

ORDINANCE NO. 285

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
GRAND TERRACE AMENDING CHAPTER 8.112  
FIREWORKS OF TITLE 8 OF THE GRAND TERRACE  
MUNICIPAL CODE

WHEREAS, according to the 2014 Fireworks Annual Report prepared by U. S. Consumer Products Safety Commission:

- Fireworks were involved in an estimated 10,500 injuries treated in U.S. hospital emergency departments during calendar year 2014; and
- An estimated 7,000 fireworks-related injuries were treated in U.S. hospital emergency departments during between June 20, 2014 and July 20, 2014; and
- Children 5 to 9 years of age had the highest estimated rate of emergency department-treated fireworks-related injuries.

WHEREAS, according to the National Fire Protection Agency, in 2011, fireworks caused an estimated 17,800 reported fires, including 1,200 total structure fires, 400 vehicle fires, and 16,300 outside and other fires; and

WHEREAS, according to the National Fire Protection Agency, on July 4th in a typical year, far more U.S. fires are reported than on any other day, and fireworks account for two out of five of those fires, more than any other cause of fires; and

WHEREAS, in 2007, the California Legislature enacted SB 839 amending the State Fireworks Law to authorize local jurisdictions, as of January 1, 2008, to prohibit the possession of dangerous fireworks in the amount of 25 pounds or less and to assess a civil fines for the unlawful possession of 25 pounds or less of dangerous fireworks; and

WHEREAS, SB 839 mandates the amendment of any ordinance of a local jurisdiction in effect on or after January 1, 2008, that is related to dangerous fireworks to:

- Include provisions for cost reimbursement to the Office of the State Fire Marshal and the collection of disposal costs as part of an administrative fines; and
- Provide that fines collected pursuant to the ordinance shall not be subject to the disbursement required by section 12706 of the California Health & Safety Code; and
- Limit the prohibition on the possession of dangerous fireworks to those persons who possess 25 pounds or less;

WHEREAS, the City of Grand Terrace has a substantial interest in promoting compliance with the federal, state and local laws intended to safeguard the members of the community especially protecting children from being influenced by the misconduct of adults; and

WHEREAS, the State of California authorizes local government to regulate the sale, use, and/or discharge of fireworks;

WHEREAS, the City of Grand Terrace recognizes that all fireworks, including those designated as "Safe and Sane", create potential hazards to the public's health, safety and general welfare; and

WHEREAS, the City of Grand Terrace recognizes the need to implement reasonable regulations for the sale, use, discharge and display of fireworks in order to protect the safety of spectators, property owners, residents, and visitors of the City; and

WHEREAS, it is the intent of the City Council, in enacting this ordinance, to encourage responsible use of legal fireworks and to discourage the possession, use, sale or distribution or discharge of illegal fireworks, but not to reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein; and

WHEREAS, it is the intent of the City Council to reasonably regulate the sale, use, display and discharge of Safe and Sane Fireworks within the City to protect the public health, safety and general welfare; and

WHEREAS, the City Council determines that the adoption of this ordinance regulating the possession, sale, use, and discharge of fireworks is necessary in order to comply with the State Fireworks Law, and, in light of the concerns noted herein, to preserve the public peace, health, safety, and general welfare.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GRAND TERRACE, CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 8.112 (Fireworks) of Title 8 of the Grand Terrace Municipal Code is hereby amended to read as follows:

“Chapter 8.112 - FIREWORKS

Sections:

- 8.112.010 - Dates and hours of sale and discharge.
- 8.112.020 - Dangerous fireworks prohibited.
- 8.112.030 - Exemption – Certain public displays.
- 8.112.040 - Certain public displays – Appeals.
- 8.112.050 - Permit - Required.
- 8.112.060 - Permit - and use application—Public liability insurance.
- 8.112.070 - Permit - Prerequisites to issuance.
- 8.112.080 - Suspension of permit - Appeal procedure.

- 8.112.090 - Operation of stand.
- 8.112.100 - Temporary fireworks stands.
- 8.112.110 - Public advertisement
- 8.112.120 - General requirements for permittees.
- 8.112.130 - Temporary sales tax permit required.
- 8.112.140 - Display of permit and sales tax permit.
- 8.112.150 - Permissible locations for discharge.
- 8.112.160 - Prohibition on discharge.
- 8.112.170 - Fireworks defined.
- 8.112.180 - Establishment of a no fireworks safety zone.
- 8.112.190 – Authorized seizure authorized by the San Bernardino County Fire District and San Bernardino County Sheriff's Department.
- 8.112.200 - Administrative fines and penalties.

Section 8.112.010 - Dates and hours of sale and discharge.

Safe and sane fireworks as defined by Section 12529 of the California Health and Safety Code may be sold within the city during the period of June 28th through July 4th, twelve noon to nine p.m. by persons possessing an appropriate permit pursuant to Section 8.112.020. The selling of fireworks without a permit is prohibited. Safe and sane fireworks may be discharged solely on July 4th, between the hours of twelve noon to eleven p.m.

Section 8.112.020 Dangerous Fireworks Prohibited.

It shall be unlawful for any person to possess, store, manufacture, transport, give, hold for others, offer for sale, expose for sale, sell at retail or wholesale, or use, discharge or explode, within the City, any fireworks which are classified as dangerous fireworks, as that term is defined by subsections 12505 and 12561 of the Health and Safety Code of the State of California, except as provided in Section 8.112.030.

Section 8.112.030 Exemption – Certain public displays.

A. It shall be unlawful to cause, allow, permit, aid, abet, or suffer any discharge of "dangerous fireworks", including a public display or any use of special effects without having first obtained a permit therefore from the fire chief and community development director.

B. Notwithstanding any other provisions of this chapter, the community development director may conditionally grant a permit for the supervised public display of fireworks in the city at an approved site to any organization who desires to conduct a public display of fireworks for the general public and citizens of the city. Such display of fireworks within the city shall be allowed only upon a permit being granted by the community development director, which permit shall be issued subject to such rules, regulations and conditions as the director may impose, including but not limited to, the competency of the persons operating the display of fireworks, the location of such display, the type of fireworks to be used and the time for such fireworks display.

C. All applications for any such permit for public display of fireworks shall be made in writing in the form of a special event application and filing fee, and filed with the community development director at least sixty days before the proposed date of such display. No permit granted pursuant to this chapter shall be transferable, and any such permit shall only be valid for the time and place specified in such permit. Any permittee granted the right to conduct a public display of fireworks by the community development director shall furnish public liability and property damage insurance in amounts and coverages, as specified in section 8.112.060(C), except that the policy shall provide limits of bodily injury and property damage liability of not less than \$5,000,000.00 combined single limits for each occurrence annually for payments of damages to persons or property which may result from or be caused by such public display of fireworks, or any negligence on the part of the licensee or his/her/its agents, servants, employees and/or subcontractors presenting such public display.

D. The community development director shall not issue a permit for public display until and unless the permittee has applied and received a permit from the fire chief or designee. The fire chief shall have authority to adopt reasonable rules and regulations for the granting of permits for those activities contained in § 12640 of the California Health and Safety Code, including supervised public displays of fireworks by a jurisdiction or other organization. Each such use or display shall be handled by a licensed pyrotechnic operator (as defined by § 12527 of the California Health and Safety Code) in accordance with a city-issued permit, and shall be of such character and so located, discharged or fired as in the opinion of the fire chief or his designee, after proper investigation, will not be hazardous or endanger any person.

#### Section 8.112.040 - Certain public displays—Appeals.

The decision of the fire chief or community development director in acting on an application for a permit to conduct a public display of fireworks in accordance with the provision of this chapter shall be subject to an appeal by the applicant to the city manager. Notice of such appeal shall be filed with the city manager within ten days after the date of the decision regarding such fireworks permit. Upon failure to file such notice within the ten-day period, the action of the fire chief or community development director shall be final and conclusive. The applicant may appeal the decision of the city manager to the city council by filing a notice of appeal with the city clerk within ten days after the date of the city manager's decision. Upon failure to file such a notice within the ten days, the action of the city manager shall be final and conclusive.

#### Section 8.112.050 - Permit—Required.

Except as provided in this chapter, it is unlawful for any person to offer for sale or sell at retail any fireworks of any kind in the city without having first applied for and received a permit therefor, pursuant to health and safety code section 12640.

Section 8.112.060 – Permit - Land use application—Public liability insurance.

All applications for a permit to sell fireworks shall:

A. Be made in writing via a land use application to the community development department accompanied by a filing fee and inspection fee in the amounts set forth by resolution of the Council and a deposit pursuant to Section 8.112.090. In addition, a three percent surcharge of the gross receipts shall be paid by the permittee to the city within thirty days following the close of sales by applicant as partial reimbursement for extra law enforcement. All fees required hereunder are not for the purpose of revenue but shall be used to defray the reasonable regulatory costs of processing and issuing the permits contemplated herein, investigations, inspections, audits, enforcement, and adjudication thereof

B. Set forth the proposed location of the fireworks stand applied for. The stands must be on private property located in the commercial, industrial or manufacturing zones and the written permission of the owner of record or lessee must accompany the application according to Zoning Code Section 18.73.21, Temporary Uses Allowed.

C. Be accompanied by an assurance that if the permit is issued to applicant, applicant shall, at the time of receipt of the permit, deliver to the city clerk's office a certificate evidencing an occurrence-based policy with the following minimum limits: \$1,000,000.00 public liability and property damage, and general aggregate coverage of \$2,000,000.00 and with a certificate of endorsement designating the City of Grand Terrace as an additional insured under this chapter. No policy will be acceptable which contains a provision allowing a deductible amount. A copy of the requisite state retail sales permit from the Office of the California State Fire Marshal shall also be attached.

D. Be routed to the fire chief, building and safety director, and the sheriff's department. The community development department will evaluate the location of the fireworks stand and related issues.

Section 8.112.070 - Permit—Prerequisites to issuance.

The following qualifications must be met by each applicant for a license issued under this chapter:

A. No permit shall be issued to any person, firm or corporation except nonprofit associations or corporations organized primarily for youth sports.

B. Each such organization must have its principal and permanent meeting place in the corporate limits of the city 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 permit, and must have a bona fide membership of at least one hundred fifty members.

C. No organization may receive more than one permit for fireworks sale. One permit may be issued to two or more qualifying applicants as a joint venture. The maximum number of permits which may be issued pursuant to this chapter shall be one.

Section 8.112.080 - Suspension of permit—Appeal procedure.

A. The fire chief or his designee shall be authorized to suspend immediately and without notice or formal hearing the permit of any permittee which violates any rule, regulation or ordinance while operating or preparing to operate a fireworks stand during or immediately preceding any period of sale. If the fire chief or his designee establishes that a violation has occurred too late to suspend the permit during the period of sale, he shall have power to suspend the permittee from future permits, and to suspend the priority of the permittee for any such violation found to have occurred during or immediately preceding or immediately following the authorized period of sale.

B. The decision of the fire chief or his designee to suspend the permit of any permittee shall be subject to review by the city manager, forthwith. In view of the limited sales period each year, for suspensions affecting the sale period, such hearing shall be held at the earliest possible time that the permittee, city manager or his designee, and the representative of the fire chief can schedule a meeting for such review.

Section 8.112.090 - Operation of stand.

A. It is unlawful for the permittee organization to permit any person other than the permittee organization to operate the stand for which the permit is issued or to otherwise participate in the profits of the operation of such stand.

B. It is unlawful for the permittee organization to permit any person other than the individuals who are members of the permittee organization, or the spouses or adult children of such members, to sell or otherwise participate in the sale of fireworks at such stand.

C. It is unlawful for the permittee organization to pay any consideration to any person for selling or otherwise participating in the sale of fireworks at such stand.

D. No person under the age of eighteen (18) years shall sell or participate in the sale of safe and sane fireworks within such stand.

E. Pursuant to California Health and Safety Code section 12689(b), safe and sane fireworks shall not be sold to any person under the age of sixteen (16) years.

F. No person shall smoke within twenty-five feet of the fireworks stand. No person shall light, cause to be lighted or permit to be lighted any fireworks or combustible material within fifty feet of any safe and sane fireworks stand.

**Section 8.112.100 - Temporary fireworks stands.**

All retail sales of safe and sane fireworks shall be permitted only from within a temporary fireworks stand, and sales from any other building, or structure is hereby prohibited. Temporary stands shall be subject to the following provisions:

A. No fireworks stand shall be located within twenty-five feet of any other building nor within one hundred feet of any gasoline pump.

B. Fireworks stands need not comply with the provisions of the building code of the city; provided, however, that all stands shall be erected under the supervision of the building and safety director, who shall require that stands be constructed in a manner that will reasonably insure the safety of attendants and patrons. The applicant shall pay an inspection fee to recover the cost of inspection.

C. No stand shall have a floor area in excess of three hundred square feet.

D. Each stand in excess of twenty-four feet in length must have at least two exits. Each stand in excess of forty feet in length must have at least three exits spaced approximately equidistance apart; provided, however, that in no case shall the distance between exits exceed twenty-four feet.

E. Each stand shall be provided with two two-and-one-half gallon soda-and-acid or water pressure type fire extinguishers, underwriter approved, in good working order and easily accessible for use in case of fire.

F. The permittee shall post on the fireworks stand a minimum of two maps depicting the Grand Terrace "No Fireworks Safety Zone". The maps shall measure a minimum of 24 inches by 36 inches. The Permittee shall also post current notices and fines at the fireworks stand and copies of the rules and fines handed out with the sale of fireworks.

**Section 8.112.110 – Public advertisement.**

The permittee shall deposit \$500.00 with the City at the time of the land use application for the purpose of placing a published advertisement in the local paper of general circulation advising Grand Terrace residents of the provisions regulating the discharging of safe and sane fireworks, including the prohibition of discharging fireworks within the No Fireworks Safety Zone. Any portion of said deposit in excess of the cost to the City for placing said advertisement shall be returned to permittee no later than July 14th.

**Section 8.112.080 - General requirements for permittees.**

A. All weeds and combustible material shall be cleared from the location of the stand including a distance of at least twenty feet surrounding the stand.

B. "No smoking" signs shall be prominently displayed on the fireworks stand.

C. Each stand must have an adult of at least 21 years of age in attendance and in charge thereof while fireworks are stored therein. Sleeping or remaining in the stand after close of business each day is forbidden.

D. The sale of fireworks shall not begin before twelve noon on the 28<sup>th</sup> day of June and shall not continue after nine p.m. on the 4<sup>th</sup> day of July.

E. All unsold stock and accompanying litter shall be removed from the location by five p.m. on the 6<sup>th</sup> day of July.

F. The fireworks stand shall be removed from the temporary location by twelve noon on the 8<sup>th</sup> day of July, and all accompanying litter shall be cleared from the location by said time and date.

Section 8.112.130 - Temporary sales tax permit required.

Organizations licensed for the selling of fireworks are required to obtain a temporary sales tax permit from the San Bernardino office of the State Board of Equalization.

Section 8.112.140 - Display of permit and sales tax permit.

The permit to sell fireworks and temporary sales tax permit shall be displayed in a prominent place in the fireworks stand.

Section 8.112.150 - Permissible locations for discharge.

The use of fireworks in the city shall be limited to private property. No fireworks shall be discharged on public, semipublic or private open areas such as parking lots, vacant properties, in a public street right-of-way or public parks.

Section 8.112.160 - Prohibition on discharge.

It is unlawful for any person to ignite, explode, project, or otherwise fire or use, any fireworks, or permit the ignition, explosion or projection thereof, upon or over or onto the property of another without his consent, or to ignite, explode, project, or otherwise fire or make use of, any fireworks within ten feet of any resident dwelling or other structure used as a place of habitation by human beings. Fireworks shall not be discharged within two hundred feet of any dry grass or brush-covered land.

Section 8.112.170 - Fireworks defined.

Fireworks shall be defined as set forth in California Health and Safety Code Section 12511.

Section 8.112.180 - Establishment of a no fireworks safety zone.

It shall be unlawful for any person to discharge fireworks of any type within the No Fireworks Safety Zone established in Exhibit "A" attached to this ordinance, which substantially conforms to Exhibit 5-3 of the General Plan Public Health and Safety Element.

Section 8.112.190 – Authorized Seizure by the San Bernardino County Fire District and San Bernardino County Sheriff's Department.

The San Bernardino County Fire Department and San Bernardino County Sheriff's Department, acting together or separately, are authorized and directed to seize, take, remove or cause to be removed at the expense of the owner any fireworks offered or exposed for sale, stored or held or

possessed in violation of the provisions of this chapter and Section 7802 of the California Fire Code.

Section 8.112.200 – Administrative fines and penalties.

A. Purpose.

1. This chapter authorizes the imposition of administrative fines on any person who violates any provision of this chapter in order to encourage and obtain compliance with the provisions of this chapter for the benefit and protection of the entire community. This section governs the imposition, enforcement, collection and administrative review of all administrative fines, related to: the possession, use, storage, sale and/or display of those fireworks classified as "dangerous fireworks" in California Health and Safety Code § 12500, et seq., with the exception of a pyrotechnic licensee when operating pursuant to that license; and the use of "safe and sane fireworks" as defined in California Health and Safety Code § 12500 et seq. on or at dates, times and/or locations other than those permitted by this chapter. Said administrative fines are imposed under authority of Government Code § 53069.4, Health and Safety Code § 12557, and police power of the city.

2. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the city authorized hereunder; and the issuance of a citation to any person constitutes but one remedy of the city to redress violations of this Code by any person. By adopting this chapter, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this Code by any person, which this city may otherwise pursue.

3. The imposition of fines related to "dangerous fireworks" under this chapter shall be limited to persons who possess, sell, use and/or display, or the seizure of, less than 25 pounds (gross weight) of such "dangerous fireworks".

4. Fines collected pursuant to this chapter related to "dangerous fireworks" shall not be subject to Health and Safety Code § 12706, which section provides that certain fines collected by a court of the state be deposited with, and disbursed by, the county treasurer. However, the city shall provide cost reimbursement to the state fire marshal pursuant to regulations to be adopted by the state fire marshal addressing the state fire marshal's cost for the transportation and disposal of "dangerous fireworks" seized by the city, which costs will be part of any administrative fine imposed. Unless and until said regulations have been adopted by the state, the city shall hold in trust \$250.00 or 25 percent of any fine collected, whichever is greater, to cover the cost reimbursement to the state fire marshal for said cost of transportation and disposal of the "dangerous fireworks."

5. Because of the serious threat of fire or injury posed by the use of "dangerous fireworks" that can result from persistent or repeated failures to comply with the provisions of this Code and the effect of such conditions or activities on the safety and the use and enjoyment of surrounding properties and to the public health, safety and welfare, this chapter imposes strict civil liability upon the owners of residential real property for all violations of this Code existing on their residential real property. Each contiguous use, display and/or possession shall constitute a separate violation and shall be subject to a separate administrative fine.

6. At least 50 percent of the fines collected pursuant to this chapter must be placed in a segregated fund entitled "Grand Terrace Illegal Fireworks Enforcement Fund". The sole and exclusive purpose of this fund is to pay for increased fire and police deployment, protection and investigation of and against illegal fireworks in the city for the 30-day period surrounding the Fourth of July (June 17 through July 16).

**B. Issuance of administrative citations—contents.**

1. Whenever a code enforcement officer (CEO) determines that a violation of the code has occurred, the CEO may issue an administrative citation on a city-approved form listing the code violation(s) and the amount of the administrative fine required to be paid by the responsible person(s) in accordance with the provisions of this chapter.

a. Code enforcement officer (CEO) means any employee or agent of the city designated by the city manager to enforce any provision of this article

2. Each administrative citation shall contain the following information:

a. The name, mailing address, date of birth, California Drivers License number, and home or business telephone number of the responsible person charged with any violation of this chapter;

b. The address or description of the location of the violation;

c. The date or dates on which the person violated this chapter;

d. The section or sections of this chapter that were violated;

e. A description of the violation(s);

f. The amount of the administrative fine for each violation, the procedure in place to pay the fines, and any late fee and interest charge(s), if not timely paid, and notice that if the city is required to take action to collect such fines, the responsible person may be charged costs and attorney's fees;

g. Notice of the procedure to request an administrative hearing to contest the citation (including the form to be used, how to obtain the form, and the period within which the request must be made in order for it to be considered timely);

h. The name and signature of the CEO who issued the citation and the name and signature of the citee, if he or she is physically present and will sign the citation at the time of its issuance. The refusal of a citee to sign a citation shall not affect its validity or any related subsequent proceedings, nor shall signing a citation constitute an admission that a person is responsible for a violation of the code; and

i. Any other information deemed necessary by the director for enforcement or collection purposes.

C. Administrative fines.

1. Each person who violates any provision of this chapter as it relates to the possession, use, storage, sale and/or display of "dangerous fireworks" shall be subject to the imposition and payment of an administrative fine or fines as provided below:

Number of Offenses in One-year Period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty Plus Late Charge
First	\$2,500.00	\$250.00	\$2,750.00
Second	5,000.00	500.00	5,500.00
Third	10,000.00	1,000.00	1,000.00

2. Each person who uses "safe and sane fireworks" on or at dates, times and/or locations other than those permitted by this ordinance shall be subject to the imposition and payment of an administrative fine or fines as provided below:

Number of offenses in 1-year period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty Plus Late Charge
First	\$250.00	\$75.00	\$325.00
Second	500.00	150.00	650.00
Third	750.00	300.00	1,050.00

3. In the case of a violation of any of the provisions listed above, the administrative fine(s) shall be due and payable within 30 calendar days from the issuance of the administrative fine citation, and the citee shall be required to abate the violation, and surrender all "dangerous fireworks" to the CEO, immediately. For penalties not paid in full within that time, a late charge in the amount set forth above is hereby imposed and must be paid to the city by the citee. Fines not paid within the time established by this chapter shall accrue interest at the prevailing established rate. On the second and each subsequent time that a person is issued a citation for the same violation in any 12-month period, the fine is increased as indicated above and the citee shall be liable for the amount of the new fine until it is paid, in addition to being responsible for payment of previous fines.

4. All administrative fines and any late charges and interests due shall be paid to the city at such a location or address as stated on the citation, or as may otherwise be designated by the city manager. Payment of any fine or fines shall not excuse the citee from complying with the provision of the Code so violated. The issuance of the citation and/or payment of any fine shall

not bar the city from employing any other enforcement action or remedy to obtain compliance with the provisions of the Code so violated including the issuance of additional citations and/or criminal prosecution.

5. Upon confirmation of the citation or when the citation is deemed confirmed, all unpaid administrative fines, late fees and/or interests shall constitute a judgment which may be collected in any manner allowed by law for collection of judgments including but not limited to recordation to create a lien on any real property owned by the responsible person. The city shall be entitled to recover its attorney's fees and costs incurred in collecting any administrative fines, late charges and/or interests.

6. Payment of the administrative fine shall not excuse or discharge a citee from the duty to immediately abate and correct a violation of this article, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of this article.

#### D. Right to an administrative hearing.

1. Any citee may contest the violation(s), or that he or she is a responsible person, by filing a request for an administrative hearing on a city-approved form with the city clerk within 30 calendar days from the issuance date of a citation. If the city clerk does not receive the request in the required time period, the citee shall have waived a right to a hearing and the citation shall be deemed confirmed and final.

2. No fees shall be charged for the filing of a request for a hearing.

3. Citees shall deposit the full amount of the penalty listed on the citation on or before the request for a hearing is filed. Failure to deposit the full amount of all penalties within the required time period, or the tender of a non-negotiable check, shall render a request for an administrative hearing incomplete and untimely. Penalties that are deposited with the city shall not accrue interest. Penalties deposited shall be returned to the person who deposited them in if the citation is overturned.

4. A request for a hearing shall contain the following:

- a. The citation number;
- b. The name, address, telephone number and any facsimile numbers and e-mail addresses of each person contesting the citation;
- c. A statement of the reason(s) why a citation is being contested;
- d. The dates and signature of the citee(s).

5. The city shall notify all persons who filed a request for a hearing in writing by first-class mail of the date, time and place set for the hearing at least ten calendar days prior to the date of the hearing. Service of this notice is deemed complete at time of mailing. The failure of a citee to receive a properly addressed notice shall not invalidate the citation or any hearing, city action or proceeding conducted pursuant to this chapter.

6. The hearing shall be conducted within 60 days of the date a timely and complete request is received by the city clerk.

7. If the CEO submits an additional written report concerning the citation to the city for consideration at the hearing, the CEO shall also serve a copy of such report by first-class mail on the person requesting an administrative hearing no less than seven calendar days prior to the date of the hearing. Failure to receive said report shall not invalidate the citation or any hearing, city action or proceeding pursuant to this chapter.

#### E. Administrative hearing—Procedures.

1. The hearing officer designated or appointed by the city manager shall hear all requests for administrative hearings of administrative fines in accordance with the procedures established herein.

2. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. The city bears the burden of proof to establish a violation and responsibility therefore by a preponderance of evidence. The citation is prima facie evidence of the violation, however, and the CEO who issued the citation is not required to attend or participate at the hearing. The citee(s) and CEO, if present, shall have an opportunity to present evidence and witnesses and to cross-examine witnesses. A citee may bring an interpreter to the hearing provided there is no expense to the city therefore. The hearing officer may question any person who presents evidence or who testifies at any hearing.

3. A citee may appear at the hearing in person or by written declaration executed under penalty of perjury. Said declaration and any documents in support thereof shall be tendered to and received by the city at least seven business days prior to the hearing. If the citee fails to attend or does not submit a written declaration in a timely manner, he or she shall be deemed to have waived the right to a hearing. In such an instance, the hearing officer shall cancel the hearing and not render a decision. In such instances, the citation shall be deemed confirmed.

4. Hearings may be continued once at the request of a citee or the officer who issued the citation. The hearing officer may also continue the hearing for cause.

#### F. Hearing decision—Right of appeal.

1. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or overturn the citation and shall state the reasons therefore.

2. The hearing officer shall serve citee(s) by first-class mail with a copy of the written decision. The date the decision is deposited with U.S. Postal Service shall constitute the date of its service. The failure of a citee to receive a properly addressed decision shall not invalidate any hearing, city action or proceeding conducted pursuant to this article.

3. Decisions of the hearing officer may be appealed to the city council within 30 days after the date of their service. Each decision shall contain a statement advising the citee of this appeal

right and the procedure for its exercise. A citee shall file a notice of appeal with the city within 20 calendar days after the date of service of the hearing officer's decision.

4. If a hearing officer's decision is not appealed in a timely manner, the decision shall be deemed confirmed.

5. The city council is the sole reviewing authority and an appeal from a hearing officer's decision is not appealable to the Superior Court. If a responsible person prevails on appeal, the city shall reimburse his or her fine deposit within 30 calendar days of the city council's decision on the appeal.

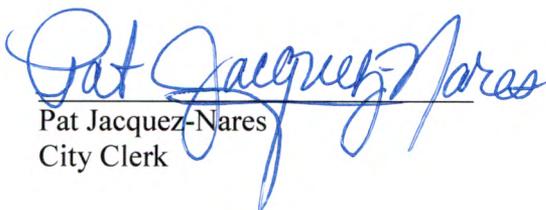
SECTION 2. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 (b)(3) (General Rule) of the CEQA Guidelines, in that the City Council hereby finds that it can be seen with certainty that there is no possibility that the passage of this Ordinance will have a significant effect on the environment.

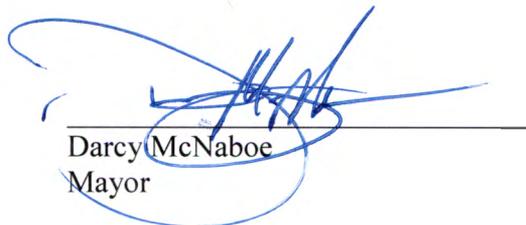
SECTION 3. Any provision of the Grand Terrace Municipal Code or appendices thereto that are inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 5. First read at a regular meeting of the City Council held on the 13<sup>th</sup> of October, 2015, and finally adopted and ordered posted at a regular meeting of said City Council on the 27<sup>th</sup> of October, 2015.

ATTEST:

  
Pat Jacquez-Nares  
City Clerk

  
Darcy McNaboe  
Mayor

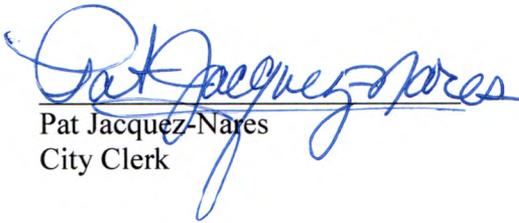
I, Pat Jacquez-Nares, City Clerk of the City of Grand Terrace, do hereby certify that the foregoing Ordinance was introduced and adopted at a regular meeting of the City Council of the City of Grand Terrace held on the 27<sup>th</sup> day of October, 2015, by the following vote:

AYES: Mayor Darcy McNaboe, Mayor Pro Tem Sylvia Robles, Council Member Jackie Mitchell, Council Member Bill Hussey

NOES: Council Member Doug Wilson

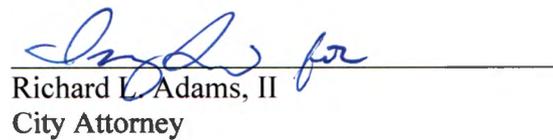
ABSENT: None

ABSTAIN: None



Pat Jacquez-Nares  
City Clerk

Approved as to form:



Richard L. Adams, II  
City Attorney

# EXHIBIT A

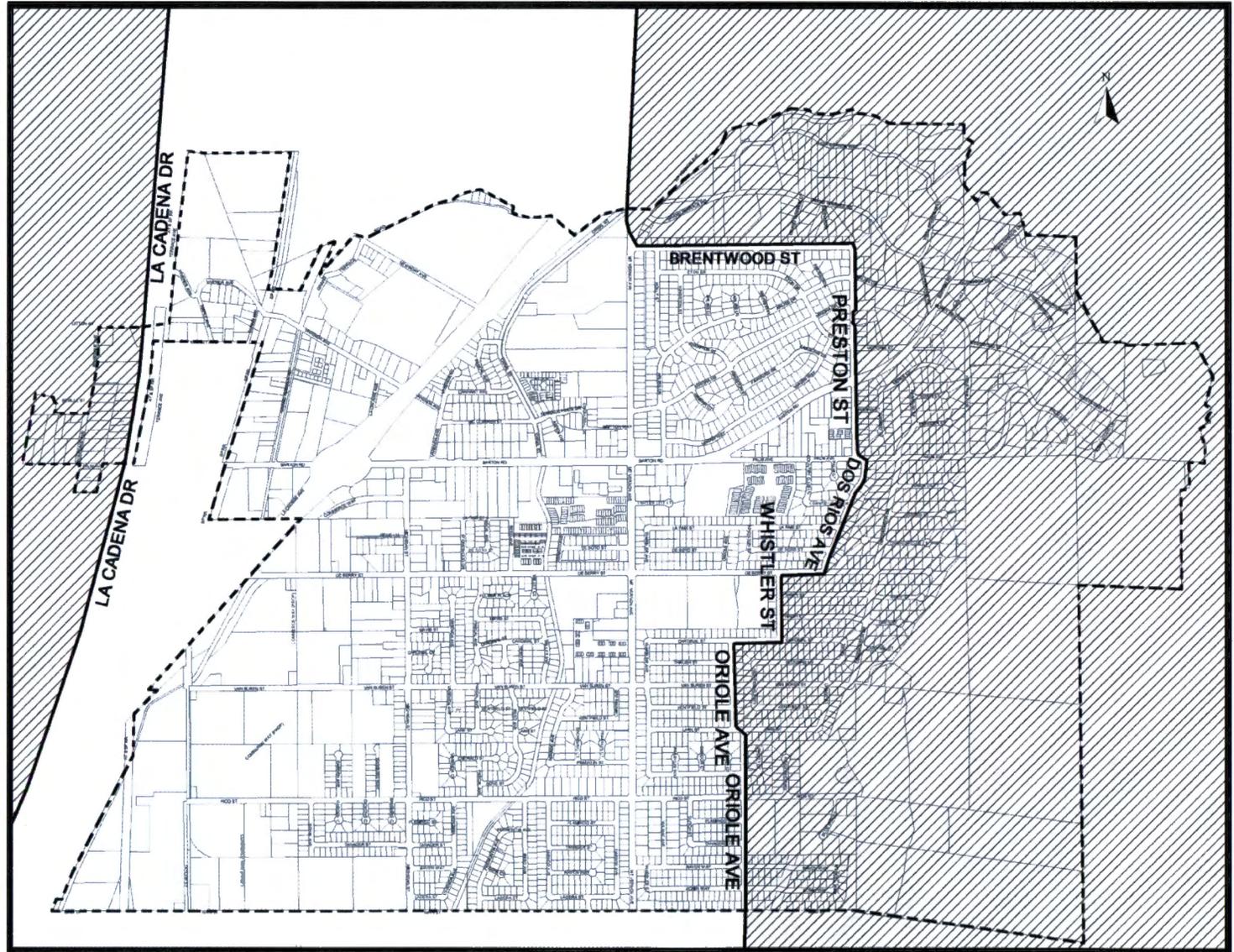
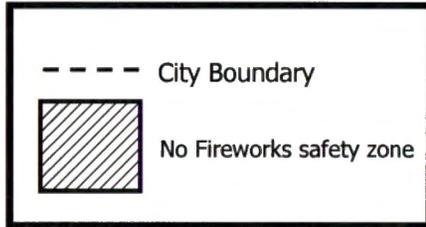
## "No Fireworks Safety Zone Map" within Grand Terrace City Limits

ORDINANCE NO. 285

PAGE 16 OF 16

OCTOBER 27, 2015

### Very High Fire Hazard Severity Zone Within the City Limits of Grand Terrace



**FIREWORKS ARE ALLOWED TO BE DISCHARGED ONLY ON JULY 4TH BETWEEN THE HOURS OF TWELVE NOON AND ELEVEN P.M.**

- West of La Cadena Dr.
- North of Brentwood St.
- East of Preston St.
- East of Dos Rios Ave.
- East of Whistler St.
- East of Oriole Ave.

**FIREWORKS CAN ONLY BE DISCHARGED ON PRIVATE PROPERTY**

**Ordinance No. 285 ; Adopted on  OCTOBER 27, 2015  .**