



CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 17, 2006

ITEM NUMBER:

SUBJECT: FIRST READING OF 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 AND PROPOSED AMENDMENTS TO CITY COUNCIL POLICY 400-2 REGARDING THE SALE OF FIREWORKS.

DATE: JANUARY 3, 2006

FROM: FINANCE DEPARTMENT /ADMINISTRATION DIVISION

PRESENTATION BY: MARC PUCKETT, DIRECTOR OF FINANCE

FOR FURTHER INFORMATION CONTACT: MARC R. PUCKETT (714) 754-5243

RECOMMENDATION:

Introduce and give first reading to the attached Ordinance of the City Council of the City of Costa Mesa amending Title 9, Chapter II, Article 8 of the Costa Mesa Municipal Code regarding the sale of fireworks, and consider and adopt amendments to City Council Policy 400-2.

BACKGROUND:

At its regular meeting of May 17, 2004, the City Council approved the second reading and final adoption of Ordinance 04-5, Resolution No. 04-30 and Council Policy 400-2 amending regulations pertaining to the sale and discharge of fireworks.

This action was the culmination of several public meetings with members of City Council, representatives of the fireworks industry, the local community, non-profit organizations and staff. Approximately 35 representatives of the industry and community attended these meetings. Staff in attendance included Fire Chief Jim Ellis, Fire Marshall Tom MacDuff, Acting City Attorney Tom Wood, Director of Finance Marc Puckett, Assistant Finance Director Colleen O'Donoghue, Revenue Supervisor Judy Vickers and City Manager Allan Roeder. Comments from those in attendance covered a range of concerns regarding the proposed changes. The majority of the concerns expressed at that time related to the proposed regulations limiting the overall number of fireworks stands; limitations on the number of applications for fireworks stand permits by local high school groups, and the requirement that 80% of an applicant's members must be Costa Mesa residents. There were other, more specific concerns raised, such as an accommodation for Vanguard University and Orange Coast College; qualification of non-profit organizations that may not meet the 80% residency requirement for its members, but where the proceeds of the sale of fireworks are dedicated to youth programs that do meet this standard; hours of operation and the required signage for City Parks.

The resulting Ordinance and Council Policy have worked well for the most part during the two successive years in addressing the majority of the concerns expressed at that time. The changes have resulted in a total of 28 stands each of the past two years, well within the 40-stand limit established at that time and the number of applications received has not necessitated the use of a lottery system to determine which applicants receive permits. The Ordinance, although working well, does need some minor modifications.

First, the City has incurred significant expenditures installing the required signage in City Parks. The fireworks industry representatives split the cost of installation of the required signage during 2004. However, the subsequent cost of repair of the posts, replacement and installation of the signs has been borne by the City. In addition, after the conclusion of the holiday, the City incurs costs associated with clean-up of City streets, rights-of-way, parks and open space due to trash left behind by revelers, such as spent fireworks casings. These costs are not currently reimbursed by either the fireworks industry or fireworks stands permit-holders.

Secondly, the existing Ordinance inadvertently excludes some non-profit schools located within the City from participation even though some had permits in 2003. The existing ordinance is also slightly incompatible with adopted Council Policy 400-2 with respect to the qualification of organizations located in Costa Mesa that may not meet the 80% residency requirement for its members, but where the proceeds of the sale of fireworks are dedicated exclusively to youth programs for the Costa Mesa student or youth population it serves. Such organizations, which had qualified for a fireworks stand permit prior to 2004, are currently excluded under the existing Ordinance even though the Organization is located in Costa Mesa and serves Costa Mesa residents. Further, some of these Organizations had held fireworks stand permits for many years prior to 2004. Though the Council Policy language permits such organizations to hold permits, this is in conflict with the Ordinance; thus, a simple revision to the ordinance will address this conflict.

Modifications are proposed in the attached Ordinance (Attachment 1) and amended Council Policy 400-2 (Attachment 2) to address these two circumstances.

ANALYSIS:

The proposed Ordinance includes modifications to section 9-181 to allow K-8 non-profit schools within Costa Mesa, and K-8 schools outside Costa Mesa which have at least 50% Costa Mesa residents, and which held permits in 2003, to qualify for fireworks stand permits. The changes would also permit non-profit organizations located in Costa Mesa and serving Costa Mesa residents to qualify for a fireworks stand permit even though the organization may not meet the 80% residency requirement as outlined in the current ordinance, but consistent with the policy already embodied in current City Council Policy 400-2(5).

The proposed Ordinance also establishes a “clean-up” fee to reimburse the City for costs of cleaning City streets, public right-of-way, City Parks and open space after the 4th of July celebration has concluded. Some examples of the types of work performed are street sweeping to remove debris from the streets and gutters, installation and removal of required signage, repair and replacement of required signage as necessary, and trash removal from City Parks and public right-of-way.

A re-cap of these costs can be found in the Public Services Fireworks Report. A copy of this report is attached as Attachment 3. This report was provided to City Council as part of the Fire Department’s more comprehensive report summarizing public safety enforcement measures undertaken specifically related to the 4th of July holiday celebrations.

Briefly, the costs are summarized as follows:

Installation, Repair and Removal of Required Signage –	
Installation Labor Costs	\$ 1,005.18
Preparation and Loading of Trucks	172.98
Sign Removal and Restocking	340.40
Planning and Administrative	219.07
Materials	370.12
Equipment Usage	<u>375.00</u>
 Total Installation, Repair and Removal of Required Signage	 <u>\$ 2,482.75</u>
 Clean-up of Fireworks in City Parks	 \$ 372.76
Additional Clean-up costs	291.72
 Total Additional Costs*	 <u>\$ 3,147.23</u>

* These costs include only those additional clean-up activities not a part of staff’s regular scheduled work shift or work functions.

These additional clean-up costs are the basis for the proposed clean-up fee. This fee, as proposed, would be assessed against fireworks stand permit holders each year. The proposed fee for 2006 is \$110.00 (\$3,147.23/28 rounded down). In the future, the fee will be recalculated each year as part of the City’s annual fee update, and will be set by resolution.

These proposed changes would amend Title 9, Chapter II, Article 8 of the Costa Mesa Municipal Code regarding the sale of fireworks as follows:

- to explicitly include schools as qualified applicants for fireworks stand permits ;
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- to more clearly define the requirements for schools and non-profit organizations, including holding a permit in 2003;
- to make section 9-181(c) consistent with existing Council Policy 400-2(5) and to create greater flexibility to accommodate future changes in Council Policy;
- create a separate clean-up fee, which would be established annually by resolution;
- to make clear that both council resolution and council policies may govern the number and allocation of stand permits.

The proposed changes to City Council Policy 400-2 are:

- to add a new section 4 explicitly permitting issuance of one fireworks stand permit to any K-8 school within city boundaries or any K-8 school outside of City boundaries which has at least 50% Costa Mesa resident enrollment;

- to renumber the remaining sections;
- to revise prior section 9 (now 10) to add an 8:00 p.m. sales deadline on July 4th;
- to restrict the hours of discharge of legal fireworks to the hours of 4 p.m. to 10 p.m. on July 4th.

ALTERNATIVES CONSIDERED:

No alternatives were considered.

FISCAL REVIEW:

Approval of the attached Ordinance and fee resolution that will be submitted to Council together with the Ordinance for second reading will establish a fireworks “clean-up” fee. This fee will allow the City to recoup additional clean-up costs incurred as a result of the 4th of July celebration and discarding of fireworks trash in City streets, Parks, open spaces and public right-of-way. The estimated reimbursed costs amount to \$3,147.23 as outlined in Attachment 3.

LEGAL REVIEW:

The attached Ordinance has been prepared by the City Attorney’s Office. The attached revised Council Policy has been prepared and approved as to form by the City Attorney’s Office.

CONCLUSION:

It is recommended that City Council approve first reading of the proposed Ordinance amending Title 9, Chapter II, Article 8 of the Costa Mesa Municipal Code regarding the sale of fireworks, and approve proposed amendments to City Council Policy 400-2.

MARC R. PUCKETT
Director of Finance

KIMBERLY HALL BARLOW
City Attorney

Attachment:

- (1) [Redlined and Proposed Ordinance Number 06-___ of the City Council of the City of Costa Mesa amending Title 9, Chapter II, Article 8 of the Costa Mesa Municipal Code regarding the sale of fireworks.](#)
- (2) [Redlined and Proposed City Council Policy 400-2.](#)
- (3) [Public Services Fireworks Report detailing 4th of July clean-up costs.](#)