

ORDINANCE NO. 06-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 9, CHAPTER II, ARTICLE 8 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE SALES OF FIREWORKS.

WHEREAS, the City has previously adopted restrictions by ordinance, resolution and City Council policy concerning the number and allocation of fireworks stand permits which may be issued in the City in any year; and

WHEREAS, the City Council wishes to clarify the criteria for issuance of such fireworks stand permits to eliminate actual or perceived conflicts between its practices and policies and to ensure that all schools located within the City of Costa Mesa which held a permit in the year 2003 have an opportunity to apply for and, if appropriate, receive a fireworks stand permit; and

WHEREAS, the City incurs significant public works costs to install, maintain and replace park signs relating to fireworks usage, and to clean-up and remove fireworks trash and debris from the City parks, right-of-way and streets after the Fourth of July celebration; and

WHEREAS, the City Council finds that it is appropriate that those costs be borne by the sellers of fireworks rather than the general public; and

WHEREAS, the City Council finds that the fees charged to recoup this cost should not and cannot exceed costs reasonably borne, and will vary from year to year, thus necessitating that the fee be set by resolution on an annual basis.

WHEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 9-181, Title 9, Chapter II, Article 8 of the Costa Mesa Municipal Code is hereby repealed and replaced with the following:

Sec. 9-181. Permits, issuance.

Permits for the sale of safe and sane fireworks shall be issued only if:

- (a) The applicant is a bona fide non-profit organization or school, as recognized by the State of California, that was formed to benefit the youth and students of the city; and
- (b) ~~The applicant has its principal and permanent meeting place within the~~

City of Costa Mesa.

- ~~(c) The applicant has at least eighty (80) percent of its current members residing within the city limits.~~
- (b) The applicant is any school located within the boundaries of the City of Costa Mesa, any school within a mile of the city boundary which has a student body consisting of at least 50% Costa Mesa residents, or the applicant has its principal and permanent meeting place within the City of Costa Mesa, and the applicant held a fireworks stand permit in the City of Costa Mesa in the calendar year 2003; and
- (c) For non-school applicants, the applicant has at least eighty (80) percent of its current members residing within the city limits of Costa Mesa or the applicant otherwise satisfies the requirements of Council Policy 400-2 or other applicable Council Policy(ies) which may be enacted or amended from time to time relating to membership requirements or expenditure restrictions for fireworks stand permittees; and
- (d) The director of finance determines, after considering the applicant's qualifications, that it has available and will utilize the necessary personnel, material and equipment to protect the health and safety of the citizens of the city in connection with fireworks sales; and
- (e) The permits issued comply with the regulations established by city council resolution or Council Policy governing the number of fireworks stands and their allocation among various types of applicant organizations.

Section 2. Section 9-186, Title 9, Chapter II, Article 8 of the Costa Mesa Municipal Code is hereby repealed and replaced with the following:

Sec. 9-186. Permit and Clean-Up Fees.

- (a) The permit fee for the issuance of the permit required by this chapter selling fireworks within the city shall be set by resolution of the city council. The permit fee must be paid at the time the application for a fireworks stand is filed.
- (b) A separate fee shall be set by resolution of the city council for the city's fireworks clean-up fee. The fireworks clean-up fee shall be paid at the time the application for a fireworks stand is filed.

Section 3. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to

that extent necessary to affect the provisions of this Ordinance.

Section 4. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, 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 portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 5. Publication. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect thirty (30) days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2006.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, City Clerk of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 06-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2006, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2006, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2006.

City Clerk of the City of Costa Mesa

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- (c) The applicant is any school located within the boundaries of the City of

Costa Mesa, any school within a mile of the city boundary which has a student body consisting of at least 50% Costa Mesa residents, or the applicant has its principal and permanent meeting place within the City of Costa Mesa, *and* the applicant held a fireworks stand permit in the City of Costa Mesa in the calendar year 2003; and

- (d) For non-school applicants, the applicant has at least eighty (80) percent of its current members residing within the city limits of Costa Mesa or the applicant otherwise satisfies the requirements of Council Policy 400-2 or other applicable Council Policy(ies) which may be enacted or amended from time to time relating to membership requirements or expenditure restrictions for fireworks stand permittees; and
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APPROVED AS TO FORM:

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NOES:

ABSENT:

ABSTAIN:

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City Clerk of the City of Costa Mesa