

17.32.027 - Social host liability—Fireworks.

A.

Findings, Intent and Purpose.

1.

Findings. The board of supervisors, pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its residents. The illegal possession, manufacture, storage, sale, handling and use of fireworks, as described in [Section 17.32.093](#) of this code, on private property is harmful to and creates a threat to public health, safety, quiet enjoyment of residential property and the general welfare. While the discharge of illegal fireworks can be tied to a particular residence or property, it is often difficult to tell who at the residence or property discharged the illegal firework(s). The owner or tenant of the premises is often in the best position to control, and knows or should know of the possession, manufacture, storage, sale, handling and use of illegal fireworks on his/her residence or commercial premises. The board of supervisors finds that in too many cases, persons having possession or control of private property where the illegal possession, manufacture, storage, sale, handling and use of fireworks occurs, have failed to ensure that illegal fireworks are not possessed, manufactured, stored, sold, handled or used on their property. Furthermore, problems associated with the illegal possession, manufacture, storage, sale, handling and use of fireworks are difficult to prevent and deter unless the fire chief, sheriff, or other designated official of the county of Kern has the legal authority to cite the owner or tenant of the premises where illegal fireworks are possessed, manufactured, stored, sold, handled or used.

2.

Intent. The intent of this section is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, rather than to punish. An ordinance that imposes liability on property owners or tenants for allowing the possession, manufacture, storage, sale, handling or use of

illegal fireworks on their property is necessary to deter and prevent such possession, manufacture, storage, sale, handling or use and to deter persons who actively and passively aid, allow, or tolerate such activities on their property.

3.

Purposes. The purposes of this section are to protect the public health, safety and general welfare, to deter the possession, manufacture, storage, sale, handling or use of illegal fireworks, and to reduce the costs of providing police, fire, and other emergency response services to areas where illegal fireworks are being possessed, manufactured, stored, sold, handled or used. These purposes are implemented by the imposition of a civil money penalty against social hosts (landowners or tenants) who actively or passively aid, allow or tolerate the possession, manufacture, storage, sale, handling or use of illegal fireworks on their property.

4.

Declaration. For these reasons, the board of supervisors declares that the possession, manufacture, storage, sale, handling or use of illegal fireworks is a threat to the peace, health, safety and general welfare of the public. Such actions constitute a public nuisance as they affect at the same time the entire community of Kern County as well as the neighborhoods in which they occur. The nuisance created thereby presents an immediate threat to the public health and safety, warranting summary abatement by the fire chief, sheriff or other designated county official under Government Code Section 25845, subdivision (a).

B.

Definitions. For the purposes of this section, the following terms shall have the following meanings:

1.

"Responsible person" means a person or persons with a right of possession of the residence or other private property at which illegal fireworks are possessed, manufactured, stored, sold, handled or used, including but not limited to:

a.

Any owner of the residence or other private property, meaning the record owner of the title to property as of the time of the possession, manufacture, storage, sale, handling or use of illegal fireworks, wherever that person or entity resides at that time;

b.

A tenant or lessee of the residence or other private property at the time when illegal fireworks are possessed, manufactured, stored, sold, handled or used;

c.

The person(s) in charge of the residence or other private property at the time when illegal fireworks are possessed, manufactured, stored, sold, handled or used;

d.

The person(s) who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering where illegal fireworks are possessed, manufactured, stored, sold, handled or used;

A responsible person need not be present at the time illegal fireworks are possessed, manufactured, stored, sold, handled or used in order for the county to impose civil money penalties upon such responsible person. Prior knowledge of the possession, use, manufacture, storage, sale, handling or use of illegal fireworks is not pre-requisite to a finding that any specific individual is a responsible person as defined by this section.

2.

"Residence" or "other private property" means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall, meeting room, office, land or building, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, business, or location for parties or other social functions, and whether owned, leased, rented, or used with or without compensation.

C.

Responsibility for Proper Property Management. Every owner, occupant, lessee, tenant or holder of any possessory interest of a residence or other private property within the county of Kern is required to maintain, manage and supervise the property and all persons thereon in a manner so as not to violate the provisions of this section. The owner of the property may remain liable for such violations regardless of any contract or agreement with any third party regarding the property.

D.

Penalties for Violation.

1.

It is a civil violation of this section, and a public nuisance constituting an immediate threat to public health and safety warranting summary abatement, for any responsible person to conduct or allow illegal possession, manufacture, storage, sale, handling and use of fireworks on his/her residential or other private property. Such a violation subjects any and all responsible persons to the civil money penalties specified in [Section 17.32.026](#), paragraph B. of this code.

2.

In the event that a juvenile hosts a gathering at a residence or other private property at which illegal possession, manufacture, storage, sale, handling and use of fireworks occurs, then the parents or guardians of that juvenile will be jointly and severally liable for any penalties incurred pursuant to this section.

3.

In the event that a juvenile is found to be a responsible person as defined by this section, the juvenile may elect to serve in a community service program as specified in [Section 17.32.026](#) of this code.

4.

The parents or guardians of a juvenile found to be a responsible person as defined by this section, may also elect to have that juvenile serve in a community service program as specified in [Section 17.32.026](#) of this code. (Ord. No. G-8537, § 3, 2-24-15)