

**ORDINANCE NO. 23**

**ORDINANCE REGULATING THE OUTDOOR DISCHARGE  
AND DISPLAY OF FIREWORKS**

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WHEREAS, recent requests to the District for outdoor discharge and display of fireworks have demonstrated the need for this Board to consider modifications to the District's regulations covering the subject; and

WHEREAS, the State Fireworks Law authorizes the sale, use and discharge of fireworks in cities and counties unless prohibited by such jurisdictions; and

WHEREAS, the County of Monterey does prohibit the possession of fireworks for the purpose of discharge in the unincorporated area of the county, however, excluded from this prohibition are fireworks discharge and display first approved by a "responsible fire jurisdiction," District being such a jurisdiction; and

WHEREAS, this Board desires to adopt strict approval regulations and guidelines for outdoor fireworks displays within District boundaries, to the end that approved displays shall in no manner compromise public health, safety or welfare. (Note 1)

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE PEBBLE BEACH COMMUNITY SERVICES DISTRICT DOES ORDAIN AS FOLLOWS:

SECTION 1. Definitions.

A. "Fireworks" means any device containing chemical elements and chemical compounds capable of burning independently of the oxygen in the atmosphere and producing audible, visual, mechanical, or thermal effects, which are useful for pyrotechnic devices or for entertainment. The term 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, fireworks kits, and like items.

B. "Person" means any person or persons, firm, company, corporation, partnership, organization, or association, however denominated.

SECTION 2. Discharge - prohibited except with permit.

No person shall discharge or otherwise display fireworks except in accordance with a permit issued pursuant to this Ordinance.

**Note 1: The California Fire Code also governs the use and discharge of fireworks, both indoors as well as outside, and a permit for same is also required from the Fire Chief.**

SECTION 3. Discharge - prohibited except when open to the public.

Except as otherwise provided in this Ordinance, no fireworks shall be discharged or displayed except when the discharge or display is open to the public. For this purpose, "open to the public" means that the public may be present at the site of the discharge or display, either with or without a charge to be present, and not merely that the public may see or hear the discharge or display from off site.

SECTION 4. Discharge - hours and days designated.

Fireworks shall only be discharged or displayed during the following hours and on the following days:

A. Fireworks shall only be discharged or displayed after dusk, but not later than 10:00 p.m., except that on New Year's Eve Day fireworks may be displayed until not later than 1:00 a.m. of the following day.

B. Fireworks shall only be discharged or displayed on the following days during the

hours set out in subsection A immediately above:

1. New Year's Eve Day.
2. July 4.
3. Any day appointed by the President of the United States as a one time celebration of a holiday, fast, or thanksgiving.
4. Any day on which an event of benefit to a significant segment of the community occurs, provided the discharge or display is held in connection with the event.
5. Up to a maximum of three days per calendar year for private events held on commercial private property, provided the discharge or display is held in connection with the event. Any permit issued for such private event shall be exempt from the provisions of Section 3 of this ordinance.

#### SECTION 5. Permit to discharge - application - time limit.

Any person desiring to discharge or display fireworks shall submit a completed application to the District Fire Chief no later than 60 days prior to the discharge or display on a form prescribed by the District General Manager. No application submitted later than 60 days prior to the proposed discharge or display shall be accepted. No application shall be deemed complete, and therefore deemed made and submitted, unless and until all information and materials required pursuant to Section 6, below, and any other materials and information reasonably required by the Fire Chief, shall have been received and verified by the Fire Chief.

#### SECTION 6. Application - contents - fee.

A. An application to discharge or display fireworks shall include the following information, provided that the Fire Chief may require additional information in the exercise of his or her sole discretion, and shall be made on a form devised by the Fire Chief:

1. Name, address, phone number, fax number of applicant.
2. Name, address, phone number, fax number of the sponsoring organization, if different from the applicant, and the name of the event, if any.
3. Name, address, phone number, fax number of the pyrotechnician who will present the discharge, together with a copy of a current pyrotechnics license issued by the State of California.
4. Site of the discharge, including street address and site plan. The site plan shall include, without limitation, the point where fireworks will be discharged; fall out area dimensions and proximity to roads, buildings, trees and overhead obstructions; description fall out area for size of fireworks being utilized; audience location; location of all nearby roads, buildings, trees, overhead obstructions; proximity of pyrotechnician to firing site.
5. Date, time and duration of discharge or display.
6. Type of discharge, including number and size.
7. Proof of general liability insurance in an amount not less than five million dollars, with no deductible, to include insurance of the general public against damage to property and injury and/or death to persons as a result of the discharge or display, and naming the District and each of its officers, agents and employees as additional insureds. The pyrotechnician supervising the display shall also be named as additional insured.
8. Workers compensation insurance as required by California law.
9. A statement that required insurance shall not be cancelled or modified in any manner without prior notification to the District.
10. A statement that the following reports will be filed by the pyrotechnician in charge, as needed or required: (a) a verbal report within 24 hours of a fire requiring emergency action or response as a result of fireworks firing, or injury or death to the public or crew; (b) within 10 days following the discharge or display, a report to the Fire Chief or his or her designee of any duds or misfires including manufacturer's name, type and size, and a brief account of the cause of injury to any person from the fireworks and such person's name and address; (c) within 10 days following the discharge or display, violations of the California Health and Safety Code relating to public display of fireworks; (d) within 10 days following the discharge or display, names of all licensed and unlicensed assistants.
11. Names and addresses of owners of property within 1,000 feet of the boundaries of the site of the discharge, as determined by the Fire Chief, together with mailing labels for use

in notifying such persons of the application for discharge, and a sufficient supply of posted envelopes to mail the notifications.

12. Payment of a non-refundable application fee in the amount of \$100.00.

13. A deposit, in an amount determined by the District Fire Chief, to cover fire staff stand-by costs associated with the proposed discharge or display. This deposit shall be refunded in the event the application is denied.

B. No application submitted without fee shall be accepted or processed.

#### SECTION 7. License.

No person shall discharge or display fireworks if he or she does not possess a current pyrotechnic license issued by the State of California.

#### SECTION 8. Objections - time - procedure.

A. Any person may object or otherwise comment on an application submitted pursuant to this Ordinance. All comments and objections received by the Fire Chief within 30 days following application submittal will be considered by the Fire Chief and reported to the District General Manager.

#### SECTION 9. Action of Fire Chief - consideration - time.

A. Upon submittal of a complete application, the Fire Chief will consult with the District General Manager or other District staff designated by the General Manager, California Department of Forestry and Fire Protection, and all other local, state and private authorities and persons who, as determined by Fire Chief, have an interest in the application.

B. Not later than ten days following receipt of the application the Fire Chief shall give written notice of the application to owners of property within 1,000, as described in Section 6.A.11.

C. If, based on the application, consultation, comments from the public, and any and all other information and materials considered in the exercise of due diligence, the Fire Chief determines in the exercise of his or her sole discretion (1) that the discharge or display conforms to all provisions of this Ordinance, and (2) that the discharge or display presents no threat to the public health, safety or welfare, the application shall be approved. Otherwise, the application shall be denied.

D. The determination to deny or approve shall be made, and applicant so advised, within 40 days following submittal of the application, but in no event earlier than 10 days following mailing of the notice required per B of this Section.

E. If the application is approved, the Fire Chief shall, concurrent with such approval, give written notice of approval to owners of property within 1,000 feet, as described in Section 6.A.11. The Fire Chief may also give written notice of such approval to any local, state, or private authorities or persons deemed appropriate.

#### SECTION 10. Action of the Fire Chief - conditional finality.

Action of the Fire Chief to approve or deny an application made pursuant to this Ordinance shall be final, except that it may be appealed within five business days to the District General Manager only on the merits of the application to the interests of the general public, but not on the technical requirements of the application. In case of such appeal to the District General Manager, he or she shall act on the appeal within five business days. The District General Manager may request additional information from the applicant and shall have the sole discretion to consider such an appeal. No appeal of such action of the District General Manager shall lie with the District Board of Directors or with any other official or body.