



County Fire Department

COUNTY OF TULARE

AGENDA ITEM

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

EDDIE VALERO
District Four

DENNIS TOWNSEND
District Five

AGENDA DATE: REVISED - May 5, 2020

Public Hearing Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

CONTACT PERSON: Charlie Norman, Fire Chief

PHONE: 559-802-9801

SUBJECT: Repeal and Replace of Fireworks Ordinance

REQUEST(S):

That the Board of Supervisors:

On May 5, 2020:

1. Introduce and waive the first reading of an ordinance repealing Article 3 of Chapter 5 of Part IV of the ordinance code and replacing Article 3 of Chapter 5 of Part IV of the ordinance code, pertaining to fireworks displays, sales, and use.
2. Set the second reading for May 19, 2020.
3. Direct the Clerk to publish a summary of the ordinance before the second reading as required by law.

On May 19, 2020:

4. Waive the second reading and adopt an ordinance repealing Article 3 of Chapter 5 of Part IV of the ordinance code and replacing Article 3 of Chapter 5 of Part IV of the ordinance code, pertaining to fireworks displays, sales, and use.
5. Direct the Clerk to publish a summary of the ordinance and post a full copy of the ordinance after adoption as required by law.

SUMMARY:

Tulare County Fire has revised Part IV Health, Safety and Sanitation, Chapter 5 Safety Regulations, Article 3: Fireworks, to include sales hours, more specific sales dates and language changes throughout the ordinance. These changes will assist Tulare County on being more proficient inspecting safe and sane fireworks stands

SUBJECT: Repeal and Replace of Fireworks Ordinance

DATE: May 5, 2020

and enforcement of Dangerous Fireworks.

This new ordinance will include the following changes:

The ordinance will define fireworks allowed in the County of Tulare, not allowed in the County of Tulare, and areas in which all fireworks are banned.

The ordinance will define the process for application for permit to make a public display of fireworks, as well as the revocation and appeal process.

The ordinance will define the eligible applicants for sales permits. The ordinance will also define the process of appeal from a revocation or denial of said permit.

Multiple existing references to “Illegal Fireworks” within the ordinance have been changed to “Dangerous Fireworks” as described in Health and Safety Code 12505.

Eligible Nonprofit Organizations have now been better defined.

The sale and/or display of Safe and Sane fireworks shall be permitted only June 28 between the hours of 12:00 P.M. and 11:00 P.M. and June 29 to July 4, between the hours of 9:00 A.M. and 11:00 P.M. This was added to be more specific with sales dates and times. Old language just stated date from noon June 28th until July 5th.

Violations and Penalties have been revised to fall in line with other Tulare County Ordinance sections and to allow fines / citation for those individuals using Dangerous & Exempt Fireworks within County of Tulare.

Minor language changes include a correction of the title “Fire Warden” to “Fire Chief” and the addition of “his or her” language.

FISCAL IMPACT/FINANCING:

The requested action has no Net County Cost to the General Fund.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

In accordance with the County’s Strategic Business Plan Organization Development Initiative, this action supports the continued internal growth and development of County departments and services.

SUBJECT: Repeal and Replace of Fireworks Ordinance
DATE: May 5, 2020

ADMINISTRATIVE SIGN-OFF:



Charlie Norman
Fire Chief

cc: County Administrative Office

Attachment(s) Fireworks Ordinance (Clean Copy)
 Fireworks Ordinance (Redlined Copy)
 Summary of Proposed Ordinance

BEFORE THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF REPEAL AND)
REPLACE OF FIREWORKS ORDINANCE) Resolution No. _____
) Agreement No. _____
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Introduced and waived the first reading of an ordinance repealing Article 3 of Chapter 5 of Part IV of the ordinance code and replacing Article 3 of Chapter 5 of Part IV of the ordinance code, pertaining to fireworks displays, sales, and use.
2. Set the second reading for May 19, 2020.
3. Directed the Clerk to publish a summary of the ordinance before the second reading as required by law.

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF REPEAL AND)
REPLACE OF FIREWORKS ORDINANCE) Resolution No. _____
) Agreement No. _____
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Waived the second reading and adopted an ordinance repealing Article 3 of Chapter 5 of Part IV of the ordinance code and replacing Article 3 of Chapter 5 of Part IV of the ordinance code, pertaining to fireworks displays, sales, and use.
2. Directed the Clerk to publish a summary of the ordinance and post a full copy of the ordinance after adoption as required by law.

[First publication]

PURSUANT TO GOVERNMENT CODE SECTION 25124, THE FOLLOWING IS A SUMMARY OF A PROPOSED ORDINANCE REPEALING ARTICLE 3 OF CHAPTER 5 OF PART IV OF THE ORDINANCE CODE AND REPLACING ARTICLE 3 OF CHAPTER 5 OF PART IV OF THE ORDINANCE CODE, PERTAINING TO FIREWORKS.

SUMMARY OF PROPOSED ORDINANCE

The ordinance would define fireworks allowed in the County of Tulare, not allowed in the County of Tulare, and areas in which all fireworks are banned.

The ordinance would define the process for application for permit to make a public display of fireworks, as well as the revocation and appeal process.

The ordinance would define the eligible applicants for sales permits. The ordinance would also define the process of appeal from a revocation or denial of said permit.

The ordinance would limit the sale and/or display of Safe and Sane Fireworks to June 28 between the hours of 12:00 P.M. and 11:00 P.M. and June 29 to July 4 between the hours of 9:00 A.M. and 11:00 P.M.

The ordinance would define the penalties applicable after a violation.

The effective date of these changes would be thirty (30) days after final adoption by the Board of Supervisors.

The ordinance herein summarized will be considered for a second reading by the Tulare County Board of Supervisors on May 19, 2020 at a regular meeting of said Board. At least five (5) days prior to that date, a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors and shall be available for public inspection at that location.

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors
of the County of Tulare

By: _____
Deputy

[Second publication]

ORDINANCE NO. _____

PURSUANT TO GOVERNMENT CODE SECTION 25124, THE FOLLOWING IS A SUMMARY OF AN ORDINANCE REPEALING ARTICLE 3 OF CHAPTER 5 OF PART IV OF THE ORDINANCE CODE AND REPLACING ARTICLE 3 OF CHAPTER 5 OF PART IV OF THE ORDINANCE CODE, PERTAINING TO FIREWORKS.

SUMMARY OF ORDINANCE

The ordinance will define fireworks allowed in the County of Tulare, not allowed in the County of Tulare, and areas in which all fireworks are banned.

The ordinance will define the process for application for permit to make a public display of fireworks, as well as the revocation and appeal process.

The ordinance will define the eligible applicants for sales permits. The ordinance will also define the process of appeal from a revocation or denial of said permit.

The ordinance will limit the sale and/or display of Safe and Sane Fireworks to June 28 between the hours of 12:00 P.M. and 11:00 P.M. and June 29 to July 4 between the hours of 9:00 A.M. and 11:00 P.M.

The ordinance will define the penalties applicable after a violation.

The effective date of these changes will be June 18, 2020, 30 days after adoption by the Board of Supervisors.

The ordinance herein summarized was adopted by the Tulare County Board of Supervisors on May 19, 2020, at a regular meeting of said Board.

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

ORDINANCE NO. ____

AN ORDINANCE REPEALING ARTICLE 3 OF CHAPTER 5 OF PART IV OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO FIREWORKS, AND REPLACING ARTICLE 3 OF CHAPTER 5 OF PART IV OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO FIREWORKS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. Article 3 of Chapter 5 of Part IV of the Ordinance Code of Tulare County, pertaining to fireworks, is repealed.

Section 2. Article 3 of Chapter 5 of Part IV of the Ordinance Code is replaced, to read as follows:

ARTICLE 3. FIREWORKS

SECTION 4-05-1050. DANGEROUS FIREWORKS:

It shall be unlawful for any person to sell, offer for sale, give away, have in his or her possession, fire, set off, discharge or use, or cause or permit to be sold, offered for sale, have had in his or her possession, fired, set off, discharged or used any Dangerous Fireworks as defined under Health and Safety Code section 12505, within the unincorporated area of the County, except as otherwise permitted by state law.

SECTION 4-05-1051. EXEMPT FIREWORKS:

“Exempt Fireworks” means any firecracker or salute of any size, kind, nature or name, or any bomb, chaser, skyrocket, roman candle, triangle wheel, pin wheel, mine, balloon operated by means of any flame, or any fireworks or other device commonly used for display or celebration purposes which contains any phosphorous in any form, or which contains any dynamite, any form of nitroglycerine or any other explosive substance so confined as to cause detonation upon being discharged, or any product which is of a similar nature to any article or product hereinabove enumerated, or any article or product of a flammable nature or capable of causing conflagration which is commonly used for display or celebration purposes. It shall be unlawful for any person to sell, offer for sale, give away, have in his or her possession, fire, set off, discharge or use, or cause or permit to be sold, offered for sale, have had in his or her possession, fired, set off, discharged or used, any exempt firework; provided, however that nothing in this section shall

prohibit the selling, offering for sale, possessing, firing, setting off, discharging or using of any paper cap commonly used in toy cap pistols.

SECTION 4-05-1055. EXCEPTION: MANUFACTURER AND JOBBER:

Upon the issuance of a permit by the Board of Supervisors, it shall be lawful to engage in the manufacturing, jobbing or dealing in any article or product named or described in sections 4-05-1050 and 4-05-1051 if such article or product is sold or offered for sale solely for delivery and use outside of the unincorporated territory of the County and any such article or product so sold is delivered by such manufacturer, jobber, dealer, or by common carrier to such point of delivery, except when sold or delivered for use pursuant to section 4-05-1060 of this Article.

SECTION 4-05-1060. PUBLIC DISPLAY:

(a) Nothing in sections 4-05-1050 and 4-05-1051 of this Article shall prohibit a public display of fireworks at any public gathering, provided that a permit to make such a public display has been issued in accordance with section 12640 et seq. of the Health and Safety Code.

(b) Applications for permits to make a public display of fireworks shall be filed with the County Fire Chief or his or her designee. An application shall not be accepted unless accompanied by the application fee for the permit as established, from time to time, by resolution of the Board of Supervisors. The County Fire Chief or his or her designee is hereby delegated the power to grant the permit, with or without conditions, or deny the permit in accordance with the provisions of section 12640 et seq. of the Health and Safety Code.

(c) If the County Fire Chief or his or her designee denies the requested permit, or grants the permit subject to conditions that are not satisfactory to the applicant, the applicant may file a written appeal with the Clerk of the Board of Supervisors. The appeals process and any Judicial Review shall be governed pursuant to Tulare County Ordinance Code section 165.

SECTION 4-05-1061. REVOCATION OF PUBLIC DISPLAY PERMIT:

The County Fire Chief or his or her designee may revoke the permit of any person or organization that violates the provisions of this Article of the Tulare County Ordinance Code. Notice of revocation shall be made in writing by the County Fire Chief or his or her designee to the permit holder. The County Fire Chief or his or her designee may reinstate a permit upon proof that the permit holder is in compliance with all provisions and rules pertaining to this Article of the Tulare County Ordinance Code.

SECTION 4-05-1070. SAFE AND SANE FIREWORKS:

“Safe and Sane Fireworks” means any fireworks which do not come within the definition of “Dangerous Fireworks” or “Exempt Fireworks” as defined under Health and Safety Code section 12529 and this Article. All Safe and Sane Fireworks shall be labeled with the Safe and Sane Fireworks seal as authorized by the State Fire Marshall. Except as provided in this Code, no person

shall possess, sell, use, display, explode, or discharge any Safe and Sane Fireworks within the County.

SECTION 4-05-1075. STATE RESPONSIBILITY AREA AND AREAS SURROUNDED BY INCORPORATED CITIES:

It shall be unlawful for any person to sell, offer for sale, give away, have in his or her possession, fire, set off, discharge or use, or cause or permit to be sold, offered for sale, have had in his or her possession, fired, set off, discharged or used, any fireworks, including Safe and Sane Fireworks, within the unincorporated area of the County known as the State Responsibility Area ("SRA") designated by Cal Fire in the foothills and mountains of the County within which Cal Fire has fire suppression responsibility. It shall be unlawful for any person to sell, offer for sale, or display for sale, any fireworks, including Safe and Sane Fireworks in any unincorporated area completely surrounded by an incorporated city. Maps designating the SRA shall be posted and made available to the public in all County Fire Stations.

SECTION 4-05-1076. LOCAL RESPONSIBILITY AREA:

It is unlawful for any person to sell, offer for sale or display for sale any Safe and Sane Fireworks within the unincorporated area of the County known as the Local Responsibility Area ("LRA") designated by Cal Fire on the valley floor within which the Tulare County Fire Department has fire suppression responsibility without first obtaining a permit for that purpose from the County Fire Chief, or his or her designee. It shall be unlawful for any person to sell, offer for sale, give away, have in his or her possession, fire, set off, discharge or use, or cause or permit to be sold, offered for sale, have had in his or her possession, fired, set off, discharged or used any fireworks, including Safe and Sane Fireworks, within the LRA during the period of July 5 to noon on June 28 of each year. Maps designating the LRA shall be posted and made available to the public in all County Fire Stations.

SECTION 4-05-1080. ELIGIBLE NONPROFIT ORGANIZATIONS:

“Eligible Nonprofit Organization” means an organization or corporation, which has met all of the following criteria continuously for a minimum of one year preceding the filing of the application for a permit to display for sale or sell Safe and Sane Fireworks.

(a) The organization and/or corporation must be a duly organized non-profit and tax-exempt charitable, religious, civic, patriotic, or community service organization or corporation with a current and valid 26 U.S.C. section 501(c)(3) tax exemption from the Internal Revenue Service or equivalent tax exempt status from the State Franchise Tax Board.

(b) The organization must be headquartered within and clearly affiliated or identified with the County of Tulare.

(c) The organization must be one which provides direct and regular community services and benefits to the citizens of the County of Tulare.

(d) The organization must hold its regularly scheduled meetings within the County of Tulare.

(e) No permit shall be issued to an ineligible organization. In the event an organization ceases to be an eligible organization, the permit shall be revoked immediately and shall be considered invalid. The ineligible organization shall cease the display and sales of Safe and Sane Fireworks immediately.

SECTION 4-05-1081. SALE OF SAFE AND SANE FIREWORKS:

Applicants for a permit to display for sale or sell Safe and Sane Fireworks shall apply to the County Fire Chief or his or her designee, on a form approved by the County Fire Chief or his or her designee on or before the first business day in May of each year, and shall pay an application fee in an amount determined by resolution of the Board of Supervisors as necessary to cover actual costs of issuing the permit. This application fee shall be in addition to any fee or tax imposed by any other chapter or article of the Tulare County Ordinance Code. The application shall be accompanied by:

(a) Proof that the applicant possesses a valid State Fire Marshal's retail sales license as defined by Health and Safety Code section 12574;

(b) Proof that the applicant possesses a valid temporary Seller's Permit from the State Board of Equalization;

(c) Certificate of Insurance as required by section 4-05-1084;

(d) Description of location and configuration of the premises from which fireworks will be sold;

(e) Other information or documentation as the County Fire Chief or his or her designee shall require.

SECTION 4-05-1082. APPLICATION: CONDITIONS: INVESTIGATIONS:

Each permit shall be valid only for the sale of Safe and Sane Fireworks. The sale and/or display of Safe and Sane Fireworks shall be permitted only June 28 between the hours of 12:00 P.M. and 11:00 P.M. and June 29 to July 4, between the hours of 9:00 A.M. and 11:00 P.M. The County Fire Chief, or his or her designee, shall investigate to determine whether the sale of fireworks in the manner proposed in an application will present a hazard to property or persons, in which case the permit may be issued with conditions to ameliorate such problems or the permit may be denied. Applicants may submit no more than one application for permit per community per year.

SECTION 4-05-1083. POLICIES AND REGULATIONS:

All permit holders shall be required to:

- (a) responsibly store and safeguard fireworks prior to sale;
- (b) maintain the sales premises in a clean and safe condition;
- (c) avoid parking and traffic hazards;
- (d) keep all handicapped parking stalls unobstructed;
- (e) obtain the consent of any directly-affected property owner;
- (f) locate sales premises at a safe distance from buildings, roads, and burnable materials as specifically identified on the Tulare County Fire Department Safe and Sane Fireworks stand application;
- (g) maintain appropriate fire extinguishers and other fire suppression equipment;
- (h) prohibit the sale of fireworks to anyone under the age of sixteen years;
- (i) prominently display the permit on the sales premises;
- (j) promptly remove any temporary sales structures by midnight of the second day following the termination date of the permit, and restore the premises to the condition before construction or location of the temporary structure;
- (k) comply with any and all policies and regulations issued by the County Fire Chief or his or her designee from time-to-time made applicable to such permits; and
- (l) cease operation of any and all fire stands outside the permitted hours as stated in section 4-05-1082.

SECTION 4-05-1084. INSURANCE:

Every permit holder must procure and maintain, during the term of the permit, comprehensive general liability insurance coverage in an amount not less than \$1,000,000 combined single limit per occurrence in a form acceptable to the County Fire Chief or his or her designee and naming the County, the Tulare County Fire Department, and the State of California, their officers, agents, employees and volunteers as additional insured parties.

SECTION 4-05-1085. APPEAL:

If the County Fire Chief or his or her designee denies the requested permit, or grants the permit subject to conditions that are not satisfactory to the applicant, the applicant may file a written appeal with the Clerk of the Board of Supervisors. The appeals process and any Judicial Review shall be governed pursuant to Tulare County Ordinance Code section 165.

SECTION 4-05-1086. REVOCATION OF SALES PERMIT:

The County Fire Chief or his or her designee may revoke the permit of any organization that violates the provisions of this Article of the Tulare County Ordinance Code. Notice of revocation shall be made in writing by the County Fire Chief or his or her designee to the organization. The County Fire Chief or his or her designee may reinstate a permit upon proof that the permit holder is in compliance with all provisions and rules pertaining to this Article of the Tulare County Ordinance Code.

SECTION 4-05-1087. PUBLIC NUISANCE:

The sale of fireworks in violation of this Article, including the material breach of any condition placed on a permit for the sale of Safe and Sane Fireworks, is hereby declared to be a Public Nuisance and may be abated in accordance with the Tulare County Public Nuisance Ordinance, including the emergency abatement procedures provided in Tulare County Ordinance Code section 4-01-1315, if applicable.

SECTION 4-05-1090. VIOLATIONS AND PENALTIES:

(a) Any person who violates any of the provisions of this Code or Regulations hereby adopted or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall sell, offer for sale, give away, have in his or her possession, fire, set off, discharge or use, or to cause or permit to be sold, offered for sale, have had in his or her possession, fired, set off, discharged or used, Dangerous Firework(s) or Safe and Sane Firework(s) within the SRA, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Board of Appeal or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor for violation of any provision of this chapter.

(b) Each offense shall be punishable as provided in Tulare County Ordinance Code section 125.

(c) The imposition of one penalty for any violation shall not excuse the violation nor permit it to continue; and all persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each day the prohibited conditions are maintained shall constitute a separate offense and corresponding penalty.

(d) The application of the above penalties shall not be held to prevent the enforced removal of prohibited conditions.

(e) The application of the above penalties shall be in addition to any other liabilities imposed by law, including but not limited to the liabilities imposed pursuant to Health and Safety Code sections 12700, 12702 (a), 12702 (b), 12702 (c) and 13009 et seq.

(f) In addition to the above penalties, if a juvenile is found to be in violation of this section, the juvenile shall complete a Tulare County Fire approved youth fire setter prevention and intervention program.

Section 3. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a summary shall be published once in The Sun-Gazette, a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ____ day of _____, 20__, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Approved as to Form:
County Counsel

By _____
Deputy
Matter # _____

ARTICLE 3. FIREWORKS

~~4-05-1050 ILLEGAL FIREWORKS:~~

~~It shall be unlawful for any person to sell, offer for sale, give away, have in his possession, fire, set off, discharge or use, or to cause or permit to be sold, offered for sale, had in possession, fired, set off, discharged or used, any firecracker or salute of any size, kind, nature or name, or any bomb, chaser, skyrocket, roman candle, triangle wheel, pin wheel, mine, balloon operated by means of any flame, or any fireworks or other device commonly used for display or celebration purposes which contains any phosphorous in any form, or which contains any dynamite, any form of nitroglycerine or any other explosive substance so confined as to cause detonation upon being discharged, or any product which is of a similar nature to any article or product hereinabove enumerated, or any article or product of a flammable nature or capable of causing conflagration which is commonly used for display or celebration purposes; provided, however that nothing in this section shall prohibit the selling, offering for sale, possessing, firing, setting off, discharging or using of any paper cap commonly used in toy cap pistols.~~

~~4-05-1055 SAME: EXCEPTION: MANUFACTURER AND JOBBER:~~

~~Upon the issuance of a permit by the Board of Supervisors, it shall be lawful to engage in the manufacturing, jobbing or dealing in any article or product named or described in section 4-05-1050 if such article or product is sold or offered for sale solely for delivery and use outside of the unincorporated territory of the County and any such article or product so sold is delivered by such manufacturer, jobber, dealer, or by common carrier to such point of delivery, except when sold or delivered for use pursuant to section 4-05-1060 of this Article.~~

~~4-05-1060 SAME: PUBLIC DISPLAY:~~

~~(a) Nothing in section 4-05-1050 of this Article shall prohibit a public display of fireworks at any public gathering, provided that a permit to make such a public display has been issued in accordance with section 12640 et seq. of the Health and Safety Code of the State of California.~~

~~(b) Applications for permits to make a public display of fireworks shall be filed with the County Fire Warden. An application shall not be accepted unless accompanied by the application fee for the permit as established, from time to time, by resolution the Board of Supervisors by resolution. The County Fire Warden is hereby delegated the power to grant the permit, with or without conditions, or deny the permit in accordance with the provisions of section 12640 et seq. of the California Health and Safety Code.~~

~~(c) If the County Fire Warden denies the requested permit, or grants the permit subject to conditions that are not satisfactory to the applicant, the applicant may file a written appeal with the Clerk of the Board of Supervisors. The Board of Supervisors shall set a time for hearing the matter and cause notice~~

~~of the hearing to be given to the applicant and the County fire Warden. The Board may continue said hearing from time to time, if such appears necessary or desirable. After the conclusion of the hearing, the Board shall reverse, modify or sustain the action taken on the permit by the Fire Warden.~~

~~4-05-1065 JUDICIAL REVIEW OF DECISION:~~

~~Judicial review of a decision of the Board of Supervisors made pursuant to this Article, if the decision denies the permit, shall be made pursuant to section 1094.6 of the Code of Civil Procedure of the State of California. The method of judicial review, the time limits for judicial review, and all of the other provisions of said section 1094.6 shall govern such judicial review. When giving written notice to the applicant that the permit has been denied, the Board of Supervisors shall provide notice to the applicant that the time within which judicial review must be sought is governed by said section 1094.6.~~

~~(Amended by Ord. No. 3559, effective 6-20-19)~~

~~4-05-1070 DANGEROUS FIREWORKS:~~

~~It shall be unlawful for any person to sell, offer for sale, give away, have in his or her possession, fire, set off, discharge or use, or cause or permit to be sold, offered for sale, had in possession, fired, set off, discharged or used, any dangerous fireworks as defined under Health and Safety Code Section 12505 within the unincorporated area of the County, except as otherwise permitted by state law.~~

~~(Amended by Ord. No. 3286, effective 4-29-03)~~

~~4-05-1071 STATE RESPONSIBILITY AREA AND AREAS SURROUNDED BY INCORPORATED CITIES:~~

~~It shall be unlawful for any person to sell, offer for sale, give away, have in his or her possession, fire, set off, discharge or use, or cause or permit to be sold, offered for sale, had in possession, fired, set off, discharged or used, any "safe and sane fireworks" as defined under Health and Safety Code Section 12529 ("safe and sane fireworks") within the unincorporated area of the County known as the State Responsibility Area ("SRA") designated by the California Department of Forestry and Fire Protection ("CDF") in the foothills and mountains of the County within which the CDF has fire suppression responsibility. It shall be unlawful for any person to sell, offer for sale, or display for sale, any safe and sane fireworks in any unincorporated area completely surrounded by an incorporated city. Maps designating the SRA shall be posted and made available to the public in all County Fire Stations.~~

~~(Added by Ord. No. 3286, effective 4-29-03)~~

~~4-05-1072 LOCAL RESPONSIBILITY AREA:~~

~~It is unlawful for any person to sell, offer for sale or display for sale any safe and sane fireworks within the unincorporated area of the County known as the Local Responsibility Area ("LRA") designated by CDF on the valley floor within which the Tulare County Fire Department has fire suppression responsibility without first obtaining a permit for that purpose from the County Fire Warden, or his or her designee. It shall be unlawful for any person to fire, set off, discharge or use, or cause or permit to be fired, set off, discharged or used, any "safe and sane fireworks" within the LRA during the period of July 5 (unless July 4 falls on a Sunday, in which case the period will commence on July 6) to noon on June 28 of each year. Maps designating the LRA shall be posted and made available to the public in all County Fire Stations.~~

~~(Added by Ord. No. 3286, effective 4-29-03)~~

~~4-05-1073 NONPROFIT ORGANIZATIONS:~~

~~A non-transferable permit for the retail sale of "safe and sane fireworks" shall be issued only to nonprofit organizations organized and existing primarily for charitable, religious, civic improvement, patriotic or community service purposes, which provide ongoing community services and benefits to the community within which they propose to sell fireworks.~~

~~(Added by Ord. No. 3286, effective 4-29-03)~~

~~4-05-1074 APPLICATION:~~

~~Applicants for a permit shall apply to the County Fire Warden, or his or her designee, on a form approved by the Fire Warden on or before the first business day in June of each year, and shall pay an application fee in an amount determined by resolution of the Board of Supervisors as necessary to cover actual costs of issuing the permit. The application shall be accompanied by:~~

~~(a) Proof that the applicant possesses a valid State Fire Marshal's retail sales license as defined by Health and Safety Code Section 12574;~~

~~(b) Proof that the applicant possesses a valid Temporary Seller's Permit from the State Board of Equalization;~~

~~(c) Certificate of Insurance as required by Section 4-05-1077~~

~~(d) Description of location and configuration of the premises from which fireworks will be sold;~~

~~(e) Such other documentation as the Fire Warden shall require.~~

~~(Added by Ord. No. 3286, effective 4-29-03) (Rev. 01-24-06)~~

~~4-05-1075 APPLICATION: CONDITIONS: INVESTIGATION:~~

~~Each permit shall be valid only for the sale of fireworks from noon on June 28 to July 4 of the year of issuance unless July 4 falls on a Sunday, in which case the effective period of the permit shall extend until July 5. The Fire Warden, or his or her designee, shall investigate to determine whether the sale of fireworks in the manner proposed in an application will present a hazard to property or persons, in which case the permit may be issued with conditions to ameliorate such problems or the permit may be denied. Applicants may submit no more than one application for permit per community per year.~~

~~(Added by Ord. No. 3286, effective 4-29-03)~~

~~4-05-1076 POLICIES AND REGULATIONS:~~

~~All permit holders shall be required to:~~

- ~~(a) responsibly store safeguard fireworks prior to sale;~~
- ~~(b) maintain sales premises in a clean and safe condition;~~
- ~~(c) avoid parking and traffic hazards;~~
- ~~(d) obtain the consent of any directly affected property owner;~~
- ~~(e) locate sales premises a safe distance from permanent buildings and flammable materials;~~
- ~~(f) maintain appropriate fire extinguishers and other fire suppression equipment;~~
- ~~(g) prohibit the sale of fireworks to anyone under the age of sixteen years;~~
- ~~(h) prohibit the sale of fireworks to anyone under the age of sixteen years;~~
- ~~(i) prominently display the permit on the sales premises;~~
- ~~(j) promptly remove any temporary sales structures by midnight of the second day following the termination date of the permit, and restore the premises to the condition before construction or location of the temporary structure; and,~~
- ~~(k) comply with any and all policies and regulations issued by the Fire Warden from time to time made applicable to such permits.~~

~~(Added by Ord. No. 3286, effective 4-29-03)~~

~~4-05-1077 INSURANCE:~~

~~Every permit holder must procure and maintain during the term of the permit comprehensive general liability insurance coverage in an amount not less than \$1,000,000 combined single limit per occurrence in form acceptable to the Fire Warden and naming the County and the State of California, their officers, agents, employees and volunteers as additional insured's.~~

~~(Added by Ord. No. 3286, effective 4-29-03)~~

~~4-05-1078 APPEAL:~~

~~Any applicant for a permit may appeal any conditions placed on a permit, or a denial of a permit, to the Board of Supervisors by requesting a hearing in writing with the Clerk of the Board within ten (10) days of the action taken. The request for hearing shall include a statement of the reasons therefore, in detail. The Board of Supervisors shall hear the appeal at the next available meeting, and may affirm, modify, or reverse the action of the Fire Warden.~~

~~(Added by Ord. No. 3286, effective 4-29-03)~~

~~4-05-1079 PUBLIC NUISANCE:~~

~~The sale of fireworks in violation of this Article, including the material breach of any condition placed on a permit for the sale of "safe and sane fireworks," is hereby declared to be a Public Nuisance and may be abated in accordance with the Public Nuisance Ordinance, including the emergency abatement procedures provided in Section 4-01-1315, if applicable.~~

~~(Added by Ord. No. 3286, effective 4-29-03)~~