

ORDINANCE NO. 2020-06

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
HESPERIA, CALIFORNIA, ADDING CHAPTER 8.36 AND
AMENDING SECTION 16.12.380(B) REGULATING THE USE OF
FIREWORKS**

WHEREAS, the City of Hesperia ("City") has experienced an increase in the use of fireworks, which create a threat to the health and safety of the community and are considered a public nuisance; and

WHEREAS, use of fireworks in the City interferes with the health, safety, quality of life, quiet enjoyment and general welfare of the community; and

WHEREAS, California Health and Safety Code Section 12541 authorizes the City to regulate or prohibit the sale, use, or discharge of fireworks; and

WHEREAS, the City Council has determined it is necessary to regulate fireworks, including "safe and sane" fireworks, as well as dangerous fireworks; and

WHEREAS, the City Council has determined all fireworks will be prohibited except for special events, where the providers of the event have obtained a permit from the City.

WHEREAS, through the adoption of this Chapter, the City will regulate fireworks within the City for the public health, safety, and welfare of the residents of the City of Hesperia.

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

SECTION 1. Chapter 8.36 entitled "FIREWORKS" is hereby added to the Hesperia Municipal Code to read in its entirety as follows:

"FIREWORKS

8.36.010 Fireworks prohibited.

8.36.020 Exception for public displays and/or special effects.

8.36.030 Violations—Penalty

8.20.040 Severability

8.36.010 - Fireworks prohibited.

It is unlawful for any person to sell, use or possess any fireworks within the city. Fireworks include "dangerous fireworks," as defined in California Health and Safety Code Section 12505, "fireworks," as defined in California Health and Safety Code Section 12511, and "safe and sane fireworks," as defined in California Health and Safety Code Section 12529 as may be amended from time to time.

8.36.020 – Exception for public displays and/or special effects.

A. The foregoing prohibition in Section 8.36.010 shall not apply to persons who have obtained a special event permit from the City pursuant to Section 16.12.380(B) - Special event permits.

B. The city manager shall have authority to adopt reasonable rules and regulations for those activities contained in Health and Safety Code § 12640, including supervised public displays of fireworks by a jurisdiction, fair association, amusement park, other organization, or for the use of fireworks by artisans in pursuit of their trade. Each such use or display shall be handled by a licensed pyrotechnic operator (as defined by Health and Safety Code § 12527), and shall be of such character and so located, discharged or fired as in the opinion of the city manager or his designee, after proper investigation, will not be hazardous or endanger any person.

8.36.030 - Violations—Penalty.

A. Any person violating any provision of this Chapter or failing to comply with any of the requirements herein is guilty of a misdemeanor which may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction.

B. The violation of any of the provisions of this chapter is deemed a public nuisance and may be abated by the city through civil process by means of restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisance. Violations of this title may be also be punishable in accordance with the provisions of [Title 1](#) of this code. Remedies are not exclusive of each other.

C. The remedies provided in this Chapter are not to be construed as exclusive remedies and, in the event of violation, the city may pursue any proceedings or remedies otherwise provided by law.

D. Fines for violations of this Chapter shall be as adopted by the City Council in the City Administrative Bail Schedule

8.36.040 – Severability.

If any provision, section, paragraph, sentence or word of this Chapter is determined or declared invalid by any final court action in a court of competent jurisdiction or if the application of any provision, section, paragraph, sentence or word of this Chapter is inapplicable to a specific situation by reason of any preemptive state or federal legislation or regulation, the remaining provisions, sections, paragraphs, sentences or words of this Chapter shall remain in full force and effect.”

SECTION 2. Section 16.12.380(B) entitled “Special event permits” has a list of seven activities for which permits are required. Number eight shall be added to read in its entirety as follows:

“8. Public fireworks display and/or special effects.”

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, phrase, or portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall be effective commencing on May 19, 2020.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Hesperia, California, at a regular meeting held on this __th day of _____, 2020.

Larry Bird, Mayor

ATTEST:

Melinda Sayre, City Clerk