

**ORDINANCE NO. 1169**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOLLISTER ADDING  
SECTION 5.42.300 BUTANE RESALE REGULATION TO HOLLISTER MUNICIPAL  
CODE 5.42 CANNABIS FACILITIES REGULATORY PERMIT**

**SECTION 1.** Chapter 5.42.300 is added to Title 5.42 of the Hollister Municipal Code to read:

**CHAPTER 5.42.300 BUTANE RESALE REGULATION**

**5.42.310. Authority, Title and Application.**

Under the authority granted in Article XI, Section 7 of the California Constitution and Government Code Section 36900 , the City of Hollister by and through its City Council, does enact this chapter of the Hollister Municipal Code. This chapter shall apply to resale and possession of butane within the City of Hollister.

**5.42.320. Findings and Purpose.**

The Hollister City Council finds as follows:

A. Butane is used in the making of Butane Hash or "Honey Oil" (BHO) a form of concentrated cannabis (marijuana), the potency of which comes from chemically extracted tetrahydrocannabinol (THC).

B. Butane is highly volatile and can easily explode when exposed to an ignition source. The extraction of THC through the use of refined butane causes flammable butane vapors to accumulate low to the ground near ignition sources such as oven and water heater pilot lights, and even electric static discharge from floor-covering friction. A study by the San Diego Hazardous Materials Division found that 99.5 percent of extracted THC butane mixture volatilizes in immediate areas making it highly susceptible to easy ignition.

C. Butane has many legitimate uses, but such uses do not typically require the large quantities associated with BHO production.

D. Media reports indicate that individuals making BHO have caused numerous explosions and fires throughout California. These incidents have resulted in considerable property damage, personal injury and even death to those participating in the manufacturing process. Additionally, innocent bystanders and public safety personnel, including law enforcement officers and fire fighters, have been placed at risk or incurred injury when responding to calls for service.

E. A BHO lab using butane as defined herein 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.

F. The resale of refined butane occurs at levels sufficient to aid the manufacture of BHO. Such sales and possession of butane should therefore be regulated to prevent the use of such butane in the manufacture of BHO where such activity presents grave dangers to City of Hollister residents and first responders.

G. Butane resale and possession is not currently regulated by state or federal law.

**5.42.330. Definitions.**

For the purpose of this chapter the following definitions apply:

A. "Butane" means iso-butane, n-butane, or refined butane of any power that uses the words "refined," "pure," "purified," "premium," or

B. "filtered," to describe the butane, or which does not contain ethyl mercaptan or similar odorant.

C. "Canister" means a single container in which butane is stored or collected or from which butane is dispensed.

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

E. "Day" means calendar day.

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

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

H. "Reseller" means any business, company, corporation, person, employee or associate that sells, offers to sell, or distributes products to any customer. 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 affected.

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

**5.42.340. Unlawful Sale, Purchase, and Possession of Butane.**

A. It is unlawful for any reseller or other person to sell, offer to sell, or distribute to a customer any number of butane canisters that exceed a combined total storage quantity of 600 ml of butane during any single transaction. It is unlawful for any customer to purchase or acquire any number of butane canisters that exceed a combined total storage quantity of 600 ml of butane, whether sold individually or by the package during any 30-day period.

B. It is unlawful for any person who is not a reseller or wholesaler to have in their possession, custody or control any number of butane canisters that exceed a combined total storage quantity 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, and City-licensed commercial operations which require butane quantities greater than 600 ml; or
3. Butane canisters containing a sulfur-containing odorant, such as ethyl mercaptan.

**5.42.350 Tracking of Butane Sales.**

A. For every sale of butane, every Reseller shall prepare a bill of sale that identifies the date of sale, quantity of butane purchased, and the customer's identification, including date of birth. No sales shall be made to any person under the age of 18. The customer'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 customer 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 5.42.350 (A) of this code.

**5.42.360. Penalties, Strict Liability, and Nuisance.**

A. Any violation of this chapter is a misdemeanor and subject to a one thousand dollar (\$1,000.00) penalty and/or six (6) months in the county jail; provided, however, the City shall have the discretion to reduce the misdemeanor to an infraction.

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

C. A separate offense shall exist for every single violation of this chapter.

D. 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.

E. The criminal prosecution of any violation of this chapter does not preclude the City from further initiation of any other civil or administrative proceeding which may be available as a remedy for such violation in accordance with this code.

F. Compliance with this section shall in no way relieve a vendor of the responsibility to comply with any other applicable City, state or federal law.

**5.42.370. Cumulative Remedy.**

This chapter is cumulative to all other remedies and 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 this code or state or federal law.

**5.42.380. Severability and Validity.**

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, phrase, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

**SECTION 2.** This Ordinance shall become effective 30 days from its adoption and shall remain effective until the effective date of any superseding ordinance.

**PASSED AND ADOPTED**, by the City Council of the City of Hollister at a regular meeting held this 6th day of August, 2018, by the following vote:

AYES: Council Member Gillio, Luna, Friend, Klauer and Mayor Velazquez.

NOES: None.

ABSTAINED: None.

ABSENT: None.

/s/ Ignacio Velazquez, Mayor

ATTEST:

/s/ Christine Black, MMC, City Clerk

APPROVED AS TO FORM:

Prentice, Long & Epperson, Attorneys at Law

/s/ Jason S. Epperson, City Attorney