

**ORDINANCE NO. 858
(AS AMENDED THROUGH 858.2)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
PROHIBITING FIREWORKS**

The Board of Supervisors of the County of Riverside Ordains as follows:

SECTION 1. URGENCY FINDINGS AND STATEMENT OF PURPOSE AND INTENT

Pursuant to the requirements of California Government Code section 25123, subdivision (d), the Board of Supervisors has determined that the provisions contained herein are necessary for the immediate preservation of the public peace, health, or safety within the unincorporated areas of Riverside County. Said determination is based on the following factual circumstances:

While Riverside County has long prohibited the personal use and sale of fireworks in unincorporated areas, there continue to be violations of this policy. It has now become evident that the sale, purchase, use, storage and disposal of fireworks have reached critical proportions in Riverside County, thereby, endangering the public safety of its citizens such that stronger penalties are imperative. The personal use and sale of illegal fireworks in the unincorporated areas of the County are an immediate public peace, health and safety concern. In the past six years, the number of fireworks calls for service responded to by the Sheriff's Department has doubled while the number of pounds of fireworks confiscated has nearly tripled. In 2004, the Sheriff's Department responded to 2118 calls for service involving fireworks and confiscated approximately 1223 pounds of fireworks. In 2005, the Sheriff's Department responded to 2007 fireworks calls for service and confiscated approximately 1352 pounds of fireworks. These numbers only reflect those calls for service that generated a file number. Many times on holidays with numerous fireworks related calls, such as the Fourth of July, the fireworks calls for service will be made via a general radio broadcast and are not included in the above statistics.

On the Fourth of July 2005 the Riverside Sheriff's Department Hazardous Device Team increased enforcement in an unincorporated, residential neighborhood where the use of illegal fireworks was known to occur. They confiscated over 450 pounds of illegal

fireworks before law enforcement left the area due to officer safety issues.

Illegal fireworks are a serious concern in the County for several reasons. First, fireworks are sold to children. According to the U.S. Fire Administration, children under the age of 15 suffered 45% of all injuries from fireworks in 2003. Second, fireworks are often stored without safety precautions in residential neighborhoods. In March 2006, in Los Angeles County, a cache of illegally stored fireworks destroyed a Lakewood home when they erupted in a massive explosion that knocked the house off its foundation and damaged several other houses and cars nearby. Third, fireworks can be disassembled for the explosive powder they contain to make bombs and other explosive devices. Fourth and finally, fireworks often come from Mexico where safety regulations for making fireworks are not as stringent as those for fireworks manufactured in the United States.

It is well evident that illegal fireworks lead to hazardous situations, injuries, personal property loss, and fires, which jeopardize the safety of the public and increase the cost of law enforcement and fire protection. Moreover, in light of Riverside County's geographical location, the County is subject to extreme fire hazards and long and volatile fire seasons, making the illegal fireworks activities even more dangerous to all citizens of the County not just the ones possessing and using the fireworks. The number of fires caused by fireworks in Riverside County has steadily increased in recent years. In 2003, 63 fires were caused by fireworks. The number rose to 70 fires in 2004 and 79 fires in 2005.

Even with enforcement and prosecution, the personal sale and use of fireworks in the unincorporated areas of the County is extremely difficult for local authorities to deter since the current penalties and fines for these illegal activities are minimal. There is a very lucrative "black market" for fireworks, often making the sale and manufacturing of illegal fireworks profitable despite the current penalties allowed for under the Riverside County Ordinances. The seizure of illegal fireworks is further complicated as public safety agencies are not currently funded to cover the full cost of the transport, storage, and disposal of illegal fireworks after they are confiscated.

Immediate action is needed to increase the penalties for the use, sale, transportation,

and manufacturing of fireworks in the unincorporated areas of Riverside County to deter the continued illegal activities and preserve the public peace, health, safety and welfare. The provisions of this Ordinance shall apply to all of the unincorporated areas of the County of Riverside.

SECTION 2. DEFINITIONS

Whenever, in this Ordinance, or in any resolution or standard adopted by the Board of Supervisors pursuant to this Ordinance, the following terms are used, they shall have the meaning ascribed to them in this Section 2, unless it is apparent from the context thereof that some other meaning is intended.

a. "AGRICULTURAL AND WILDLIFE FIREWORKS" means fireworks designed and intended by the manufacturer to be used to prevent damage to crops or unwanted occupancy of areas by animals or birds through the employment of sound or light, or both.

b. "DANGEROUS FIREWORKS" has the same meaning ascribed to it under Section 12505 of the California Health and Safety Code and includes all of the following:

(a) Any fireworks which contain any of the following:

(1) Arsenic sulfide, arsenates, or arsenites.

(2) Boron.

(3) Chlorates, except:

(A) In colored smoke mixture in which an equal or greater amount of sodium bicarbonate is included.

(B) In caps and party poppers.

(C) In those small items (such as ground spinners) wherein the total powder content does not exceed 4 grams of which not greater than 15 percent (or 600 milligrams) is potassium, sodium, or barium chlorate.

(4) Gallates or Gallic acid.

(5) Magnesium (magnesium-aluminum alloys, called magnalium, are permitted).

(6) Mercury salts.

(7) Phosphorus (red or white except that red phosphorus is permissible in caps and party poppers).

(8) Picrates or picric acid.

(9) Thiocyanates.

(10) Titanium, except in particle size greater than 100-mesh.

(11) Zirconium.

(b) Firecrackers.

(c) Skyrockets and rockets, including all devices which employ any combustible or explosive material and which rise in the air during discharge.

(d) Roman candles, including all devices which discharge balls of fire into the air.

(e) Chasers, including all devices which dart or travel about the surface of the ground during discharge.

(f) Sparklers more than 10 inches in length or one-fourth of one inch in diameter.

(g) All fireworks designed and intended by the manufacturer to create the element of surprise upon the user. These items include, but are not limited to, auto-foolers, cigarette loads, exploding golf balls, and trick matches.

(h) Fireworks known as devil-on-the-walk, or any other firework which explodes through means of friction, unless otherwise classified by the State Fire Marshal pursuant to this part.

(i) Torpedoes of all kinds which explode on impact.

(j) Fireworks kits.

(k) Such other fireworks examined and tested by the State Fire Marshal and determined by him, with the advice of the State Board of Fire Services, to possess characteristics of design or construction which make such fireworks unsafe for use by any person not specially qualified or trained in the use of fireworks.

c. "ENFORCEMENT OFFICER" shall mean the SHERIFF, the Transportation and Land Management Agency Director, Building Official, Code Enforcement Official, County Counsel, District Attorney, or FIRE CHIEF and their designees.

- d. "EXEMPT FIREWORKS" has the same meaning ascribed to it under Section 12508 of the California Health and Safety Code and shall mean any special item containing pyrotechnic compositions which the State Fire Marshall, with the advice of the State Fire Advisory Board, has investigated and determined to be limited to industrial, commercial, agricultural use, or religious ceremonies when authorized by a permit granted by the authority having jurisdiction.
- e. "FIRE CHIEF" or "CHIEF" shall mean the Fire Chief of the County of Riverside or his authorized representatives.
- f. "FIREWORKS" has the same meaning ascribed to it under Section 12511 of the California Health and Safety Code and shall mean any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. The term "FIREWORKS" includes, but is not limited to, devices designated by the manufacturer as fireworks, torpedoes, skyrockets, roman candles, model rockets, rockets, Daygo bombs, sparklers, chasers, fountains, smoke sparks, aerial bombs and fireworks kits.
- g. "FIREWORKS KITS" has the same meaning ascribed to it under Section 12512 of the California Health and Safety Code and means any assembly of materials or explosive substances, which is designed and intended by the seller to be assembled by the person receiving such material or explosive substance and when so assembled would come within the definition of "FIREWORKS."
- h. "PUBLIC DISPLAY OF FIREWORKS" means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of DANGEROUS FIREWORKS.
- i. "PYROTECHNIC OPERATOR" means any licensed pyrotechnic operator, who by examination, experience, and training, has demonstrated the required skill and ability in the use and discharge of fireworks as authorized by the license granted.

- j. "PYROTECHNIC SPECIAL EFFECTS MATERIAL" means a low explosive material, other than detonating cord, commonly used in motion picture, television, theatrical or group entertainment production for which a permit from the Chief is required for use or storage.
- k. "SAFE AND SANE FIREWORKS" has the same meaning ascribed to it under Section 12529 of the California Health and Safety Code and shall mean any fireworks which do not come within the definition of "DANGEROUS FIREWORKS" or "EXEMPT FIREWORKS."
- l. "SHERIFF" shall mean the Sheriff of the County of Riverside or his authorized representatives.

SECTION 3. PROHIBITION

- a. GENERAL. No person shall have in his possession, or keep, store, use, shoot, discharge, set off, ignite, explode, manufacture, sell, offer to sell, give or transport any FIREWORKS, DANGEROUS FIREWORKS, or SAFE AND SANE FIREWORKS, except as set forth below in Section 5 entitled "EXCEPTIONS".
- b. No property owner or person in control of property shall allow a person to possess, keep, store, use, shoot, discharge, set off, ignite, explode, manufacture, sell, offer to sell, give or transport FIREWORKS, DANGEROUS FIREWORKS, or SAFE AND SANE FIREWORKS on the property owned by such property owner, or on property under the person's control.
- c. MANUFACTURING PROHIBITED. The manufacturing of FIREWORKS, DANGEROUS FIREWORKS, or SAFE AND SANE FIREWORKS is prohibited except under special permits as required by local and state regulations by the Fire Chief and the Sheriff.
- d. PYROTECHNIC SPECIAL EFFECTS MATERIAL. A permit is required to manufacture, compound, store or use PYROTECHNIC SPECIAL EFFECTS MATERIAL. Permit application shall be made to the Fire Chief and the Sheriff. A permit shall be granted only to a State Fire Marshal licensed PYROTECHNIC OPERATOR.

SECTION 4. DISPLAYS

- a. GENERAL. Permits are required to conduct a PUBLIC DISPLAY OF FIREWORKS. Permit application shall be made to the FIRE CHIEF and the SHERIFF not less than 14 days

prior to the scheduled date of the display. The permit application shall include a diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged; the location of buildings, highways and other lines of communication; the lines behind which the audience will be restrained; and the location of nearby trees, telegraph or telephone lines and other overhead obstructions. At the time of permit application, the FIRE CHIEF shall be consulted regarding the requirements for standby fire apparatus.

b. UNDER SUPERVISION OF PYROTECHNIC OPERATOR. Public display of fireworks operations shall be under the direct supervision of a PYROTECHNIC OPERATOR. The PYROTECHNIC OPERATOR shall be responsible for all aspects of a display related to pyrotechnics.

c. BOND REQUIRED. The permittee shall furnish a bond or certificate of insurance in an amount deemed adequate by the FIRE CHIEF and the SHERIFF for the payment of damages which could be caused either to a person or persons or to property by reason of the permitted display and arising from acts of the permittee, agents, employees or subcontractors.

SECTION 5. EXCEPTION

a. Nothing in this Ordinance shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes of illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports or for use by military organizations.

b. Nothing in this Ordinance shall be construed to prohibit the sale and use of SAFE and SANE FIREWORKS on the Fourth of July at an authorized County site designated by the FIRE CHIEF for such SAFE and SANE FIREWORK sale and/or use. Permit for the sale of SAFE and SANE FIREWORKS is required and shall be issued only to a licensed organization as recognized by the State of California. The number of permits available and the hours of sale shall be as designated by the FIRE CHIEF or designee. Applications for permits will be subject to review and approval by the FIRE CHIEF or designee, including, but

not limited to, the applicant's strict compliance to applicable law, policies, posted regulations and requirements and additional permits for such use at an authorized site. Approval or denial of any permits shall be within the sole discretion of the FIRE CHIEF or designee. A denial of any permit required herein may be appealed to the Riverside County Board of Supervisors. Any use of SAFE AND SANE FIREWORKS at any County authorized site that do not comply with all posted regulations, policies, and requirements and permits for such use at such site shall be violations of this Ordinance and subject to the penalties set forth in Section 7.

c. Nothing in this Ordinance shall be construed to prohibit the use of AGRICULTURAL and WILDLIFE FIREWORKS or for use in a PUBLIC DISPLAY of FIREWORKS pursuant to a permit obtained under provision of Section 12640-12654 of the Health and Safety Code, Riverside County Fire Code (Riverside County Ordinance No. 787) and this Ordinance.

SECTION 6. SEIZURE AND DISPOSAL

a. It shall be the duty of the ENFORCEMENT OFFICER and his authorized representatives to enforce the provisions of this Ordinance.

b. The ENFORCEMENT OFFICER and his authorized representatives shall have the authority to seize, take, and remove any FIREWORKS, DANGEROUS FIREWORKS, and SAFE AND SANE FIREWORKS. The ENFORCEMENT OFFICER and his authorized representative may charge any person whose fireworks are seized pursuant to this section a reasonable amount which is sufficient to cover the cost of transporting, storing, handling, and disposing of the seized fireworks.

c. The additional remedies and procedures for recovery of costs related to enforcement of violations provided for in Ordinance No. 725 are incorporated herein by reference.

SECTION 7. PENALTIES

a. Misdemeanor Penalty. Any person who violates any provision of this Ordinance is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail for not exceeding one year, or by both. Upon any second or subsequent conviction of the offense, the person shall be

punished by the penalties of a fine of one thousand dollars (\$1,000) and by imprisonment in the county jail for one year.

b. Property Owner Liability. Any property owner or person in control of property who allows a person, including a minor, to possess, keep, store, use, shoot, discharge, set off, ignite, explode, manufacture, sell, offer to sell, give or transport FIREWORKS, DANGEROUS FIREWORKS, or SAFE AND SANE FIREWORKS on the property owned by such property owner, or on property under the person's control shall be in violation of this Ordinance, regardless of the property owner's intent, knowledge or negligence, such violation being a strict liability offense.

c. Nothing in this Ordinance shall be intended to limit any of the penalties provided for under the California Health and Safety Code or Penal Code with regard to the sale, use, possession, delivery, and/or transportation of DANGEROUS FIREWORKS.

d. Administrative Civil Penalty. In addition to any other penalties provided by law, whenever the ENFORCEMENT OFFICER determines that a violation of this Ordinance has occurred, the ENFORCEMENT OFFICER shall have the authority to issue an administrative citation with an administrative civil penalty to any person responsible for the violation, including to any property owner as set forth in subsection b. above. Any administrative civil penalty shall be one thousand dollars (\$1000) for the first offense, two thousand dollars (\$2000) for the second offense within thirty-six (36) months, and five thousand dollars (\$5000) for each subsequent offense within thirty-six (36) months. The administrative citation shall contain the following information: (1) date, location and approximate time the violation was observed; (2) the amount of the administrative civil penalty imposed for the violation; (3) instructions for the payment of the administrative civil penalty, and the time period by which it shall be paid and the consequences of failure to pay the administrative civil penalty within this time; (4) instructions on how to appeal the administrative citation; and (5) the signature of the ENFORCEMENT OFFICER. The failure of the administrative citation to set forth all required contents shall not affect the validity of the administrative citation or any proceedings to enforce said Citation. The administrative civil penalty may be imposed

via the administrative process set forth in Section 8 of this Ordinance, as provided in Government Code section 53069.4, or may be imposed by the court if the violation requires court enforcement without an administrative process.

e. Acts, omissions, or conditions in violation of this Ordinance that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations. A person is guilty of a separate offense for each and every day or portion thereof during which he or it commits, continues, or permits a violation of this Ordinance.

SECTION 8. APPEAL OF ADMINISTRATIVE CIVIL PENALTIES.

a. Notice of Appeal. The recipient of an administrative citation may appeal its validity by filing a written notice of appeal with the County Department that issued the administrative citation. The written notice of appeal must be filed within twenty (20) calendar days of service of the administrative citation. The notice of appeal shall be accompanied by either an advance deposit of the administrative civil penalty imposed in the administrative citation or a request for advance deposit hardship waiver as set forth below. Failure to properly file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation. The notice of appeal shall be submitted on a form provided by the County Department that issued the administrative citation and shall contain the following information: (1) a brief statement setting forth the appellant's interest in the proceedings; (2) a brief statement of the material facts which the appellant claims support a contention that no violation exists and that no administrative civil penalty should be imposed or that an administrative civil penalty of a different amount is warranted; (3) an address at which the appellant agrees that notice of any additional proceeding or an order relating to the imposition of the administrative civil penalty may be received by mail; and (4) the notice of appeal must be signed by the appellant under penalty of perjury.

b. Advance Deposit Hardship Waiver. Any person filing a notice of appeal to contest an administrative citation and who is financially unable to make the advance deposit of the

administrative civil penalty as required, may submit a request for advance deposit hardship waiver with the notice of appeal. The request for advance deposit hardship waiver shall be filed with the County Department that issued the administrative citation on a form provided by the same County Department. The request shall be documented by a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the ENFORCEMENT OFFICER that the person's actual financial inability to deposit the full amount of the administrative civil penalty in advance of the hearing. The requirement of depositing the full amount of the administrative civil penalty shall be stayed for ten (10) calendar days pending a determination by the ENFORCEMENT OFFICER of the approval or denial of the request for advance deposit hardship waiver. The ENFORCEMENT OFFICER shall issue a written determination stating the approval or listing the reasons for the denial of the request for advance deposit hardship waiver. The written determination shall be mailed to the appellant at the address provided in the request. If the ENFORCEMENT OFFICER denies a request for advance deposit hardship waiver, the appellant shall remit the deposit to the County within fifteen (15) calendar days of the date of mailing notice of the denial. The written determination of the ENFORCEMENT OFFICER shall be final.

c. Hearing on Appeal of Administrative Citation. Upon receipt of a timely filed notice of appeal of an administrative citation with an administrative civil penalty, an appeal hearing to consider the issuance of the administrative civil penalty shall be held before the County Hearing Officer, appointed by the Board of Supervisors pursuant to Ordinance No. 643 and Government Code section 27720. At the time fixed in the notice of hearing, the County Hearing Officer shall receive evidence from the ENFORCEMENT OFFICER and the appellant regarding the violation of prohibitions contained in Section 3 of this Ordinance, as well as any facts the appellant claims support a contention that no violation exists and that no administrative civil penalty should be imposed or that an administrative civil penalty of a different amount is warranted. In conducting the hearing, the County Hearing Officer shall not be limited by the technical rules of evidence. Failure of the appellant to appear shall not affect the validity of the proceedings or order issued thereon.

d. County Hearing Officer's Decision. The County Hearing Officer shall issue a written decision following the appeal hearing, which shall be issued to the appellant at the appellant's address set forth in the notice of appeal. If the administrative citation is determined to have been valid at the time of its issuance, the County Hearing Officer shall affirm the administrative civil penalty amount pursuant to subsection d. of Section 7 of this ordinance, and order said penalty to be paid within fifteen (15) calendar days of issuance of the County Hearing Officer's decision. The County Hearing Officer's decision shall contain instructions for obtaining judicial review of the decision as set forth below.

e. Judicial Review of County Hearing Officer's Decision on Administrative Civil Penalty. Within twenty (20) calendar days of the date of issuance of the final decision of the County Hearing Officer, the appellant may contest the County Hearing Officer's decision by filing an appeal in the Riverside County Superior Court pursuant to Government Code section 53069.4. The fee for filing the appeal is specified in Government Code section 70615 (currently \$25.00) and shall be paid to the Clerk of the Court. The failure to file the written appeal and to pay the filing fee within this period shall constitute a waiver of the right to an appeal and the County Hearing Officer's decision shall be deemed final and confirmed. A copy of the notice of appeal of the County Hearing Officer's Decision filed in the Riverside County Superior Court shall be served in person or by first class mail upon the County Department that issued the administrative citation by the appellant. The conduct of the appeal hearing is a subordinate judicial duty and may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the Presiding Judge of the Riverside County Superior Court. The appeal shall be heard de novo, and the contents of the file of the County Department that issued the administrative citation shall be received into evidence. A copy of the administrative citation and the Hearing Officer's Decision shall be admitted into evidence as prima facie evidence of the facts stated therein. The Court shall request that the County Department's file be forwarded to the Court, to be received within fifteen (15) calendar days of the request. The Court shall retain the fee for filing the appeal regardless of the outcome of the appeal. If the Court finds in favor of the appellant, the

amount of the fee shall be reimbursed to the appellant by the County in accordance with the judgment of the Court. If the penalty has not been deposited and the decision of the Court is against the appellant, the County Department that issued the administrative civil penalty may proceed to collect the penalty using all means available under the law.

SECTION 9. NON-EXCLUSIVE REMEDIES AND PENALTIES. All remedies and penalties for violations of the prohibitions in this Ordinance shall be cumulative and not exclusive. Enforcement by use of any administrative, criminal or civil action, citation or administrative proceeding or abatement remedy does not preclude the use of additional citations or other remedies as authorized by other ordinance or law. Enforcement remedies may be employed concurrently or consecutively. Conviction and punishment of or enforcement against any person hereunder shall not relieve such person from the responsibility of correcting, removing or abating a violation, nor prevent the enforced correction, removal or abatement thereof. Each and every day, or any portion thereof, during which any violation of this ordinance is committed, continued, or permitted by such person, shall be deemed a separate and distinct offense.

SECTION 10. SEVERABILITY

If any portion, provision, section, paragraph, sentence, or word of this Ordinance is rendered or declared to be invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining portions, provisions, sections, paragraphs, sentences, and words of this Ordinance shall remain in full force and effect and shall be interpreted by the court so as to give effect to such remaining portions of the Ordinance.

EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after its adoption.

Adopted: 858 Item 9.1 of 06/06/2006 (Eff: Immediately)
Amended: 858.1 Item 3.1 of 05/20/2008 (Eff: 05/20/2008)
858.2 Item 3.39 of 05/11/2021 (Eff: 06/09/2021)