

# City of Chino Fireworks Ordinance 2009

## **8.12.010 Intent.**

The provisions of this chapter are intended to regulate the sale and use of fireworks and the prevention of fires thereby. They are, furthermore, provided to ensure a community benefit from the revenues received. The fees in this chapter, along with the use of the community services commission as a designated oversight committee, are for regulation purposes. (Ord. 98-02 § 1 (part), 1998.)

## **8.12.020 “Safe and Sane” fireworks permitted.**

The storage and discharge of “Safe and Sane” fireworks as defined by Section 12529 of the Health and Safety Code of the state of California by consumers shall be permitted within the city during the period beginning at noon on the 1st day of July and ending by midnight on the 4th of July of each calendar year, pursuant to the provisions of this chapter and not otherwise. Storage of “Safe and Sane” fireworks for the purpose of setting up sales booths shall be permitted beginning at twelve noon on June 30th of each year. The sale of “Safe and Sane” fireworks shall be permitted within the city during the period beginning on the 1st day of July and ending at nine p.m. on the 4th of July of each calendar year, pursuant to the provisions of this chapter and not otherwise. (Ord. 2004-11 § 1, 2004; Ord. 98-02 § 1 (part), 1998.)

## **8.12.030 Sales of fireworks--Retail permit required.**

- A. Except as provided herein, no person shall offer for sale or sell at retail any fireworks of any kind in the city without having first applied for and received a retail permit therefor, from the tax and license collector.
- B. No organization shall receive more than one permit or participate in more than one stand during any one calendar year.
- C. An organization with a permit may enter into a joint venture with one or more qualifying Chino organizations provided that one organization assumes responsibility for compliance with all city ordinances and regulations and all other participating organizations are listed as such on the permit.
- D. At no time shall an organization be permitted to sublet a fireworks stand without first acquiring written consent from the community services commission. A hearing date, to be scheduled by and with the community services commission, shall determine if subletting will result in a benefit to the community. Permission from the commission shall require that all subleased units be subject to the same terms and conditions as applied to any other qualifying organization.
- E. The maximum number of permits that may be issued in one calendar year shall not exceed one for every two thousand five hundred residents of the city, or a fraction thereof, based on the latest estimate of the California Department of Finance or the U.S. Bureau of the Census. However, despite increases in population within the city, the maximum number of permits shall never exceed thirty permits per year. If the number of applications for retail permits exceeds the number of permits to be issued, the permittee during the preceding year shall have first priority for the available permits. Any remaining permits, after deducting priority applicants, shall be granted by a drawing supervised by the city of Chino tax and license collector. Only one participating organization in a joint venture shall be deemed to be the permittee. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.040 Retail permit application.**

Any organization authorized by a drawing as provided in Section 8.12.030(E) or any organization that operated a stand in the preceding year and that requests a permit in the current year, shall submit an application for a retail permit to sell fireworks. All applications for a retail permit to sell fireworks shall:

A. Be made in writing accompanied by a permit fee as stated in the city's cost control system, a license issued by the State Fire Marshal, and a clean-up deposit fee as stated in the comprehensive fee schedule as codified in Appendix I of the code. Such deposit shall be refundable upon compliance with the provisions and requirements of this chapter, including but not limited to the removal of the stand and the cleaning of the site. In the event the permittee does not so comply or remove the stand or clean the site in the manner required by the building official of the city, the city may do so or cause the same to be done by other persons, and the cost over and above the amount of the cleaning deposit shall be charged against the permittee and the deposit shall be forfeited;

B. Set forth the proposed location of the fireworks stand, and be accompanied by a letter signed by the owner or agent of the property upon which the fireworks stand is proposed to be located, which confirms that the owner has given permission for the use of the property for such purpose. No stand shall be permitted in any zones other than C and M zones and all stands must conform to other applicable laws including those regulations noted in Section 8.12.080;

C. Submit official board minutes detailing the intent and authorization to sell fireworks. Such notes shall detail what sites, populations or projects will benefit and for what purposes. Minutes shall be attached to the application and shall be reviewed by the community services commission;

D. Include a copy of the organization's 501(c)3 or other official verification of nonprofit status on letterhead of the nonprofit organization. Agencies not possessing the appropriate documentation of nonprofit status shall be required to seek written authorization from the community services commission prior to a permit being issued and prior to March 15th of each year. A hearing date, to be scheduled by and with the community services commission, shall determine whether organizations without proof of nonprofit status can proceed with operating the stand. The hearing date shall be coordinated between the applicant and the commission during the months of March and April;

E. Have attached a financial statement form, to be provided by the tax and license collector, that describes anticipated expenses and profits. The information contained on this form shall, furthermore, detail how much moneys will be provided to the projects mentioned pursuant to subsection (C) herein;

F. Be accompanied by an assurance that if the retail permit is issued to the applicant, the applicant shall, at time of receipt of retail permit, deliver to the tax and license collector one-million-dollar public liability and property damage insurance certificates holding the city and its employees, officials and agents harmless and designating the same as the additional insured;

G. Include a statement that the applicant agrees to comply strictly with the terms of any retail permit granted and furnish any additional information upon request of the city relating to provisions of this chapter;

H. All applications submitted by organizations that operate an existing stand shall be submitted between the 15th day of February and the 15th day of March of each year. All new applicants must submit an application by March 15th and by April 15th must submit all required documentation. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.050 Notice of granting or rejecting retail permit.**

Applicants for a retail permit shall be notified by the tax and license collector by May 1st each year of the granting or rejecting of such application for a retail permit. (Ord. 98-02 § 1 (part), 1998.)

### **8.12.060 Retail permit--Prerequisites to issuance.**

The following qualifications must be met by each applicant for a retail permit:

- A. No retail permit shall be issued to any person, firm or corporation except nonprofit associations or corporations organized primarily for civic betterment, youth activities, sports, military or veterans affairs, charitable or religious purposes.
- B. All applying organizations shall be required to demonstrate how revenues received will benefit the community of Chino. Self-profit seeking organizations shall be prohibited from participating, unless special circumstances as observed and approved by the community services commission permit.
- C. Each organization must have its principal and permanent meeting place in the corporate limits of the city; must maintain a bona fide membership of at least twenty members; and must have been organized and established in the city's corporate limits for a minimum of one year continuously preceding the filing of the application for the retail permit. Chino unified school district schools not physically located in the city, or booster groups that support non-Chino schools, shall not be eligible for a fireworks permit. (Ord. 98-02 § 1 (part), 1998.)

### **8.12.070 Stands operation.**

- A. No entity other than the permittee organization shall operate the stand for which the retail permit is issued, unless permitted by the community services commission.
- B. No person other than the individuals who are members of the permittee organization, or the wives or husbands or adult children of such members shall sell or otherwise participate in the sale of fireworks at such stand.
- C. No person selling or otherwise participating in the sale of fireworks shall be paid any consideration for selling or otherwise participating in the sale of fireworks at such stand.
- D. No person under eighteen years of age shall be permitted in the stand and signage shall be required to be prominently displayed in stands stating that no person under eighteen years of age shall be permitted in the stand.
- E. The consumption of alcoholic beverages or the use of narcotics within twenty-five feet of the stand shall be prohibited.
- F. An emergency contact telephone number shall be posted on exterior and interior surfaces of all exit doors. (Ord. 98-02 § 1 (part), 1998.)

### **8.12.080 Temporary fireworks stands.**

All retail sales of safe and sane fireworks shall be permitted only from within a temporary fireworks stand, and sales from and/or storage at any other building or structure is prohibited except as defined in this chapter. Temporary stands shall be subject to the following provisions:

- A. A maximum of one thousand dollars for each fireworks stand shall be permitted for rental payment to the landowner.
- B. A minimum distance of two hundred feet shall be maintained between all fireworks stands.
- C. No fireworks stand shall be located within twenty-five feet of any building, fifteen feet of a curb line, nor within one hundred feet of any gasoline pump. The building official may authorize stands to be located within ten feet of a curb line if it is determined that such placement will not be a hazard to operators or disrupt the normal flow of traffic. No trailer, vehicle, camper, or other object shall be parked within twenty-five feet of the stand.
- D. Fireworks stands shall be erected under the supervision of the building official, who shall require that stands be constructed in a manner that will reasonably insure the safety of attendants and patrons. A permit to operate shall be received from the fire district following an inspection for compliance with this chapter and State Fire Marshal's requirements.
- E. No stand shall have a floor area in excess of four hundred square feet.
- F. Each stand must have at least two exits, and each stand in excess of forty feet in length must have at least three exits spaced approximate equal distance apart and in no case shall the distance between exits exceed twenty-five feet.

G. Each stand shall be provided with a two and one-half gallon water pressure type fire extinguisher which must be mounted at each exit. The extinguisher must bear evidence that they have been inspected by a state licensed agency. Extinguishers shall be in good working order and easily accessible.

H. All electrical wiring must be three-wire, two conductors and a ground wire. Temporary wiring must be protected from damage and if susceptible to moisture, be protected by waterproof components. All extension cords and wiring shall comply with the Uniform Electrical Code.

I. A minimum of eight off-street parking spaces, each at least nine feet by nineteen feet in size, shall be provided, and they shall be located a minimum of twenty-five feet from each stand.

J. A maximum of two signs, not to exceed forty-eight square feet each in area, shall be permitted for each stand. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.090 Stands--Weeds and combustible materials.**

All weeds and combustible materials shall be cleared from the location of the stand, including a distance of at least twenty-five feet surrounding the stand. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.100 Stands--No smoking signs.**

"No Smoking" signs shall be prominently displayed on the fireworks stand, and no smoking shall be permitted within twenty-five feet of the stand. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.110 Stands--Adults in charge or as a watchman.**

Each stand must have an adult in attendance to sell and serve as watchman while fireworks are stored therein. Sleeping or remaining in the stand after close of business each day is forbidden. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.120 Duration of operation.**

The sale of fireworks shall not begin before the 1st of July and shall not continue after nine p.m. on the 4th of July. (Ord. 2004-11 § 2, 2004; Ord. 98-02 § 1 (part), 1998.)

#### **8.12.130 Removal of unsold stock and accompanying litter.**

All unsold stock and accompanying litter shall be removed from the location by five p.m. on the 5th day of July. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.135 Location of fireworks stands--Changes.**

Any change in the proposed location for a fireworks stand set forth in an application for a retail permit must be approved by a committee appointed by the community services commission prior to the issuance of the permit. There shall be no changes in the location of a fireworks stand once a permit has been granted. (Ord. 99-06 § 1, 1999.)

#### **8.12.140 Removal of stand.**

The fireworks stand shall be removed from the temporary location by noon on the 10th day of July, and all accompanying litter shall be cleared from such location by such time and date. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.150 Display of licenses, permits, ordinance and roster.**

State license, city retail permit to sell fireworks, temporary sales tax permit, and Chino fire district permit to operate shall be displayed in a prominent place in the fireworks stand. In addition, a copy of the fireworks ordinance and a sign-in roster of workers shall be displayed in a prominent place. Those listed on the sign-in roster must be listed as members of the organization submitted with the application. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.160 Financial reporting.**

Each organization operating a stand or participating as a member of a joint venture shall submit to the tax and license collector of the city a financial summary of total sales from fireworks by August 31st of each year. The financial summary shall have a summary of actual sales and profit for that year and shall have receipts attached for each stand. Organizations failing to comply with the financial summary deadline of August 31st shall be subject to a penalty of three hundred dollars. If the organization fails to submit a financial summary by a second deadline of September 15th, an additional penalty of two hundred dollars, for a cumulative total of five hundred dollars, shall be assessed. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.165 Surcharge.**

A. The city shall assess a surcharge on all sales of fireworks that occur in the city. The assessment shall be paid by the booth operator of any and all fireworks sold in the city, upon presentment of an invoice by the city's finance department.

B. The assessment is intended to raise sufficient funds for the city to pay for the cost of processing and issuing permits under this chapter; inspection of stands; a public education and awareness campaign; enforcing the provisions of this chapter, including extra personnel time; and clean-up of the trash and debris left behind each year. Therefore, the amount of the assessment shall be determined each year as soon as reasonably possible after the stand operators submit their sales reports to the city, and the assessment shall not be more than ten percent of the total gross sales of the fireworks sold in the city that year. After the finance department determines each booth operator's share of the total annual sales volume, each booth operator shall be billed for its share of the total assessment. Payment of the assessment by each booth operator shall be due to the city thirty days after issuance of the invoice.

C. Failure by any booth operator to pay the amount assessed to it by the city's finance department shall be cause to bar the booth operator from selling its goods in the future, until the assessment is paid in full. Furthermore, if the assessment is not paid by the due date, it shall be subject to a ten percent penalty for each month or portion of a month that it is late. (Ord. 2004-11 § 3, 2004.)

#### **8.12.170 Prohibitions on discharge.**

A. In accordance with state law, it is unlawful for any person to ignite, explode, project, or otherwise fire or make use of any fireworks that are not of the "Safe and Sane" variety, in the City of Chino. In addition to any other penalties provided by law, any person who commits a violation of this section shall be subject to an administrative fine in an amount to be determined by City Council resolution.

B. It is unlawful for any person to ignite, explode, project, or otherwise fire or make use of any "Safe and Sane" fireworks within ten feet of any residence, dwelling, or other structure. It is also unlawful for any person to ignite, explode, project, or otherwise fire or make use of any "Safe and Sane" fireworks anywhere outside a residential zone, in any public park or in any area south of Kimball Avenue and west of Euclid Avenue to the City limits, south of Merrill Avenue and east of Euclid Avenue to the City limits. In addition to any other penalties provided by law, any person who commits a violation of this section shall be subject to an administrative fine in an amount to be determined by City Council resolution.

C. It is unlawful for any person to possess, store, or to permit the storage of, any fireworks that are not of the "Safe and Sane" variety, in the City of Chino. In addition to any other penalties provided by law, any person who commits a violation of this section shall be subject to an administrative fine in an amount to be determined by City Council resolution. (Ord. 2004-11 § 4, 2004.)

#### **8.12.180 Wholesale permit.**

Except as provided herein, no manufacturer, importer, exporter or wholesaler of fireworks shall offer for sale or sell at wholesale any fireworks of any kind without having first applied for and received a wholesale permit therefor, from the tax and license collector. All applications for a wholesale permit to sell fireworks shall:

- A. Be made in writing, accompanied by the fee charged as stated in the comprehensive fee schedule.
- B. Be made only between the 15th day of February and the 15th day of March of each calendar year.
- C. Be accompanied by an assurance that if the wholesale permit is issued to the applicant, the applicant shall, at the time of receipt of such wholesale permit, deliver to the tax and license collector of the city, one-million-dollar public liability and property damage certificates with riders attached to the policies designating the city and its employees, officials and agents as additional insured thereunder.
- D. Contain such other information as may be required by the tax and license collector.
- E. It shall contain a statement that fireworks shall not be furnished, sold, distributed or placed in the possession of any person or organization in the city, or for sale, use or distribution in the city, unless such person or organization holds a valid and unrevoked permit from the city to so possess, sell, use or distribute such fireworks. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.190 Storage.**

Safe and sane fireworks may be stored within the city, pursuant to the following provisions:

- A. Buildings or parts of buildings used for the storage of safe and sane fireworks shall be classified as Group H, Division 1, occupancies, as provided in the Uniform Building Code, 1994 Edition, and shall meet all requirements for such occupancies. However, under no condition shall any building or parts of buildings be used that are not provided with an automatic sprinkler system that is designed for this type of occupancy and has been inspected and tested by the Chino fire district.
- B. Stacks of merchandise shall be limited in size to three thousand two hundred cubic feet and each stack shall be separated from other stacks by ten-foot side aisles. Height of stack, eight feet; length of stack, ten feet; width of stack, eight feet. (Ord. 98-02 § 1 (part), 1998.)

#### **8.12.200 Penalties.**

A. The community services commission shall investigate and conduct hearings regarding violations of this chapter, and any organization found in violation of this chapter or proceeding without appropriate consent from the commission shall be ineligible to obtain a permit for selling fireworks for three years immediately following the violation, after which time they will be required to participate in a permit lottery.

B. A retail permit may be revoked at any time by the tax and license collector or the community services commission if the organization does not comply with the permit requirements set forth in this chapter.

C. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a period not exceeding six months, or a fine not exceeding one thousand dollars, or by both such imprisonment and fine.

D. Any stand being operated in violation of any section of this chapter may be closed immediately by the Chino Valley independent fire district, city of Chino police department or Chino code enforcement officers. (Ord. 98-02 § 1 (part), 1998.)