

ORDINANCE 2025-###

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE SAN PABLO AMENDING TITLE 8, CHAPTER 8.42, OF THE SAN PABLO MUNICIPAL CODE TO REVISE EXISTING REGULATIONS PERTAINING TO THE POSSESSION, SALE, AND USE OF FIREWORKS WITHIN THE CITY OF SAN PABLO

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare of their citizens;

WHEREAS, The State Fireworks Law contained within section 12500 of the Health and Safety Code ("HSC") authorizes local jurisdictions to enact ordinances, develop uniform fine procedures, and conduct enforcement to administer the State-wide ban on dangerous fireworks;

WHEREAS, this ordinance aligns with the City Council's major policy goal of "Improve Public Safety", set forth in the FY 2025-2027 City Council Priority Workplan, adopted April 7, 2025, pursuant to City Council Resolution 2025-044;

WHEREAS, the City of San Pablo does not have a dedicated municipal Fire Department but instead relies on a negotiated contract for emergency services with the Contra Costa County Fire Protection District;

WHEREAS, due to high fire risk, fireworks are generally prohibited across Contra Costa County, as no city in Contra Costa County, nor the County itself, has permitted even what are labelled as "Safe and Sane" fireworks under California State law; and

WHEREAS, bolstered deterrence measures are expected to result in increased adherence to the prohibition of the use of fireworks, furthering the reduction of fire risks and thereby enhancing public safety.

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

SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

Section 2. Amendment of Municipal Code. Chapter 8.42 of the San Pablo Municipal Code is stricken in its entirety and replaced with the following:

8.42.010 DEFINITIONS

- A. *Fireworks* in this chapter means 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, rockets, skyrockets, Roman candles, squibs, torpedo canes, fire balloons, Daygo bombs, M-80s, sparklers, wire core sparklers, wooden core sparklers, chasers, fountains, smoke sparks, aerial bombs, black cartridges, fireworks kits, firecrackers, other combustible devices or explosive substances by whatsoever name known, and any other fireworks included in the definition of fireworks found at California Health and Safety Code Section 12511. The term “*fireworks*” includes both “dangerous fireworks” as defined in California Health and Safety Code Section 12505 and “safe and sane fireworks” as defined in California Health and Safety Code Section 12529.

B. *Host* in this chapter shall mean any of the following:

- (1) An owner of any private residential or non-residential real property in the city;
- (2) Any person who has the right to use, possess, or occupy public or private property under a lease, permit, license, rental agreement, or contract; or
- (3) Any person who hosts, organizes, supervises, officiates, conducts, or accepts responsibility for a gathering on public or private property.

C. *Response costs* mean those reasonable and necessary costs directly incurred by public safety personnel in connection with a response to the unpermitted discharge or illegal storage of fireworks, and includes the cost of providing law enforcement, firefighting, and/or other emergency services at the scene of any unpermitted discharge or illegal storage of fireworks, including, but not limited to:

- (1) The cost of salaries and benefits of public safety personnel for the amount of time spent responding to, remaining at, or otherwise dealing with the unpermitted discharge or illegal storage of fireworks, and the administrative costs attributable to the response(s);
- (2) The cost of any medical treatment provided to or for any public safety personnel injured responding to, remaining at, or otherwise dealing with the unpermitted discharge or illegal storage of fireworks; and
- (3) The cost of repairing any public safety equipment or property damage, and the cost of the use of any such equipment, in responding to, remaining at, or otherwise dealing with an unpermitted discharge or illegal storage of fireworks.

D. *Strictly liable* in this section shall mean liability for a wrongful act regardless of a person's intent, knowledge, negligence, or lack thereof, in committing the wrongful act.

8.42.020 GENERAL PROHIBITION AGAINST POSSESSION, SALE, OR USE OF FIREWORKS

- A. Except as otherwise provided in this chapter, no person shall possess, store, display, display for sale, offer for sale, sell, ignite, discharge, explode, or use any Firework within the city.
- B. Any person who allows, permits, maintains, aids, or abets any violation of this section shall also be in violation of this section.
- C. The provisions of this section shall not apply to:
 - (1) “Snap caps” and “party poppers” (classified by the State Fire Marshal as non-firework pyrotechnic devices).
 - (2) The possession, transport, sale, and use of red flares (highway fuses) as a warning device.
 - (3) The possession, transport, sale, and use of “exempt fireworks” as defined in California Health and Safety Code Section 12508.
 - (4) Activities related to a public fireworks display event authorized by the city under a special event permit, if that special event permit also includes a permit for fireworks issued by the city or by the Contra Costa County Fire Protection District under the California Fire Code, so long as such display takes place under the supervision and direction of a state-licensed operator.

8.42.30 HOST’S LIABILITY

- A. It is unlawful, a violation of this chapter and a public nuisance for any property owner or person in control of property to allow any person to sell, possess, ignite, explode, project or otherwise fire or make use of fireworks on the property owned by such person, or on property or at an event under the control of such person in violation of this chapter, irrespective of whether the property owner or person in control of the property or event had the intent or knowledge of such violation or otherwise acted negligently. Such violation is expressly declared a strict liability offense. A property owner or person in control of the property or event is not in violation of this section if they seek immediate assistance from the City’s Police Department or the Contra Costa County Fire Protection District to prevent or stop a violation of this chapter.
- B. Nothing in this section shall limit or preclude enforcement against any other violator for any violation of this chapter.

8.42.040 ENFORCEMENT

The following persons are granted the authority to enforce this chapter: peace officers, code enforcement officers, and Contra Costa County Fire Protection District personnel.

8.42.050 SEIZURE

Any peace officer, code enforcement officer, or Contra Costa County Fire Protection District personnel may seize, take, remove, or cause to be removed any fireworks possessed, used, stored, or displayed in violation of this chapter and such fireworks deemed to be illegal under this chapter may be destroyed if no appeal has been filed pursuant to the procedures set forth in Section 8.42.070, or at the time any such appeal is ultimately resolved.

8.42.060 PENALTIES FOR VIOLATIONS

- A. *Administrative citation.* Each violation of this chapter by any person shall be subject to an administrative citation as follows:
 - (1) One Thousand Dollars (\$1,000) fine for each device.
 - (2) Two Thousand Five Hundred dollars (\$2,500) for each device on subsequent offenses within one year.
- B. The penalties set forth herein are intended to be nonexclusive and are intended to be in addition to any other remedies provided in this chapter or any other law, statute, ordinance or regulation.
- C. Any person who violates this chapter shall be guilty of a misdemeanor.
- D. *Response costs.* A responsible person(s) who has been issued a second administrative citation and/or written notice of violation of this chapter within a one-year period from the first citation or notice of violation may be liable for response costs incurred in responding to the unpermitted discharge or illegal storage of fireworks. All responsible persons shall be jointly and severally liable for the response costs incurred in the response and all subsequent responses. The amount of response costs constitutes a debt owed to the city

If a responsible person is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this chapter. To incur liability for response costs imposed by this chapter, the parent(s) or guardian(s) for the juvenile committing a violation of this chapter need not be present at the event or occurrence that causes the response giving rise to the imposition of response costs. This chapter therefore imposes vicarious as well as direct strict liability upon such parent(s) or guardian(s).

- (1) Notice of the response costs shall be served by first-class mail on the responsible person liable for such costs. The notice shall contain the following information:
 - a) The name of the responsible person who is liable for the response costs;

- b) The address of the private property where the incident occurred;
 - c) The date and time of the response;
 - d) The law enforcement, fire, or other emergency response personnel who responded; and
 - e) An itemized list of the response costs.
- (2) Payment for response costs shall be remitted to the City of San Pablo within thirty (30) calendar days of the date of the notice. The payment of any such costs shall be stayed upon the filing of a timely appeal.
 - (3) A responsible person charged with response costs may, within ten (10) calendar days of the date of the notice of response costs, appeal the response costs pursuant to the process in Section 8.42.070, and the appeal hearing shall be scheduled and conducted in the manner prescribed in this chapter.
 - (4) Failure to timely and properly file an appeal constitutes a failure to exhaust available administrative remedies and bars any further review or administrative appeal of the response costs, which shall be deemed final.
- E. Violations of this chapter are hereby declared to be a public nuisance subject to abatement by any means authorized by law, including but not limited to injunctive relief.
 - F. Each occurrence of a violation shall constitute a separate and distinct violation.
 - G. All remedies prescribed under this chapter are cumulative and the city may utilize each remedy in lieu of or in addition to each any other remedy.

8.42.070 ADMINISTRATIVE CITATION REVIEW

- A. Any recipient of an administrative citation may appeal the citation in accordance with the procedures set forth in Section 1.10.070. Any hearing shall be conducted in accordance with the procedures set forth in Chapter 1.10 (Administrative Citations).

- B. Any administrative citation fine, or portion thereof, paid pursuant to this chapter shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

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First read at a regular meeting of the City Council of the City of San Pablo on October 6, 2025, and finally passed and adopted at a second meeting of the City Council held on October 20, 2025, by the following votes:

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

ATTEST:

APPROVED:

Dorothy Gantt, City Clerk

Arturo Cruz, Mayor