



CITY COUNCIL AGENDA REPORT

MEETING DATE: FEBRUARY 7, 2006

ITEM NUMBER:

SUBJECT: SECOND READING AND ADOPTION 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 ADOPTION OF A RESOLUTION TO ESTABLISH A "CLEAN-UP" FEE

DATE: JANUARY 25, 2006

FROM: FINANCE DEPARTMENT /ADMINISTRATION DIVISION

PRESENTATION BY: MARC PUCKETT, DIRECTOR OF FINANCE

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

RECOMMENDATION:

- 1) Give second reading and adopt 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.
- 2) Consider adoption of fee resolution number _____ setting the "clean-up" fee at \$100.00 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.

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. 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 worked well for the most part during the two successive years in addressing the majority of the concerns expressed at that time. The changes resulted in a total of 28 fireworks stand permits being issued each of the past two years, well within the 40-stand limit established at that time. Further, the number of “qualified” applications received each year did not necessitate the use of a lottery system to determine which applicants received permits. The Ordinance, although working well, did 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.

At the City Council meeting on January 17, 2006, the City Council passed first reading of the proposed ordinance and adopted Council Policy 400-2 with certain revisions to each document. The following is a summary of the key revisions to either the Ordinance or the proposed Council Policy 400-2 (copies attached) that were adopted:

- 1) Increased the number of fireworks stand permits available to a single high school where at least 50% or more of the students are from Costa Mesa from six to eight.
- 2) Eliminate 2003 as the “base year” for eligible fireworks stand applicants.
- 3) Decreased the proposed “clean-up” fee from \$110 to \$100.

The proposed ordinance attached for second reading and the adopted Council Policy 400-2 reflect the changes to each adopted by City Council on January 17, 2006.

ANALYSIS:

In addition to the modifications adopted by City Council on January 17, 2006, as outlined above, 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 permit non-profit organizations located in Costa Mesa and serving Costa Mesa residents to qualify for a fireworks stand permit even though the organization does not meet the 80% residency requirement as outlined in the existing ordinance.

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 \$100.00. This fee is intended to fully recover the additional “clean-up” costs borne by the City each year from the fireworks stand permit holders. The fee will be recalculated each year as part of the City’s annual fee update and will be set by resolution.

A summary of the proposed changes to the ordinance adopted for first reading are summarized as follows:

- Explicitly included schools as qualified applicants for fireworks stand permits;
- More clearly defined the requirements for schools and non-profit organizations,
- Made section 9-181(c) consistent with existing Council Policy 400-2(5) and to create greater flexibility to accommodate future changes in Council Policy;

- Created a separate clean-up fee, which would be annually established by resolution;
- Made clear that both council resolution and council policies may govern the number and allocation of stand permits.

The changes to Council Policy 400-2 adopted at the January 17, 2006 Council meeting included:

- Added 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;
- Increased the number of fireworks stand permits available to a single high school where at least 50% or more of the students are from Costa Mesa from six to eight.
- Eliminated 2003 as the “base year” for eligible fireworks stand applicants.
- Renumbered the remaining sections;
- Revised prior section 9 (now 10) to add an 8:00 p.m. sales deadline on July 4th;
- Restricted 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 reimburse-able 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 fee resolution has been prepared and approved as to form by the City Attorney’s Office.

CONCLUSION:

It is recommended that City Council:

- 1) Give second reading and adopt 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.

- 2) Consider adoption of fee resolution number _____ setting the “clean-up” fee at \$100.00 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.

Staff is available to answer questions as appropriate. Thank you for your consideration in this matter.

MARC R. PUCKETT
Director of Finance

Attachments:

- (1) [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) [Resolution Number _____ establishing a Fireworks “Clean-up” fee of \\$100.](#)
- (3) [Public Services Fireworks Report detailing 4th of July clean-up costs.](#)
- (4) [City Council Policy 400-2 adopted January 17, 2006.](#)