechnic devices by a licensed manufacturer, importer, exporter or wholesaler and shall indicate the classification assigned by the State Fire Marshal.

SECTION 3. Chapter 12, Article II, Section 12-2.4 NUMBER OF PERMITS LIMITED/PRE-APPLICATION is amended as follows:

The maximum number of permits to sell "safe and sane" fireworks which may be issued pursuant to this article during any one calendar year shall not exceed one permit for each four thousand (4,000) residents of the city, or major fraction thereof, based on the most recent population figure as determined by the federal decennial census and updated annually by the California State Department of Finance. If the number of pre-applications received up to and including the last day for making applications pursuant to this article exceeds the number of permits to be issued for the city, the fire chief shall thereafter supervise a public drawing to determine an order of priority for each pre-application. Pre-applications can be obtained at the Fire Department or online at the City of Porterville's web site between January 1 and the last business day of January. All applicants will be assigned a number in the order in which the pre-application is received. The drawing will be held between the 16<sup>th</sup> and 28<sup>th</sup> of February each year.

SECTION 4. Chapter 12, Article II, Section 12-2.5 SALES OF "SAFE AND SANE" FIREWORKS; APPLICATIONS FOR PERMITS is amended as follows:

- A. Any eligible organization desiring to sell "safe and sane" fireworks in the City of Porterville shall obtain a permit application from the fire department. Permit applications shall be obtained during the period commencing the first business day of March and ending the last business day in March.
- C. Completed applications shall be returned to the fire department no later than five o'clock (5:00) P.M. on the last business day of March each year. Any eligible organization making an application for such permit to sell "safe and sane" fireworks that fails to return the completed application prior to five o'clock (5:00) P.M. on the last regular business day in March shall not be issued a permit to sell "safe and sane" fireworks.

SECTION 5. Chapter 12, Article II, Section 12-2.6 PERMIT ISSUANCE BASED ON DRAWING SELECTIONS is amended as follows:

- B. These forms must be returned to the fire department by the last business day of March.

SECTION 6. Chapter 12, Article II, Section 12-2.11 REGULATIONS is amended as follows:

No person other than a member (or their spouse) of the organization or a volunteer who is associated with the organization having a permit shall be permitted to sell or otherwise participate in the sale of fireworks. All fireworks stands shall have the safety regulations posted inside the stand in an approved location. The size of the safety poster will be approved and provided by the fire department. A maximum of one member for every four (4) linear feet of stand is permitted within the stand at any one time, (i.e., if the stand is 32 feet long, 32 divided by 4 equals 8 members allowed in the stand) and all persons selling fireworks must be at least eighteen (18) years old.

SECTION 7. Chapter 12, Article II, Section 12-2.12 FIREWORKS STANDS; REQUIREMENTS is amended as follows:

A. No fireworks stand shall be located within twenty-five feet (25') of any other building or within one hundred feet (100') of a gasoline pump, or within one hundred feet (100') of another fireworks stand, when measured closest point to closest point. Canopies within ten feet (10') of a stand shall be considered an extension of the stand for measurement of setback distances. Minimum setback from the street curbing, alley, or driveway shall be ten feet (10'). Stands shall not cover or impede any public rights of way.

B. Canopies within twenty-five feet of a stand must be labeled by the manufacturer as fire-resistive. The total allowable canopy area within twenty-five feet of a stand shall be no larger than 200 square feet.

SECTION 8. Chapter 12, Article II, Section 12-2.20 VIOLATIONS; PENALTIES of the Porterville Municipal Code is amended as follows:

Fines for the manufacture, possession, sale, delivery, use, or discharge of dangerous fireworks within the City of Porterville shall be one thousand five hundred dollars (\$1,500.00).

SECTION 9. This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED AND ADOPTED this 5<sup>th</sup> day of November, 2013.

\_\_\_\_\_  
Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

\_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk