



**Brawley City Council Agenda
Adjourned Regular Meeting
Wednesday, May 23, 2012 @ 5:30 PM**

**City Council Chambers
383 Main Street
Brawley, California 92227**

George A. Nava, Mayor
Sam Couchman, Mayor Pro-Tempore
Miguel C. Miranda, Council Member
Ryan E. Kelley, Council Member
Don C. Campbell, Council Member

Alma Benavides, City Clerk
Jim Hamilton, City Treasurer
Dennis H. Morita, City Attorney
Rosanna Bayon Moore City Manager/
Executive Director

CALL TO ORDER/ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

1. PUBLIC APPEARANCES/COMMENTS (Not to exceed 4 minutes) *this is the time for the public to address the Council **on any item not appearing on the agenda** that is within the subject matter jurisdiction of the City Council. The Mayor will recognize you and when you come to the microphone, please state your name for the record. You are not allowed to make personal attacks on individuals or make comments which are slanderous or which may invade an individual's personal privacy. Please **direct your questions and comments to the City Council.***

2. CONSENT AGENDA

- a. 2nd Reading of Ordinance No. 2012-03: Ordinance of the City Council of the City of Brawley, California Repealing Ordinance No. 379 and enacting Chapter 19H regulating the possession, sale and use of Safe and Sane Fireworks within the City of Brawley.

3. REGULAR BUSINESS

4. COUNCIL MEMEBR REPORTS

5. CITY MANAGER REPORTS

6. CLOSED SESSION

a. Conference with Legal Counsel – Existing Litigation (Government Code Section 54956.9(a)):

1. City of Brawley vs. La Paloma

ADJOURNMENT Adjourn to June 5, **2012 @ 6:00 PM**, City Council Chambers, 383 Main Street, Brawley, California. Supporting Documents are available for public review in the Office of the City Clerk, 383 Main Street, Brawley, California 92227 - Monday through Friday during Regular Business Hours; Individuals who require special accommodations are requested to give 48 hours prior notice. Contact: Alma Benavides, City Clerk @ 760-351-3080.

Alma Benavides, City Clerk

ORDINANCE NO. 2012-03

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRAWLEY, CALIFORNIA
REPEALING ORDINANCE NO. 379 AND ENACTING CHAPTER 19H REGULATING
THE POSSESSION, SALE, AND USE OF SAFE AND SANE FIREWORKS WITHIN
THE CITY OF BRAWLEY.**

The City Council of the City of Brawley does ordain as follows:

SECTION 1. Ordinance No. 379 is hereby repealed

SECTION 2. Chapter 19H of the Brawley Municipal Code is hereby enacted to read as follows:

ARTICLE I - GENERAL

19H.1. **Purpose and Authority**

The purpose of this Ordinance is to regulate the possession, sale and use of fireworks within the City of Brawley. The City Council enacts this Ordinance pursuant to its general police powers and the State of California Fireworks Law, Sections 12500 through 12728 of the California Health and Safety Code, and State of California Fireworks Regulations, Chapter 6 of Title 19 of the California Code of Regulations.

19H.2. **Title**

This Ordinance may be cited as the "Brawley Fireworks Ordinance."

ARTICLE II - BRAWLEY FIREWORKS PROGRAM

19H.3. **Administration**

This Ordinance shall be administered by the Brawley Fire Department.

19H.4. **Definitions**

For the purposes of this Ordinance, the following definitions shall apply:

- a) "City" means the City of Brawley.
- b) "City Clerk" means the City Clerk of the City or the City Clerk's designee.
- c) "City Manager" means the City Manager of the City or the City Manager's designee.
- d) "Dangerous Fireworks" means Dangerous Fireworks as defined in Health and Safety Code Section 12505.

- e) "Fire Chief" means the Fire Chief of the City or the Fire Chiefs designee.
- f) "Fireworks Sales Permit" means a permit issued in accordance with Article IV of this Ordinance.
- g) "Fireworks Stand" means a structure of a temporary nature used in the sale, offering for sale, or display for sale of Safe and Sane Fireworks.
- h) "Fireworks Wholesaler" means any person who sells fireworks to other persons for resale by such persons.
- i) "Nonprofit Organization" means any nonprofit association, charity or corporation organized primarily for veterans, patriotic, welfare, civic betterment, educational, youth development or charitable purposes which is tax exempt pursuant to Internal Revenue Code Sections 501(c)3, 4, 6, 7, 8, 9, 10, 19, 23, or 26, that serves, in whole or in part, the residents of the City of Brawley.
- j) "Police Chief" means the Police Chief of the City or the Police Chief's designee.
- k) "Qualified Applicant" means any Nonprofit Organization which has met all of the following criteria for a continuous period of not less than one (1) full year preceding submittal of an application for a Fireworks Sales Permit and which continues to meet the criteria for the duration of the Fireworks Sales Permit.
 - i. The Nonprofit Organization must have a minimum bona fide membership of at least ten (10) adult members who either reside in the City, are employed in the City or who are owners or operators of a business located in the City. The organization shall upon request provide documentation demonstrating the minimum *bona fide* membership to the satisfaction of the Fire Chief.
 - ii. The Nonprofit Organization shall not have been found by any court of competent jurisdiction or City administrative hearing officer to be in violation of any civil or criminal local, state or federal law relating to fireworks, including this Ordinance within thirty-six (36) months prior to the Nonprofit Organization's submittal of an application for a Fireworks Sales Permit.

- iii. The Nonprofit Organization must not have had a permit to sell fireworks revoked by any jurisdiction within thirty-six (36) months prior to the Nonprofit Organization's submittal of an application for a Fireworks Sales Permit.
- l) "Safe and Sane Fireworks" means Safe and Sane Fireworks as defined in Health and Safety Code Section 12529 and 12562.
- m) "Responsible Person" means a person who causes a violation of this Ordinance to occur or who allows a violation to exist or continue, by his or her action or failure to act, or whose agent, employee or independent contractor causes a violation to occur or allows a violation to exist or continue. Provided, that:
 - i. There is a rebuttable presumption that the record owner of a residential parcel, as shown on the county's latest equalized property taxes assessment rolls, and any lessee of a residential parcel, has notice of any violation existing on said property.
 - ii. More than one person may be a Responsible Person for a single violation.
 - iii. Any person, regardless of age may be a Responsible Person. However, every parent, guardian or other person, having the legal care, custody or control of any minor person (defined as any person under 18 years of age) is a Responsible Person for violations committed by such minor, in addition to the minor him or herself, if such parent, guardian or other person knows or reasonably should know that a minor is in violation of this Ordinance. There is a rebuttable presumption that any such parent, guardian or other person having the legal care custody or control of a minor person knows or reasonably should know whether such minor is in violation of this Ordinance.

19H.5. **Fireworks Unlawful**

Except as otherwise provided in this Ordinance, no person shall possess, sell, use, display or explode any "Dangerous Fireworks," or any "Safe and Sane Fireworks," including, but not limited to, any rocket, firecracker, roman candle, squib, torpedo, wire core sparkler, wooden core sparkler, black cartridge, aerial shell or other combustible device or explosive substance or any kind of fireworks, by whatever name known, within the City of Brawley.

ARTICLE III - PUBLIC DISPLAYS OF FIREWORKS

19H.6. Permits for Public Fireworks Displays

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 from the Fire Chief as provided herein.

The Fire Chief may grant permits for those activities enumerated in Section 12640 of the California Health and Safety Code, including supervised public displays of fireworks by a public agency, fair association, amusement park, or 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 Section 12527 of the California Health and Safety Code), and shall be of such character and so located, discharged or fired as in the opinion of Council, following the receipt of the recommendation by the Fire Chief, will not be hazardous or endanger any property or persons.

19H.7. Application Fee for Public Fireworks Displays

Every application for permit to conduct a public display of fireworks or for other use of fireworks as permitted by section 2.010 shall be accompanied by a nonrefundable fee of one-hundred dollars (\$100.00).

19H.8. Defense and Indemnity of City

Every applicant for a permit to conduct a public display of fireworks or for other use of fireworks as permitted by Section 19H.6 shall agree to defend, indemnify and hold the City of Brawley, its officers and employees, harmless from any and all claims for damages or other costs arising out of the activity authorized by the permit.

19H.9. Liability Insurance

Every recipient of a permit to conduct a public display of fireworks or for other use of fireworks as permitted by Section 19H.6 shall maintain a corporate surety bond or policy of public liability and property damage insurance. The policy shall provide coverage for bodily injury (including death) and property damage with policy limits of not less than five million dollars (\$5,000,000) combined single limits. Such policies shall contain a provision which includes the City, its officers, officials, agents, and employees as additional insured's and provides that said insurance provides primary coverage as to the City without contribution by other City policies or self-insured retentions. Such policies shall also contain an endorsement that the company issuing such policy or policies will not allow the same to be cancelled without serving, by first class mail, ten (10) days' notice of cancellation upon the City Clerk.

Following approval of the permit by the Fire Chief as provided in Section 19H.6, no permit shall be issued until the permittee furnishes the City Clerk a "Certificate of Insurance" for each insurance policy required by this section, in a form approved by the City Attorney.

Notwithstanding any other provision of this Ordinance, the failure of the permittee to carry such policy or policies in force shall result in the automatic revocation of the permit as of the date of expiration of such insurance policy or policies, Should a permit be automatically revoked as a consequence of this provision, the payment of the full amount of the permit fee required by this Ordinance shall be made to the City before the revoked permit may be reinstated.

ARTICLE IV - SALE AND USE OF SAFE AND SANE FIREWORKS DURING THE FOURTH OF JULY PERIOD

19H.10. Possession or Use of Safe and Sane Fireworks Temporarily Permitted

Notwithstanding any provisions of this Ordinance 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 Fireworks 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.

19H.11. Sale of Safe and Sane Fireworks

Notwithstanding any provisions of this Ordinance to the contrary, the possession and retail sale to the public of Safe and Sane Fireworks is permitted between 12 noon and 10 p.m. on the 28th of June of each year and from 9 a.m. through 10 p.m. on June 29th through the 4th of July of the same calendar year, by those Nonprofit Organizations possessing a current Firework Sales Permit.

19H.12. Applications for Fireworks Sales Permits and Lotteries

- a) Submission of applications by Qualified Applicants
 - i. No Nonprofit organization shall submit more than one (1) application for a Fireworks Sales Permit. If the City receives two (2) or more applications containing the same tax identification number, only one (1) application shall be accepted.
 - ii. Each application will be screened by the Fire Chief to determine if the Nonprofit Organization submitting it meets the criteria to be classified as a "Qualified Applicant."

- b) Every application for a Fireworks Sales Permit shall be accompanied by a nonrefundable application fee of thirty dollars (\$30.00) as imposed by this Ordinance.
- c) All applications for Fireworks Sales Permits shall be submitted in writing to the City Clerk on forms supplied by the City. Applications may be filed from January 1 through February 1, inclusive. Applications filed before or after these periods will not be accepted.
 - i. If there are more Qualified Applicants than the maximum number of Fireworks Sales Permits available, then the Fire Chief shall conduct a random drawing to determine to whom the available Fireworks Sales Permits shall be issued.

The drawing shall occur on March 15th of each year, or the first day of business thereafter should March 15th fall on a non-business day. Those Qualified Applicants, which have been successful in being awarded a Fireworks Sales Permit, shall have up to and including May 1st to submit all information required by Section 3.040(d) and to pay the permit fee required by Section 3.040(d) (iii).
 - ii. Applications for Fireworks Sales Permits will be reviewed by the Fire Department, Police Department and the City Clerk, as needed, pursuant to this Ordinance. Fireworks Sales Permits shall be issued by the Fire Chief.

19H.13. **Fireworks Sales Permit Requirements**

- a) Each Fireworks Sales Permit recipient may operate only one Fireworks Stand. The maximum number of Fireworks Sales Permits which may be issued during any one (1) calendar year shall not exceed one (1) Fireworks Sales Permit for each 4000 residents of the City of Brawley, or fraction thereof, as calculated by the City Clerk.
- b) Other provisions regarding Fireworks Sales Permit Applications.
 - i. After the maximum number of Fireworks Sales Permit recipients has been chosen, the remaining Qualified Applicants shall be drawn and assigned as alternates according to the order drawn. Each alternate, according to the order drawn, shall be offered a Fireworks Sales Permit if one of the original permittees' fails to meet the requirements of this Ordinance, or if a permittee voluntarily surrenders its Fireworks Sales Permit, or if a

Fireworks Sales Permit is revoked.

- ii. Two or more eligible Nonprofit Organizations may jointly submit an application pursuant to this Ordinance and may receive a single Fireworks Sales Permit to jointly sell fireworks, provided that each must be a Qualified Applicant. Fireworks Sales Permit recipients may select one or more other Qualified Applicants to join it in a joint venture operation of the Fireworks Stand, provided that any such joint venture must have been a Qualified Applicant that applied unsuccessfully for a Fireworks Sales Permit that same year.
 - iii. Fireworks Sales Permits are valid only during the calendar year issued.
- c) Each Nonprofit Organization receiving a Fireworks Sales Permit must have a least one representative attend a Fireworks Stand Operator Safety seminar, approved by the Fire Chief, for the same year in which the Fireworks Sales Permit is issued. Failure of a nonprofit organization to attend the seminar shall result in the revocation of the Fireworks Sales Permit.
- d) Subsequent to selection for issuance of Fireworks Sales Permit, but prior to the issuance of a Fireworks Sales Permit, and in addition to those other requirements set forth in this Ordinance or on the permit application, each permittee shall provide or demonstrate compliance with all of the following:
- i. A copy of the permittee's retail sales permit issued by the Office of the California State Fire Marshal.
 - ii. A copy of the permittee's California State Board of Equalization Temporary Sales Tax Permit.
 - iii. Payment of a permit fee in the amount of one hundred fifty dollars (\$150.00). This fee is in addition to the application fee paid pursuant to section 3.030(b) for the submission of the application.
 - iv. Insurance coverage as required by the provisions of Section 2.040, provided that the limits of liability required by that section shall be \$1,000,000, combined single limits.

19H.14. **Denial of Permit and Appeals Process.**

- a) After conducting an investigation and preparing a report consistent with Health and Safety Code section 12640 *et seq.*,

the Fire Chief shall issue a Fireworks Sales Permit to Qualified Applicants chosen pursuant to section 3.030 unless:

- i. The Fire Chief finds, in writing, that the applicant has failed to provide sufficient plans, information or data necessary to permit a determination respecting compliance with the requirements of this Ordinance.
 - ii. The Fire Chief finds, in writing, that the applicant is not in compliance with any of the requirements of this Ordinance.
- b) Any denial of a Fireworks Sales Permit application or revocation of a permit to sell fireworks issued pursuant to the Fireworks Code may be appealed to the City Council consistent with Health and Safety Code Section 12647 within ten (10) days in writing.

19H.15 **Fireworks Stands**

- a) All retail sales of Safe and Sane Fireworks shall be permitted from within a temporary fireworks stand only. The retail sale of fireworks from any other building or structure is prohibited.
- b) No fireworks stand may be erected before June 23, or by any person not affiliated with a Nonprofit Organization to which a Fireworks Sales Permit has been issued.
- c) Fireworks stands must be located on lots that have an all-weather surface and adequate off-street parking to meet the requirement of any existing use or uses as well as the fireworks stand.
- d) Fireworks Stands are permitted only in the following zoning districts, as defined and delineated in the Brawley City Code:
 - i. Neighborhood Commercial (C1)
 - ii. Medium Commercial (C2)
 - iii. Heavy Commercial (C3)
 - iv. Light Manufacturing (M1)
 - iv. Heavy Manufacturing (M2)
- e) Each fireworks stand must post each of the following in a prominent place inside the fireworks stand:
 - i. Fireworks Sales Permit.
 - ii. California State Board of Equalization Temporary Sales Tax Permit

- iii. California State Fire Marshal Retail Sales Permit
- iv. Proof of Insurance

- f) Fireworks stands shall not be located closer than three hundred (300) feet apart, unless separated by a major arterial roadway.
- g) Fireworks stands shall comply with current National Fire Protection Association standard NFPA 1124 for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles.
- h) Fireworks Stands shall not be located within twenty-five (25) feet of any other building or structure.
- i) No fireworks shall be located within one hundred (100) feet of a location where gasoline or any other flammable liquids are stored or dispensed.
- j) Electrical wiring within a Fireworks Stand is prohibited.
- k) Lighting on or in Fireworks Stands shall consist of battery powered lighting only.
- l) Each Fireworks Stand shall comply with fire prevention standards as adopted and enforced by the Fire Chief.
- m) All Fireworks Stands shall be inspected and approved by the Fire Chief prior to the sale of any fireworks.
- n) All weeds or other vegetation, and combustible material shall be cleared from the location of the fireworks stand to at least a twenty-five (25) foot radius surrounding the Fireworks Stand.
- o) No Fireworks Stand shall have a floor area in excess of five hundred (500) square feet or a length greater than fifty (50) feet.
- p) Each Fireworks Stand shall have at least two exits. Each Fireworks Stand in excess of forty (40) feet in length shall have at least three (3) exits, equally spaced. In no case shall the distance between exits required by this section exceed (20) feet. Exit doors shall be not less than twenty-four (24) inches wide, six (6) feet in height and must open in the direction of exit travel.
- q) "NO SMOKING" signs shall be prominently displayed on all sides of the Fireworks Stand. Smoking is prohibited within fifty (50) feet any Fireworks Stand.

- r) Each Fireworks Stand shall have two (2), currently certified, two and one-half (2-1/2) gallon pressurized water type fire extinguishers in good working order that are easily accessible in case of fire.
- s) Each Fireworks Stand must have an adult in attendance and in charge thereof when the Fireworks Stand is open to the public for sale or dispensing of fireworks and when fireworks are being delivered to, or taken from, the Fireworks Stand.
- t) No person may remain inside the Fireworks Stand after close of business.
- u) When the Fireworks Stand is not being used for the sale and/or display of fireworks, all fireworks shall be stored in a manner consistent with one of the following:
 - i. Within a reinforced, heavy metal, fully-enclosed container, a walk-in type drop box, or equivalent, as approved by the Fire Chief.
 - ii. Returned daily to a Fireworks Wholesaler for storage at an approved and properly zoned location.
- v) No fuel-powered generator or similar equipment shall be allowed within fifty (50) feet of a Fireworks Stand.
- w) No person other than individuals who are bona-fide members of the Nonprofit organization which holds the Fireworks Sales Permit, and/or joint venture nonprofit organization(s), or the spouses, registered domestic partners, parents or adult children of such members, shall sell or otherwise participate in the sale of fireworks.
- x) No minor (defined as any person under the age of 18 years) shall sell or participate in the sale of safe and sane fireworks or handle any fireworks.
- y) Drinking or possession of alcoholic beverages in a fireworks stand or within one hundred feet (100) feet of a fireworks stand is prohibited, except within a permanent business establishment unaffiliated with the fireworks stand and which preexisted the fireworks stand.
- z) No person shall be paid any consideration by the permittee or any Fireworks Wholesaler for selling or otherwise participating in the sale of Safe and Sane Fireworks. Notwithstanding the foregoing, compensation may be paid for licensed security

personnel and to any person permitting or leasing the location of the Fireworks Stand on its property as a payment for such permit or lease.

- aa) All fireworks shall be retained at the Fireworks Stand. In no event shall unsold fireworks be removed from the approved location to any other place without written approval of the Fire Chief. This provision shall not apply to the storage of fireworks pursuant to Section 3.060(u) (ii) of this Ordinance.
- bb) All unsold stocks of fireworks in the hands of the permittee after 10:00 p.m. on the 4th day of July shall be returned to the Fireworks Wholesaler by 12:00 p.m. on July 6th of the same calendar year.
- cc) No later than July 10th of each calendar year, each Fireworks Stand shall be completely removed and the premises upon which it was located shall be cleared of all debris and restored to the condition it was in prior to the establishment of the Fireworks Stand.
- dd) Fireworks Stands shall be permitted to have no more than two (2) double-sided signs with a maximum area of sixty-four (64) square feet per side. All such signs shall be located on the same site as the Fireworks Stand they identify or advertise. Signs may not be placed in such a manner as to interrupt the normal flow of vehicle or pedestrian traffic or to cause any sight distance problems for such traffic. Placement of such signs shall be subject to the review and approval of the Fire Chief, the Community Development Department and the Police Department. In no case shall the sign placement interfere with traffic or any other safety related concern. The above-described signs may be displayed from June 23rd through the end of the sales day on July 4th.

19H.16. **Sales to Minors**

It is unlawful to sell fireworks to minors.

19H.17 **Financial Reports**

On or before November 1st of any year during which a Nonprofit Organization received a Fireworks Sales Permit, the Nonprofit Organization shall submit to the City Clerk a financial statement prepared by its treasurer, or an officer of the Nonprofit Organization, setting forth:

- a) A copy of the most recent report filed by the Nonprofit Organization with the State Board of Equalization.

The filing of such statement shall be a condition precedent to the granting of any subsequent Fireworks Sales Permit.

19H.18. **Revocation of Fireworks Sales Permits and Appeal**

- a) The Fire Chief may revoke the Fireworks Sales Permit of any permittee who violates any of the provisions of this Ordinance. If the revocation occurs between June 22 and July 5, the Fire Chief shall inform the permittee that it may seek review of the decision by the City Manager on the next business day. The decision of the City Manager shall be final.
- b) Any permittee whose Fireworks Sales Permit has been revoked, shall be barred from receiving a future Fireworks Sales Permit under this Ordinance or under any subsequent ordinance establishing a Fireworks Sales Permit for up to three (3) years from the date of the revocation.

19H.19. **Discharge of Safe and Sane Fireworks-Regulations**

It shall be unlawful for any person to ignite, discharge, project or otherwise fire or use, any Safe and Sane Fireworks, upon or over or onto the property of another without his/her consent, or to ignite, discharge, project or otherwise fire or make use of any Safe and Sane Fireworks within ten (10) feet of any residence, dwelling or other structure used as a place of habitation by human beings.

- a) It shall be unlawful to discharge fireworks of any type on City property, including, but not limited to parks, recreation areas or parking lots. Discharge on a City Street in a residential zone is permitted so long as it does not impede traffic, except that discharge shall not be permitted on the following streets: State Routes 78, 86 and 111.
- b) Notwithstanding the foregoing, it shall be lawful to discharge Fireworks in any portion of any City park that is officially designated by the Fire Chief as a Fireworks Discharge Area.

19H.20. **Supervision of Minors in Use of Fireworks**

- a) it is unlawful for minors to sell, purchase, possess, use or discharge fireworks of any type; provided, however, that minors under the direct supervision of their parent, guardian or other adult person having care, custody or control of said minor, may possess and discharge Safe and Sane Fireworks during the times and in the manner that such discharge is permitted by this Ordinance.
- b) It shall be unlawful for any person having the care, custody or control of a minor to permit said minor to discharge, explode, fire or set off any Dangerous Fireworks, at any time, or to permit such minor to discharge or set off any Safe and Sane Fireworks unless said 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 Ordinance.

19H.21. **Seizure of Fireworks**

The Fire Chief or Police Chief may seize, take, remove or cause to be removed, at the expense of the holder of a Fireworks Sales Permittee or licensed Fireworks Wholesaler, all stock of fireworks offered or exposed for sale, stored or held in violation of this Ordinance when such violation creates an imminent danger and a grave threat to public health or safety. The official removing such fireworks shall immediately provide written notice to the owner thereof, and shall provide an opportunity within twenty (24) hours to be heard with respect to such seizure.

In the event the violation does not pose imminent danger and a grave threat, the Fire Chief or Police Chief shall provide written notice and an opportunity to be heard prior to any seizure.

19H.22. **Public Education**

Each Fireworks Wholesaler supplying one or more permittees under this Article shall annually submit a Public Education Plan to the Fire Chief no later than 5:00 pm on June 1. Said Public Education Plan shall outline the public safety and education efforts for that year that have been initiated, supported and/or delivered, by each Fireworks Wholesaler within the City.

Article V - ADMINISTRATIVE REGULATIONS

19H.22. **Administrative Regulations**

The Fire Chief is authorized to promulgate administrative regulations and procedures necessary for the successful and effective implementation of this Ordinance including, but not limited to, rules and procedures governing the submission and random selection of applications to sell Safe and Sane Fireworks and rules and procedures governing situations where two or more Fireworks Sales Permit recipients propose to establish Fireworks Stands within three hundred (300) feet of each other, in violation of Section 19H.15(f) of this Ordinance.

ARTICLE VI - ENFORCEMENT

19H.23. **Violation Unlawful-Administrative Citations**

- a) It is unlawful, and a misdemeanor, to violate any provision of this Ordinance, provided, however, that a violation of this Ordinance may, at the discretion of the Police Chief, Fire Chief or prosecuting attorney, be charged and prosecuted as an infraction.

- b) In addition to any other enforcement mechanism prescribed by law, this Ordinance may be enforced by the issuance of Administrative Citations pursuant to the Brawley Municipal Code.

19H.24. **Conflict with Brawley Municipal Code**

In the event that any provision of this ordinance conflicts with any provision of the Brawley Municipal Code, the provisions of this Ordinance shall prevail.

19H.25 **Severability**

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance for any reason shall be held to be invalid or unconstitutional, the decision shall not affect the remaining portions of the Ordinance. The Council of the City of Brawley hereby declares that it would have passed this Ordinance and each article, section, subsection, paragraph, sentence, clause or phrase which is a part thereof, irrespective of the fact that any one or more articles, sections, subsections, paragraphs, sentences, clauses or phrases are declared to be invalid or unconstitutional.

SECTION 3. Effective Date This ordinance shall be effective thirty (30) days after its adoption and the City Clerk shall cause a certified copy of this ordinance to be published one time within fifteen (15) days after its adoption in the Imperial Valley Press, a newspaper of general circulation printed in Imperial County and circulated in the City of Brawley.

APPROVED PASSED AND ADOPTED, at a adjourned regular meeting of the Brawley City Council of the City of Brawley, held on the 23rd day of May, 2012.

CITY OF BRAWLEY, CALIFORNIA

George A. Nava, Mayor

ATTEST:

Alma Benavides, City Clerk

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL)
CITY OF BRAWLEY)

1st Reading

I, Alma Benavides, City Clerk of the City of Brawley, California, **DO HEREBY CERTIFY** that the foregoing Ordinance No. 2012-03 was passed and adopted by the City Council of the City of Brawley, California, at a regular meeting held on the 15th day of May, 2012 and that it was so adopted by the following roll call vote: m/s/c Kelley/Campbell 5-0

AYES: Campbell, Couchman, Kelley, Miranda, Nava
NAYES: None
ABSTAIN: None
ABSENT: None

DATED: May 15, 2012

Alma Benavides, City Clerk

2nd Reading & Adoption

I, Alma Benavides, City Clerk of the City of Brawley, California, **DO HEREBY CERTIFY** that the foregoing Ordinance No. 2012-03 was passed and adopted by the City Council of the City of Brawley, California, at a adjourned regular meeting held on the day of May, 2012 and that it was so adopted by the following roll call vote:

AYES:
NAYES:
ABSTAIN:
ABSENT:

DATED: May , 2012

Alma Benavides, City Clerk