

**TOWN OF PARADISE
ORDINANCE NO. 562**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PARADISE
ADDING CHAPTER 8.57 TO THE PARADISE MUNICIPAL CODE
RELATING TO BUTANE RESALE REGULATIONS**

WHEREAS, the northern region of the State of California has experienced a recent increase in explosions caused from the manufacturing of honey oil (also known as hash oil) in clandestine labs using extremely volatile butane as a solvent to strip the oils from the marijuana. These incidents have caused considerable property damage, personal injury and even incidents of death to those participating in the manufacturing process, as well as innocent bystanders; and

WHEREAS, the use of butane breaks down and dissolves the Tetrahydrocannabinol (THC) from marijuana plants, creating concentrated form of marijuana. This process creates inherent dangers as the butane quickly evaporates during the process leaving behind an extremely volatile vapor that will ignite given an ignition source. Butane is also odorless, colorless and its vapors are heavier than air and will therefore pool in low-lying areas seeking out ignition sources. Studies suggest 99.5% of the butane used to extract the THC will volatilize into the immediate area and remain in a form that is odorless and latent to the human eye and can only be detected through a combustible gas instrument; and

WHEREAS, honey oil labs using butane as the solvent to extract the THC from marijuana present serious hazards to both property and persons, including first responders and innocent bystanders, and that such conditions present grave risk of loss where any form of ignition sources are capable of igniting the gas resulting in an explosion and/or flash fire. Some examples of these ignition sources are wall switches, thermostatic switches, refrigerator/freezer motors, wall outlets, cigarettes, torches, electric pumps, and even static electricity; and

WHEREAS, the resale of butane occurs at levels that are only relevant to the manufacturing of honey oils. Such sales and possession of butane should be regulated to prevent the use of butane in the manufacture of honey oil where such activity presents grave dangers and adverse health risks to the occupants of the Town of Paradise (the "Town") and the first responders therein.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Paradise:

SECTION 1. Findings and Purpose. The Town Council finds and declares that the above recitals are true and correct and hereby incorporate them herein by this reference.

SECTION 2. Authority. This ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to Article XI, Section 7 of the California Constitution and California Government Code Sections 36900 and 36901.

SECTION 3. Chapter 8.57 is hereby added to the Paradise Municipal Code to read as follows:

Chapter 8.57

REGULATION OF BUTANE RESALE

Section:

- 8.57.010 Definitions.
- 8.57.020 Unlawful Sale, Purchase and Handling of Butane.
- 8.57.030 Tracking of Butane Sales.
- 8.57.040 Penalties, Strict Liability, and Nuisance.
- 8.57.050 Cumulative Remedy.

8.57.010 Definitions.

For the purpose of this chapter, the following definitions shall apply:

- A. "Butane" means iso-butane, n-butane, and refined butane of any power.
- B. "Canister" means a single container designed or used for the storage of butane under pressure.
- C. "Code" means the Town of Paradise Municipal Code.
- D. "Count" means the number of canisters of butane.
- E. "Customer" means any person who is sold or acquires during a transaction products from any retail store.
- F. "Day" means calendar day.
- G. "Person" means a corporation, co-partnership, or association as well as a natural person.
- H. "Reseller" means any business, company, corporation, person, employee or associate selling products to any customer within the Town of Paradise. It does not include any wholesaler engaged in a wholesale transaction.
- I. "Sell" means to furnish, give away, exchange, transfer, deliver, surrender, distribute or supply, whether for monetary gain or other consideration.
- J. "Transaction" means a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, exchange of currency, extension of credit, purchase or sale of any monetary instrument, or an electronic, magnetic or manual transfer between accounts or any other acquisition or disposition of property by whatever means effected.

K. "Wholesaler" means a person whose business is the selling of goods in gross to retail stores for purposes of resale.

8.57.020 Unlawful Sale, Purchase and Handling of Butane.

A. It is unlawful for any reseller or other person to sell, offer to sell, or otherwise provide to a customer any number of butane canisters that exceed a combined total storage of 600 ml of butane during any single transaction.

B. It is unlawful for any customer to purchase or acquire any number of butane canisters that exceed a combined total storage capacity of 600 ml of butane during any 30-day period.

C. It is unlawful for any person to have in their possession, custody, or control any number of butane canisters that exceed a combined total storage capacity of 600 ml of butane at any one time. The limitation in this subsection shall not apply to the following:

1. butane canisters possessed by wholesalers or resellers solely for the purposes of resale;
or
2. butane canisters possessed by persons solely for the purposes of furthering their ongoing, lawful, commercial operations which require butane quantities greater than 600 ml.
3. butane canisters containing a sulfur-containing odorant, such as ethyl mercaptan.

8.57.030 Tracking of Butane Sales.

A. For every sale of butane, the reseller shall prepare a bill of sale that identifies the date of sale, quantity of butane purchased, and the purchaser's identification. Purchaser's identification as used herein shall mean a person's first and last name as verified from a valid driver's license or other official and valid state-issued identification that contains a photograph of the purchaser and a residential or mailing address. Reseller shall retain a copy of the bill of sale in readable form for a period of two years.

B. It shall be unlawful for any reseller to sell butane to any customer without complying with Section 8.57.030(A) of this chapter.

8.57.040 Penalties, Strict Liability, and Nuisance.

A. Any violation of this chapter is a misdemeanor and subject to a \$1,000 penalty and/or six months in the county jail; provided, however, the Town shall have the discretion to reduce the misdemeanor to an infraction. A separate offense shall exist for every single violation of this chapter. The criminal prosecution of any violation of this chapter does not preclude the Town from the further initiation of any other civil or administrative proceeding which may be available as a remedy for such violation in accordance with this Code.

B. This chapter is a regulatory provision necessary for the protection of the public health, welfare and safety. In any criminal prosecution for a violation of this chapter, it is not necessary to prove knowledge or criminal intent.

C. A violation of any provision of this chapter constitutes a public nuisance.

8.57.050 Cumulative Remedy.

Nothing herein is intended to limit the Town of Paradise from pursuing any other remedy available at law or in equity against any person or entity maintaining, committing, or causing a public nuisance or any other violation of the Code or state or federal law.

SECTION 4. This ordinance is exempt from CEQA pursuant to section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. This ordinance has no impact on the physical environment as it will not result in any changes.

SECTION 5. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, 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 validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. This ordinance shall take effect thirty (30) days after the date of its passage. Before the expiration of fifteen (15) days after its passage, this ordinance or a summary thereof shall be published in a newspaper of general circulation published and circulated within the Town of Paradise along with the names of the members of the Town Council of Paradise voting for and against same.

PASSED AND ADOPTED by the Town Council of the Town of Paradise, County of Butte, State of California, on this 12th day of July, 2016, by the following vote:

AYES: Greg Bolin, Steve "Woody" Culleton, Scott Lotter, John J. Rawlings and Jody Jones, Mayor

NOES: None

ABSENT: None

ABSTAIN: None



Jody Jones, Mayor

ATTEST: *July 13, 2016*



Dina A. Volenski, CMC Acting Town Clerk

APPROVED AS TO FORM:



Dwight L. Moore, Town Attorney