

ORDINANCE NO. 611

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
AMENDING TITLE 7, CHAPTER 4 OF THE LIVINGSTON MUNICIPAL CODE
RELATING TO FIREWORKS**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVINGSTON,
CALIFORNIA, DOES ORDAIN** as follows:

SECTION 1. **Amendment.** Title 7, Chapter 4 of the Livingston Municipal Code is hereby amended as follows:

7-4-1 DEFINITIONS.

The following words and phrases, as used in this Chapter, are defined as follows:

- (A) “Affiliated organizations” means:
 - (1) Organizations incorporated under the same charter or organization and their organizations and auxiliaries unless the auxiliary is incorporated under a different charter;
 - (2) Organizations sharing the same officers, place of meetings, and/or national parent organization;
 - (3) Subdivisions and/or factional divisions of organizations however named or delineated;
 - (4) Sub-organizations, one of whose primary purpose is to provide financial and/or manpower support to a parent non-profit organization. Different organizations affiliated with and officially recognized by any elementary, junior high, high school, and/or school district that serves, in whole or in part, the residents of the City of Livingston shall be presumed to be Affiliated Organizations (i.e., boosters of high school football and boosters of high school basketball), unless recognized as a separate non-profit by either the State or the IRS.

- (B) “Building Inspector” means the Livingston Building Inspector and his or her designees.

- (C) “City Clerk” means the Livingston City Clerk and his or her designees.

- (D) "Dangerous fireworks" means:
 - (1) Any fireworks which contain any of the following: (a) Arsenic sulfide, arsenates, or arsenites; (b) Boron; (c) Chlorates, except in colored smoke mixture in which an equal or greater amount of sodium bicarbonate is included; In caps and party poppers; (d) 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; (e) Gallates or Gallic acid; (f) Magnesium (magnesium-aluminum alloys, called magnalium, are permitted); (g) Mercury salts; (h) Phosphorus (red or white except that red phosphorus is permissible in caps and party poppers); (i) Picrates or picric acid; (j) Thiocyanates; (k) Titanium, except in particle size greater than 100-mesh; (l) Zirconium;

- (2) Firecrackers;
 - (3) Skyrockets and rockets, including all devices which employ any combustible or explosive material and which rise in the air during discharge;
 - (4) Roman candles, including all devices which discharge balls of fire into the air;
 - (5) Chasers, including all devices which dart or travel about the surface of the ground during discharge;
 - (6) Sparklers more than 10 inches in length or one-fourth of one inch in diameter;
 - (7) 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;
 - (8) 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.
 - (9) Torpedoes of all kinds which explode on impact;
 - (10) Fireworks kits;
 - (11) Such other fireworks examined and tested by the State Fire Marshal and determined by him or her, 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.
- (E) “Exempt fireworks” means any special item containing pyrotechnic compositions which the State Fire Marshal, 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.
- (F) “Fireworks” 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, skyrockets, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and fireworks kits.

- (G) “Lottery” means a random selection process conducted by the City Council at the second regularly scheduled Council meeting in March for the selection of non-profits that will be issued permits to sell Safe and sane fireworks. For 2014, the Lottery will be held at the second regularly scheduled Council meeting in April.
- (H) “Non-profit organization” means (1) any non-profit association, charity, or corporation organized primarily for veteran, patriotic, welfare, civic betterment, youth activities, or charitable purposes, (2) a group which is an integral part of a recognized non-profit national organization, or (3) an organization affiliated with and officially recognized by an elementary, junior high, high school and/or school district that serves, in whole or in part, the residents of the City of Livingston. All Non-profit organizations must be recognized by either the IRS or the State of California. Evidence of non-profit status shall consist of a “Letter of Determination” from the IRS or recognition from the California Secretary of State. If this letter cannot be obtained, other evidence must be offered and the City Manager will determine its validity.
- (I) “Person” means any individual, firm, partnership, joint venture, association, concern, corporation, state, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- (J) "Principle and permanent meeting place" shall include, but is not limited to, a permanent structure, playing field, geographic area, or service population, which resides in or is located within the City of Livingston.
- (K) "Safe and sane fireworks" (a.k.a. "State-approved fireworks") means any fireworks which do not come within the definition of “Dangerous fireworks” or “Exempt fireworks.”

7-4-2 GENERAL PROHIBITION AGAINST POSSESSION, SALE, OR USE OF FIREWORKS.

No person may manufacture, import, export, store, possess, sell, use, display or discharge dangerous fireworks as defined in this Chapter within the City of Livingston. No person may possess, sell, use, display or discharge safe and sane fireworks within the City of Livingston except as specifically provided in this Chapter.

7-4-3 EXCEPTION—SALE OF SAFE AND SANE FIREWORKS ALLOWED WITH PERMIT.

It shall only be lawful to sell or display safe and sane fireworks within the City of Livingston with a City issued permit during the time period set forth in this Chapter.

7-4-4 PREREQUISITES FOR ISSUANCE OF PERMIT.

- (A) No permit to sell Safe and sane fireworks shall be issued to any person, except Non-profit organizations, as defined in this Chapter. Permits shall be issued using a lottery system and by City Council selection, as explained more fully below.
- (B) Applications from qualified non-profit organizations desiring to participate in the Lottery selection must be received by the City Clerk prior to February 1 each year, with the exception of 2014, when the applications can be submitted prior to April 1. The City Manager shall determine whether the applicant Non-profit organization is qualified, pursuant to this Chapter, to be included in the Lottery selection process. An applicant who is denied participation in the Lottery selection process may appeal the City Manager's decision by submitting a written appeal, accompanied by an appeal fee as set by the City Council, to the City Clerk within 15 days of the City Manager's decision. The City Council shall consider the appeal prior to conducting the Lottery selection for the issuance of permits at its second regularly scheduled Council meeting in March and shall consider public comment and any evidence presented by the applicant at that time. The City Council may revise, modify or sustain the denial after the public hearing, and its decision shall be final. If the Council decides to reverse the City Manager's decision, the applicant will be included in the Lottery. For 2014, the Lottery will be held at the second regularly scheduled meeting in April.
- (C) A non-profit organization, including its affiliated organizations may submit no more than one (1) application for a permit to sell safe and sane fireworks within the City of Livingston. If more than one (1) application is submitted on behalf of any non-profit organization, including an affiliated organization, only the first request submitted will be honored and entered into the Lottery.
- (D) One (1) permit entitles the qualified non-profit organization to one (1) fireworks stand, which shall operate on the location listed on the permit.
- (E) The maximum number of permits which may be issued and the maximum number of safe and sane fireworks stands that will be permitted pursuant to this Chapter during any one (1) calendar year shall not exceed one (1) permit for each three thousand (3,000) residents of the City of Livingston, or fraction thereof, based on the latest California Department of Finance estimate published before the end of the permit application filing period.
- (F) Applicants selected to receive a permit to sell Safe and sane fireworks under the Lottery process will not be allowed to participate in the Lottery for the next calendar year.
- (G) Two (2) or more qualified applicants may be issued a permit as a joint venture. Applicants wishing to be considered as joint ventures must list the other non-profit(s) they would like to be joined with on their application. Joint ventures may each submit a separate application listing the other non-profit(s) on the application.

- (H) Permits issued pursuant to this Chapter are valid only during the period specified on the permit in the calendar year issued.

Retail sales of safe and sane fireworks shall be permitted only from temporary fireworks stands. The sale of safe and sane fireworks from any other building or structure is prohibited.

7-4-5 CRITERIA FOR INCLUSION IN CITY PERMIT LOTTERY AND PERMIT ISSUANCE.

In order to be eligible for inclusion on the City of Livingston Permit Lottery and to be issued a permit to sell Safe and sane fireworks, a non-profit organization must:

- (A) Have had its principal and permanent meeting place in an area which is within the City of Livingston limits for a minimum of one (1) year continuously preceding the filing of the permit application or, in the case of a Non-profit organization affiliated with and officially recognized by an elementary, junior high, high school, and/or school district that serves in whole or in part, the residents of the City of Livingston, such Non-profit organization shall have been affiliated or officially recognized by the school and/or school district for a minimum of one (1) year continuously preceding the filing of the permit application.
- (B) Have at least fifteen (15) members.

7-4-6 PROCEDURE FOR CITY OF LIVINGSTON LOTTERY, COUNCIL SELECTION OF TWO (2) NON-PROFITS AND PERMIT ISSUANCE.

- (A) The City Council shall conduct a random lottery drawing at the second regular meeting in March each year. For 2014, the Lottery will be held at the second regularly scheduled meeting in April. Qualified Non-profit organizations who have submitted applications pursuant to this Chapter shall be included in the Lottery. The selection process will be random and will only be used if the City receives more applications than available booths. The City Council will draw two (2) alternates during the Lottery process in case a selected Non-profit fails to meet the requirements of this Chapter. Prior to the Lottery, the Council will hear any appeals submitted pursuant to Section 7-4-4 of this Chapter. If an alternate is needed to step in, the first alternate selected during the Lottery shall be given priority. The alternate shall receive two (2) weeks, from the day of selection to comply with all requirements under this Chapter.
- (B) The City Council shall have the discretion to select up to two (2) Non-profit organizations outside of the Lottery process.
 - (1) Non-profits wishing to be considered by the City Council for such discretionary selection shall submit applications similar to all other Non-profit organizations requesting to participate in the Lottery, pursuant to Section 7-4-4 of this Chapter.

- (2) The City Council will consider the applications and select up to two (2) non-profits at the second regular meeting in March each year. For 2014, the selection will occur at the second regularly scheduled meeting in April.
 - (3) The City Council shall have the discretion to have these two (2) discretionary selections be determined as part of the Lottery if they desire.
 - (4) Non-profits submitting requests to the Council for selection outside the Lottery process will automatically be included in the Lottery. If the non-profit is selected by both the Council using a discretionary selection and the Lottery, the non-profit will only be issued one (1) permit and another non-profit will be selected randomly using the Lottery.
 - (5) As part of the application for a discretionary selection, applicants must also include a written statement describing the reasons why they believe the City Council should select their Non-profit organization.
- (C) All Non-profit organizations receiving a permit in the Lottery or selected by the City Council as part of the Council's two (2) selections, shall complete permit application on forms supplied by the City as required under Section 7-4-4 of this Chapter. Every application shall include, but not be limited to, the following:
- (1) Name, address and phone number of the non-profit organization.
 - (2) Brief statement of services and benefits provided to citizens of the City of Livingston.
 - (3) Non-refundable application fee of twenty-five dollars (\$25).
 - (4) Federal Tax Identification Number.
 - (5) Principle permanent meeting place of the non-profit organization.
 - (6) Roster of active members of the non-profit organization.
 - (7) Proof of tax-exempt status. Evidence of non-profit status shall consist of a "Letter of Determination" from the IRS or recognition from the California Secretary of State. If this letter cannot be obtained, other evidence must be offered and the City Manager will determine its validity.
 - (8) The proposed location of the fireworks stand.
- (D) Upon notification of permit approval by the City of Livingston, either by way of the Lottery process or Council selection, a non-profit organization qualifying for a permit must provide the following:
- (1) Two-hundred fifty dollar (\$250) non-refundable permit fee.
 - (2) One-hundred dollar (\$100) refundable cleanup bond. Prior to the issuance of a permit, each applicant shall file with the City Clerk, a check made

payable to the City of Livingston in the amount of one hundred dollars (\$100) to assure compliance with the provisions of this ordinance. Such deposit shall be refundable upon, including, but not limited to, the removal of the stand and the cleaning of the site to the satisfaction of the City Building Inspector. In the event the permittee does not so comply or remove the stand or clean the site, in the manner required by the City Building Inspector or his or her designee, the City may clean the site itself and shall deduct the cost thereof from the permittee's deposit.

- (3) Written permission for use of the property upon which said proposed stand will be located.
- (4) Proof of insurance in a form acceptable to the City Manager. The policy or policies of insurance required by this section shall be endorsed to designate the property owner, charitable organization, and the City of Livingston, including its elected official officers, agents, representatives, employees, and volunteers as additional insureds thereunder. The insurance shall afford coverage, in addition to and excluding defense costs, of at least \$1,000,000 per occurrence and \$2,000,000 in the general aggregate and shall include the following:
 - (a) Public liability insurance combined single limit, bodily injury, and property damage, each occurrence.
 - (b) Premises/operations liability.
 - (c) Products liability, including completed operations liability.

All insurance policies shall be endorsed to be primary insurance as to the City its elected officials, officers, agents, representatives, employees and volunteers and any other insurance, deductible or self-insurance maintained by the City, its elected officials, officers, agents, representatives, employees and volunteers shall be considered excess insurance over and above the applicant's insurance and shall not contribute with this primary insurance. The policies shall also provide that the insurer will not cancel the insured's coverage without 15 days written notice to the City Manager of the City of Livingston.

- (5) The applicants shall save, hold harmless and indemnify the City, its elected officials, officers, agents, representatives, employees and volunteers from all claims, demands, judgments, costs or expenses in law or equity that may arise from or are in any way related to any work performed by the permittee, his agents, or employees under the terms of any permit issued under this chapter.
- (6) Temporary sales tax permit issued by the local office of the State Board of Equalization.

- (7) A validly issued and unexpired State Fire Marshal Retail Sales Permit. (See California Health and Safety Code Section 12599).
 - (8) Site plan graphically showing the orientation of the stand at the proposed location. The site plan shall show utilities, location of permanent and temporary structures, curb cuts, and/or driveways, parking lots and identify the nearest sanitary facilities and fire hydrants.
 - (9) Approval from the Police Department and Public Works Department that operation at the fireworks stand at the proposed location will not present any substantial hazard to vehicular or pedestrian traffic.
- (E) Should an approved Non-profit organization fail to provide the aforementioned items, the Non-profit organization's claim on the permit will become null and void and the permit shall be issued to the alternate Non-profit selected during the Lottery.
 - (F) Any City permit issued pursuant to this Chapter shall be subject to the requirement that at least one or more representatives of each non-profit organization shall attend a safe and sane fireworks stand operator safety seminar each year conducted by the licensed fireworks wholesaler or other City approved organization that is supplying the safe and sane fireworks to the Non-profit organization. City permits will be distributed at the conclusion of said Safe and sane fireworks stand operator safety seminar. Should at least one representative of an approved non-profit organization not attend the safety seminar, said non-profit organization shall lose all claims to its permit. Any permits lost in this fashion will remain unused for the duration of the fireworks season for which such permit was intended.
 - (G) Permits may be issued with conditions to ensure that the fireworks stand will be operated in a safe and legal manner, will not disturb the peace and quiet of the neighborhood and will not constitute a burden on City resources.

7-4-7 SAFE AND SANE FIREWORKS STAND—OPERATING REGULATIONS.

- (A) No person shall knowingly sell fireworks to any person under the age of eighteen (18).
- (B) Each safe and sane fireworks stand must have an adult in attendance and in charge thereof while fireworks are stored therein. Sleeping in the stand is forbidden.
- (C) The sale of fireworks shall begin no earlier than noon on June 28th and shall not continue after 10:00 p.m. July 4th of the same year.
- (D) No person other than the permitted non-profit organization, or non-profit organizations in case of a joint venture, shall operate, share, or otherwise participate in the profits of the stand for which the permit is issued.
- (E) No person other than the individuals who are members of the permitted non-profit organization, or non-profit organizations in case of a joint venture, or the wives,

husbands, parents, or adult children of such members shall sell or otherwise participate in the sale of safe and sane fireworks.

- (F) No person shall be paid any consideration by the permitted non-profit organization, or non-profit organizations in case of a joint venture, or any wholesaler/dealer of safe and sane fireworks for selling or otherwise participating in the sale of safe and sane fireworks at such stand; provided, however, that compensation may be paid for licensed security personnel during the sale or non-sale hours and to the party authorizing the location of the stand on its property.
- (G) No person under the age of eighteen (18) shall sell or participate in the sale of safe and sane fireworks at such stand.
- (H) The sale of other items or commodities (e.g. consumables) in conjunction with the sale of safe and sane fireworks is strictly prohibited.
- (I) No fireworks shall be placed in any fireworks stand until a permit for such stand has been issued by the City.
- (J) Fireworks shall be stored, handled, and displayed only in closed packages.
- (K) Fireworks shall not be sold or transferred to any consumer other than from a fireworks stand.

7-4-8 SAFE AND SANE FIREWORKS STAND—REGULATIONS OF STRUCTURE.

- (A) No stand shall be located within twenty (20) feet of any other building or within one hundred (100) feet of a location where gasoline or other flammable liquid is stored or dispensed.
- (B) No fireworks stand shall be operated in any way that creates or permits a fire nuisance to exist. Fire nuisance means anything or any act which increases, or may cause, the hazard or menace of fire, or which may obstruct, delay, or hinder, or may become the cause of any obstruction, delay or hindrance, to the prevention or extinguishment of fire. The fire chief or designee shall have the authority to determine that a fire nuisance exists.
- (C) No stand shall be located closer than 10 feet to any street.
- (D) No fuel-powered generator or similar equipment shall be allowed within twenty-five (25) feet of a stand.
- (E) Stands need not comply with the provisions of the Building Code of the City of Livingston; provided, however, that all stands shall be erected such that they are constructed in a manner which will reasonably insure the safety of attendants and patrons in the opinion of the Building Inspector. Any electrical use shall be subject to the following:
 - (1) No switches inside the stand.

- (2) Lighting fixtures to be with protective covers.
 - (3) Extension cords to the stand are to be heavy duty and protected from vehicular damage. Romex is not an acceptable extension cord. The extension cord shall be of 20 amp minimum capacity.
 - (4) Interior lighting to be at center ceiling level and sturdily installed. All connections to use wire nuts or approved clamps.
 - (5) All wiring and fixtures to be three-wire and grounded.
 - (6) The use of portable lighting outside of the stand is recommended. If a pole is placed in the ground to support a light, a City permit is required.
- (F) Stands may use shading devices such as canopies or awnings for the convenience of patrons provided that:
- (1) The location and dimensions of the awning are shown on the approved site plan.
 - (2) The awning does not cover or impede any public rights-of-way.
 - (3) The awning is freestanding, not anchored or tied to any public property such as light or electrical poles.
 - (4) The awning does not cover the booth or any portion thereof.
 - (5) The awning provides shade from the top only (no sides). Banners, signs or other items on or hanging from the awning or canopy are prohibited.
 - (6) The awning meets all Fire Code specifications as adopted by the City, including retardancy and setback requirements.
 - (7) Display or sale of fireworks from the awning or canopy area is prohibited.
- (G) Each stand shall have at least two (2) exits. Each stand in excess of forty (40) feet in length shall have at least three (3) exits spaced approximately equal distant apart. Exit doors shall be not less than twenty-four (24) inches wide and six (6) feet in height and shall swing in the direction of egress.
- (H) The stand shall not be illuminated by an open flame or exposed heating elements. Heating and lighting appliances shall be approved by Underwriters' Laboratories or similar authority, and shall be maintained in good condition.
- (I) All weeds and combustible materials shall be cleared from the location of the fireworks stand to a distance of at least twenty-five (25) feet surrounding the fireworks stand. All trash resulting from the operation of the fireworks stand must be removed on a daily basis.

- (J) "NO SMOKING" signs with letters at least four inches high shall be prominently displayed on all sides and in the stand. Smoking shall be prohibited within fifty (50) feet of the stand.
- (K) No person shall light, cause to be lighted, or permit to be lighted any safe and sane fireworks or combustible material within fifty (50) feet of any stand.
- (L) Each stand shall be equipped with two fire extinguishers approved by the City, in good working order and easily accessible for use in case of fire.

7-4-9 GENERAL REQUIREMENTS FOR PERMITTEES.

- (A) The fireworks stand and all accompanying debris or litter shall be removed from the temporary location by the 12th day of July.
- (B) Overnight storage of fireworks shall only be done in two (2) ways: 1) the permittee may store the fireworks in an enclosed, locked vehicle or cargo container; or 2) the permittee may keep the fireworks in the fireworks stand overnight on the condition that there is a competent, non-sleeping adult(s) present at all times.
- (C) All unsold stock of fireworks as of July 4th shall be returned to the wholesaler/distributor. On closing of the stand, all litter shall be removed from the premises.
- (D) Each stand must post its City issued permit, its temporary sales tax permit from the California State Board of Equalization, its State Fire Marshal Retail Sales Permit, and proof of its required insurance in a prominent place inside the stand.

7-4-10 REVOCATION OF PERMIT; APPEAL.

- (A) The City Police Chief, Cal Fire Captain, Building Inspector or other employee designated by the City Manager may act as inspecting officers, and may revoke, immediately and without notice or hearing, the permit of any permittee where a fire nuisance exists or where personal injury may occur. If the revocation occurs between June 22 and July 4 (inclusive), the inspecting officer shall inform the permittee that the permittee may seek review of the inspecting officer's decision by the City Manager, or the City Manager's designee, on the next business day. At the earliest opportunity on the next business day after the revocation, the inspecting officer shall provide the City Manager, or the City Manager's designee, with written notice that a fireworks permit has been revoked, including the name of the permittee and a brief statement of the grounds for revocation. The City Manager, or the City Manager's designee, shall meet with the permittee and the inspecting officer on that day, upon the permittee's request, to review the inspecting officer's decision. The decision of the City Manager, or the City Manager's designee, shall be final. If the revocation occurs before June 22 or after July 4, the appeal procedures of Subsection (B) shall apply.
- (B) The inspecting officer may revoke the permit of any permittee who violates any provision of this Chapter. Such revocation shall take effect five (5) days after the

inspecting officer verbally notifies the permittee of its violation, during which time the permittee may seek review of the inspecting officer's decision by submitting a written request for review to the City Manager, or the City Manager's designee. The inspecting officer shall provide the City Manager, or the City Manager's designee, with written notice that a fireworks permit violation has occurred for which the permit shall be revoked within five (5) days, including the name of the permittee and a brief statement of the grounds for revocation. Upon request of the permittee, the City Manager, or the City Manager's designee, shall meet with the permittee and the inspecting officer to review the inspecting officer's decision. The decision of the City Manager, or the City Manager's designee, shall be final.

7-4-11 LIMITATION ON PLACES AND HOURS OF DISCHARGE OF FIREWORKS.

- (A) Possession or Use of Safe and Sane Fireworks Temporarily Permitted. Notwithstanding any provisions of this Chapter to the contrary, the possession of Safe and sane fireworks shall be lawful during the period of 12 noon on the 28th of June through 12 noon on the 6th of July of the same calendar year, provided, however, that it shall be unlawful to possess any modified or altered Safe and sane firework. It shall be unlawful to use or discharge any Safe and sane firework except between the hours of 9:00 a.m. and 11:00 p.m. on the days on which said Safe and sane fireworks may be possessed.
- (B) It shall be unlawful to ignite or otherwise use any safe and sane fireworks, or permit the discharge thereof, upon, over, or onto the property of another without his/her consent.
- (C) It is recommended that safe and sane fireworks not be ignited or used within twenty-five (25) feet of any residence, dwelling, or other structure used for human habitation.

7-4-12 SUPERVISION OF MINORS.

It shall be unlawful for any person having the care, custody, or control of a minor (under 18 years old) to permit such minor to discharge, explode, fire, or set off any safe and sane fireworks unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this Chapter.

7-4-13 WHOLESALE STORAGE OF FIREWORKS.

Wholesale storage of safe and sane fireworks by the fireworks importers/distributors is not allowed in the City of Livingston.

7-4-14 SEIZURE OF FIREWORKS.

The Police Chief, Cal Fire Captain, Building Inspector or other designated employee by the City

Manager may act as inspecting officers and may seize, take, remove, or cause to be removed, at the expense of the permittee or licensed fireworks wholesaler, whichever is applicable, all stock of fireworks offered or exposed for sale, stored, or held in violation of this Chapter when such violation creates an imminent threat to public health or safety.

7-4-15 CONCURRENT AUTHORITIES.

This Chapter is not the exclusive regulation for fireworks within the City of Livingston. It shall supplement and be in addition to the other regulatory codes, statutes, regulations, and ordinances heretofore and hereinafter enacted by the City of Livingston, the State of California, or any other legal entity or agency having jurisdiction.

7-4-16 ADMINISTRATIVE PENALTIES.

Administrative penalties may be imposed against any person for violating any of the requirements set forth in this Chapter in the amounts and pursuant to the procedures set forth in the Livingston Municipal Code.

7-4-17 SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Chapter that 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 remaining portions of this Chapter. The City Council hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 2. **No Mandatory Duty of Care.** This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or parties within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise provided by law.

SECTION 3. **Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of the ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. **Effective Date.** This ordinance shall become effective thirty (30) days after its final passage and adoption.

Introduced: February 18, 2014

Passed and Adopted: March 4, 2014

RODRIGO ESPINOZA, Mayor
of the City of Livingston

ATTEST:

State of California)
County of Merced)
City of Livingston)

I, hereby certify that the foregoing Ordinance was duly introduced at a Regular Meeting of the City Council of the City of Livingston on the 18th day of February, 2014, and was passed and adopted at a Regular Meeting of the City Council of the City of Livingston this 4th day of March, 2014, by the following vote:

AYES: Mayor Espinoza and Council Members Mendoza and Samra
NOES: None
ABSENT: None
ABSTAIN: None

ANTONIO SILVA, City Clerk
of the City of Livingston