

ORDINANCE OF THE COUNCIL OF THE CITY OF ANDERSON

ORDINANCE NO. 800

**AN ORDINANCE OF THE CITY OF ANDERSON, CALIFORNIA,
AMENDING CHAPTER 9.17 OF TITLE 9 OF THE ANDERSON
MUNICIPAL CODE, RELATING TO REGULATION OF BUTANE RESALE**

THE COUNCIL OF THE CITY OF ANDERSON DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.17 OF Title 9 of the Anderson Municipal Code is amended to read:

CHAPTER 9.17

BUTANE RESALE ORDINANCE

Section 9.17.010	Authority and Title
9.17.020	Findings and Purpose.
9.17.030	Definitions.
9.17.040	Unlawful Sale, Purchase and Handling Butane
9.17.050	Tracking of Butane Sales
9.17.060	Penalties, Strict Liability, and Nuisance.
9.17.070	Exemptions.
9.17.080	Severability Clause.
9.17.090	Cumulative Remedy.

**Section 9.17.010
Authority and Title**

Under the authority granted in Article XI, Section 7 of the California Constitution and Government Code Sections 36900 and 36901, the City of Anderson, by and through its Council, does enact this Chapter of its Municipal Code, which shall be known as the Butane Resale Ordinance.

**Section 9.17.020
Findings and Purpose**

The northern region of our State has experienced a recent increase in explosions caused from the manufacture of honey oil (also known as hash oil) in clandestine labs using refined butane of 5x and higher. These incidents have caused considerable property damage, personal injury and even incidents of death to those participating in the manufacturing process, and to innocent bystanders.

Use of refined butane 5x or higher is done to dissolve the tetrahydrocannabinol (THC) resin, which concentrates into a liquid/oil form as a result of the butane's stripping process. The stripping of the THC through use of refined butane causes flammable butane vapors to accumulate low to the ground and remain exposed to ignition sources. Studies suggest that 99.5 percent of the extracted THC Butane mixture will volatilize into the immediate area and find an ignition source if 5x refined and higher is used.

That the honey oil lab using refined butane of 5x and higher presents a serious hazard for first responders as the gas has no odor and can only be detected by a combustible gas instrument. Such conditions present grave risk of loss where devices such as a TASER are capable of igniting the gas resulting in an explosion.

That the resale of refined butane 5x and higher occurs at levels sufficient to aid the manufacture of honey oil. That 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 to the occupants of the City of Anderson and the first responders therein.

9.17.030

Definitions:

For the purpose of this chapter the following definitions apply:

"Butane" means iso-butane, n-butane, and butane of ~~power~~ refined 5x or greater.

"Canister" means a single butane canister of a storage quantity of 840 ml (28.4 ounces).

"Code" means the Anderson Municipal Code.

"Count" means the number of canisters of refined butane.

"Customer" means any person who is sold or acquires during a transaction products from any retail store.

"Day" means calendar day.

"Package" means butane offered for sale at quantities of two or more.

"Person" means a corporation, co-partnership, or association as well as a natural person.

"Reseller" means any business, company, corporation, person, employee or associate selling products to any customer within the City of Anderson. It does not include any wholesaler engaged in a wholesale transaction.

"Sell" means to furnish, give away, exchange, transfer, deliver, surrender, distribute or supply, whether for monetary gain or other consideration.

"Tank" means a cylinder designed to hold compressed gas of a quantity greater than 840 ml (28.4 ounces).

"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.

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

9.17.040

Unlawful sale, purchase, and handling of butane

A. It is unlawful for any reseller to sell to a customer more two canisters of butane during a single transaction.

B. Subject to compliance with Section 9.17.040 (E) of this Code, it is unlawful for any reseller to sell to a customer more than two canisters of butane during any consecutive 30-day period.

C. It is unlawful for any person that is not a reseller to have in their possession, custody or control more than two canisters of butane at any one time with a collective canister carrying capacity of 840 ml (28.4 ounces).

D. It is unlawful for any customer of reseller to purchase or acquire more than two canisters of butane during a consecutive 30-day period, whether sold individually or by the package.

E. It is unlawful for a reseller to sell to a customer more than 840 ml of butane during a single transaction.

9.17.050

Tracking of Butane Sales

A. For every sale of butane, 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 retailer to sell butane to any customer without complying with Section 9.17.050 (A) of this Code.

9.19.060

Penalties, strict liability, and nuisance

A. Unless otherwise provided in this chapter or by state law, a violation of any of the provisions of this chapter shall be punishable as provided in Chapter 1.20 of this Code. A violation of this Chapter is a misdemeanor and subject to a \$1,000 penalty, per violation (Government Code, Section 36901). A separate violation shall exist for every single canister sold or possessed in violation of this Chapter.

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.

9.17.070

Exemptions

A person possessing a valid C-20 and/or C-38 Contractors License issued by the California Department of Consumer Affairs, Contractors State License Board shall not be in violation of this Code for possessing or purchasing a quantity of butane greater than the maximum amounts allowed under Section 9.17.040 (C) and (D) where all of the following are satisfied:

1. The C-20 and/or C-38 Contractor's License, or a readable copy thereof, is carried on the person during all times that the Butane is possessed by the contractor;

2. The Butane is used for the purpose of performing qualified tasks under the contractor's license held by the person carrying the Butane;

3. That the person's license is in good standing with the California State Contractors License Board; and

4. The person, or company to which he/she is employed and performing the contacting tasks under the C-20 or C-38 Contractors License, possesses a valid business license.

9.17.080

Severability Clause

If any provision, paragraph, word or section of this article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

9.18.090
Cumulative remedy

Nothing herein is intended to limit the City 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.

CERTIFICATION

The City Clerk shall certify to the adoption of this ordinance and shall cause it to be posted and/or published in accordance with the law.

IT IS HEREBY CERTIFIED that the foregoing ordinance was introduced at a regular meeting of the City Council on July 5, 2016, and duly adopted at a regular meeting of the City Council held on July 19, 2016, by the following vote:

AYES: Councilmembers Yarbrough, Comnick, Hunt, Browning, and Mayor Baugh.

NOES: None.

ABSENT: None.

ABSTAIN: None.



Susie Baugh, Mayor

ATTEST:



Juanita Barnett, City Clerk