



CITY COUNCIL AGENDA REPORT

MEETING DATE: MAY 6, 2008 ITEM NUMBER:

SUBJECT: FIREWORKS REGULATION/EDUCATION

DATE: April 29, 2008

FROM: CITY MANAGER'S OFFICE

PRESENTATION BY: COUNCIL MEMBER WENDY LEECE

**FOR FURTHER INFORMATION
CONTACT:**

Allan L. Roeder, City Manager
(714) 754-5327

RECOMMENDATION:

It is recommended that the City Council:

1. Determine strategies to be implemented.
2. Direct staff to return with a budget adjustment sufficient to provide the necessary funding to implement the strategies adopted. Funding to be provided via Fund Balance or identified reductions in General Fund Operating Budget.

BACKGROUND:

Since the early 1990's, the subject of prohibiting or further restricting the sale and discharge of fireworks has been discussed extensively in Costa Mesa. This report will not attempt to chronicle the history of these deliberations, but rather to pick up from where these discussions last took place.

At the August 7, 2007 regular City Council meeting, Council Member Linda Dixon brought forward a request to place the matter of prohibiting the sale & discharge of fireworks on the November 2008 General Election ballot along with a companion measure to increase the City's Transient Occupancy Tax. The measures failed to gain majority support with the City Council acting to receive and file the matter. At the City Council Study Session of August 14, 2007, Council Member Wendy Leece brought forward a number of items relating to this subject including but not limited to discussion of alternative means of fundraising for community organizations, consideration of additional restrictions on the sale & discharge of fireworks and possible changes to the City's existing enforcement strategies. The subject was discussed

extensively by the City Council although there was no clear direction for a future course of action. Council Member Leece indicated that she would continue to look for alternative strategies to address the concerns discussed.

At the January 8, 2008 City Council Study Session, Council Member Leece presented a list of possible strategies for the City Council to consider and provide general comments and feedback. The January 8, 2008 report is included as Attachment A of this report. These strategies were developed from practices that are existent in other communities including background on how other cities have implemented the various approaches. At this meeting, the City Council provided general comments and suggestions on which of these strategies might make the most sense in Costa Mesa. With this feedback, Council Member Leece proceeded to refine the list of possible strategies into a list that could be presented to the past holders of permits for fireworks stands and the fireworks industry for discussion and feedback.

ANALYSIS:

On April 3, 2008, approximately 30 past permit holders attended a two-hour Fireworks Workshop to discuss the possible strategies and allow the City the opportunity to listen to their concerns and suggestions. The group was welcomed by Council Member Leece who proceeded to outline the challenge of reducing the negative impacts while preserving the positive aspects for a community that allows the sale and discharge of Safe and Sane Fireworks. She further explained the process for researching the strategies and that the strategies are designed to accomplish one or more of the following objectives:

1. Educate members of the community about the differences between State approved Safe & Sane Fireworks and unauthorized, illegal fireworks.
2. Strengthen efforts to identify, cite and/or arrest individuals who import, sell or discharge illegal fireworks.
3. Implement measures designed to obtain compliance with adopted fireworks regulations and defray the public cost of enforcement and cleanup.

Council Member Leece also pointed out that last year the 4th of July fell on a Wednesday and this year it falls on a Friday. Because of how the 4th falls on a Friday, she has heard increased concerns about the discharge of fireworks continuing beyond Independence Day through the holiday weekend.

Staff from the Fire Department and Police Department assisted in the presentation to the stand operators by outlining the steps the City takes to prepare, maintain order/safety and clean-up from the 4th of July. John Kelly, Vice President of TNT/Blockbuster Fireworks discussed his impressions of the current status of the fireworks industry and the overall public perception of fireworks.

Council Member Leece and City Manager Allan Roeder facilitated a discussion of individual strategies and answered related questions. A complete list of the strategies and the corresponding comments from the workshop attendees is included as Attachment B of this report. Staff has also included the potential financial cost and legal review associated with the implementation of each strategy.

Based on extensive input from the community, the City Council, City staff as well as firework stand permit holders, Council Member Leece has formulated a recommended list of strategies for City Council consideration. The City Council may choose to request separate discussion and vote on each of the strategies.

An important point of discussion between staff and Council Member Leece has been the timing of any proposed changes. The consensus is that if changes are to be implemented for July 4, 2008, they should be acted on as soon as possible so the community, non-profit organizations and City personnel can make the necessary adjustments. Many of the items will include a good amount of lead time and preparation. Still other items may influence the decisions of non-profit organizations to continue to sell fireworks as a fundraising endeavor.

FISCAL REVIEW

The estimated cost associated with the implementation of each strategy is included within Attachment B of this report. If the City Council determines to implement all of the various strategies, then the estimated cost would range from \$19,251 to \$32,851 depending on the number of shifts of additional patrol teams authorized and if direct mail is used to deliver educational information. These expenditures are not budgeted at this time and staff would need to return to the City Council with a Budget Adjustment authorizing the required funding via budget reductions from the current year budget or Fund Balance.

LEGAL REVIEW

The City Attorney has reviewed this report. Based on any new City Council direction, staff will proceed to follow up with any necessary changes to Council Policy 400-2 governing fireworks, revise existing administrative procedures as needed and further investigate the ability to implement administrative citations in lieu of criminal citations for various offenses.

CONCLUSION:

After reviewing strategies implemented in other communities related to fireworks regulation and education, obtaining preliminary input from City Council and discussing a refined list of strategies with firework stand permit holders, Council Member Leece is recommending that the City Council review and determine the strategies to be implemented for the upcoming 4th of July Celebration.

ALLAN L. ROEDER
City Manager

WENDY LEECE
City Council member

DISTRIBUTION: City Clerk
Department Directors

ATTACHMENTS: A [Council Study Session Report from 1/8/08](#)
B [Summary of Fireworks Workshop from 4/3/08](#)



CITY COUNCIL AGENDA REPORT

MEETING DATE: January 8, 2008

ITEM NUMBER: 3

SUBJECT: Fireworks Regulation/Education

DATE: January 4, 2008

FROM: City Manager's Office

PRESENTATION BY: Council Member Wendy Leece

FOR FURTHER INFORMATION

Allan L. Roeder, City Manager

CONTACT:

(714) 754-5327

BACKGROUND:

Since the early 1990's, the subject of prohibiting or further restricting the sale and discharge of fireworks has been discussed extensively in Costa Mesa. This report will not attempt to chronicle the history of these deliberations but rather to pick up from where these discussions last took place.

At the August 7, 2007 regular City Council meeting, Council Member Linda Dixon brought forward a request to place the matter of prohibiting the sale & discharge of Fireworks on the November 2008 General Election ballot along with a companion measure to increase the City's Transient Occupancy Tax. The measures failed to gain majority support with the City Council acting to receive and file the matter (Please refer to Attachment A). At the City Council Study Session of August 14, 2007, Council Member Wendy Leece brought forward a number of items relating to this subject including but not limited to discussion of alternative means of fund raising for community organizations, consideration of additional restrictions on the sale & discharge of fireworks and possible changes to the City's existing enforcement strategies (Please refer to Attachment B). The subject was discussed extensively by the City Council although there was no clear direction for a future course of action. Council Member Leece indicated that she would continue to look for alternative strategies to address the concerns discussed.

Since the August Study Session, Council Member Leece and staff have looked to practices existent in other communities in the areas of public education and regulation. An initial list of strategies was compiled (Please refer to Attachment C) from which the more specific strategies identified in this report were derived. For each of the strategies, staff has listed cities that have implemented these approaches. At this point in time, Council Member Leece is looking for feedback from the City Council as to which strategies might make the most sense for Costa Mesa? The intent is to take the comments from the City Council at the Study Session, meet with past holders of permits for fireworks stands and the fireworks industry for discussion and then return to the City Council for formal action, as appropriate.

ANALYSIS:

The focus of this report is primarily on fireworks education and enforcement. Before committing staff resources to costing out various proposals or legal review of various ordinance changes, Council Member Leece wanted feedback from members of the Council on various strategies. Generally speaking, the sum of the strategies discussed later in this report is designed to accomplish one or more of the following objectives:

1. Educate all members of the community about the differences between State approved Safe & Sane fireworks and unauthorized, illegal fireworks.
2. Strengthen efforts to identify, cite and/or arrest individuals who import, sell or discharge illegal fireworks.
3. Implement measures designed to obtain compliance with adopted fireworks regulations and defray the public cost of enforcement and cleanup.

Predicated on the above, the following are a series of potential strategies Council Member Leece would like the City Council to consider:

Public Education/Information

- Develop a public information packet highlighting the differences between Safe & Sane fireworks and illegal fireworks and distribute this information via Newsletters, Press Conferences, Press Events (including live demonstrations), distribution of flyers through Homeowner Associations and through the Schools, posting of information on the City's Website and Public access Channel, on-campus visits by Fire personnel to demonstrate the dangers of illegal fireworks and all other identifiable means of communication with the public.
- Beyond the existing practice of fireworks stands providing information to all customers, require the placement of posters or banners on the exterior of fireworks stands.
- Post all access points into Costa Mesa prior to July 4th with signs advising of the City's Zero Tolerance for illegal fireworks, including information on fines, possible arrest and conviction of violators.

Tighter Regulations

- Insure that fines for violations of fireworks regulations are at the highest level allowed by law.
- Further restrict the number of days fireworks are permitted for sale (current limitation is July 1st through July 4th)
- Raise the age requirement for purchase of fireworks to 21 years (current age restriction is 18 years of age)
- Further restrict the number of stands permitted by the City (current limit is no more than 40 stands)
- Restrict the hours of sale from fireworks stands (current requirements establish a 10:00 p.m. closing time on July 1, 2 & 3 and 8:00 p.m. on July 4 but no limit on opening for sales)
- Require all fireworks stand permittees to provide the City with a verified profit & loss statement

- Further restrict stand locations so they are not located near City boundaries with communities that prohibit Safe & Sane fireworks.
- Require a fixed percentage of the profit from fireworks sales be sub-vented to the City to offset additional costs for enforcement, clean up and public education. In no event would this amount exceed actual costs borne by the City.
- Limit the discharge of fireworks to the curb area of the street (this would have to be operationally defined but the intent is to ensure streets remain clear for safe passage of vehicles at all times)
- Prohibit the placement of any structures in the public right of way for discharge of fireworks (this would preclude the use of ladders, scaffolding, tables, etc., to “elevate” fireworks displays)

Expanded Enforcement

- Institute a “hotline” for residents to call in information on sale and/or use of illegal fireworks
- Implement training for “Citizen Patrols” to increase awareness and reporting of illegal fireworks importation, sales & discharge
- Extend the existing team enforcement concept (pairing Fire and Police personnel) for both education and enforcement up to two weeks before July 4th (currently this enforcement mode is only used on July 4th)
- Institute a program of cash rewards for the identification, apprehension and conviction of those transporting, selling or discharging illegal fireworks

Beyond the preceding, Council Member Leece has also suggested that the City Council consider the possibility of a limited moratorium on all fireworks in the event that draught conditions throughout California continue. This is in the “concept only” stage as to how such a moratorium might be instituted and under what set of criteria.

As noted in the **Background** section of this report, Council Member Leece is looking for comments from members of the City Council to the various strategies referenced herein. The intent is to share this same information with the organizations that sell fireworks as a fundraising activity as well as with the fireworks industry. Following those discussions as well as a staff level review of both the fiscal and legal implications of the various strategies, the matter would be returned to the City Council for formal action. An important point of discussion between staff and Council Member Leece has been the timing of any proposed changes. The consensus is that if changes are to be implemented for July 4, 2008, they should be acted on as soon as possible so the community, non-profit organizations and City personnel can make the necessary adjustments. Many of the items will include a good amount of lead time and preparation. Still other items may influence the decisions of non-profit organizations to continue to sell fireworks as a fundraising endeavor. Still others will require the preparation and adoption of new ordinance provisions.

CONCLUSION:

In sum, this is not a subject that can be taken up in the April - June timeframe and be expected to be in place for the coming Independence Day.

ALLAN L. ROEDER
City Manager

DISTRIBUTION: City Clerk
Department Directors

ATTACHMENTS: A [Excerpt from Council Minutes of 8/7/07](#)
B [Council Report of 8/14/07](#)
C [Options For Dealing With Fireworks](#)

airport should be included.

The motion restated:

MOTION: Adopt Resolution No. 07-65; direct the City Manager to send a letter to the "Corridor Cities" outlining concerns of the Council, to include establishment of a Memo of Understanding (MOU) relative to a "Statement of Unifying Principles" pertaining to John Wayne Airport; and direct contact with the unified school districts to encourage adoption of similar resolutions and to be involved in the cities efforts.

Moved by Council Member Katrina Foley, seconded by Mayor Allan Mansoor.

The motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Linda Dixon, Council Member Katrina Foley, Council Member Wendy Leece

Noes: None.

Absent: None.

4. Request of Council Member Linda Dixon for placement of two measures on the February Primary election ballot:

(a). Placement before the voters the matter of a prohibition on the sale and discharge of safe and sane fireworks.

(b). Placement before the voters the matter of an increase in the Transient Occupancy Tax (TOT).

Council Member Dixon summarized the reasons for placing this item on the agenda. She stated that she was not in support nor oppose the sale of safe and sane fireworks in the City and indicated that it was time to give the community a voice to choose whether to continue or prohibit the sale of fireworks. She commented on the important role of fireworks stands relating to the City's youth extracurricular activities and recommended a two prong approach to the ballot initiatives to be placed on the 2008 November General Municipal Election Ballot.

David Vill, Anaheim resident and President of Garden Grove Chapter of American Association of Retired Persons (AARP), reported that the membership had voted against the use/sale of fireworks.

Rosemary McQuinney, Garden Grove, advised of a neighbor's home that had burned due to fireworks and informed the Council of the City of Fontana's ban on fireworks and the alternatives by the City's non-profit organizations.

Bruce Crockman, Costa Mesa, asked Council to maintain the existing

codes and to not place the issue on the ballot.

Janet Lee Crockman, Costa Mesa, expressed opposition to placing the fireworks measure on the ballot. she advised she supports youth groups and suggested a reasonable transition time for finding and implementing alternative fundraising efforts for by the youth groups.

Jessica Jennings, Costa Mesa, supports the celebration with fireworks on the fourth of July.

Judy Lindsey, Costa Mesa, expressed support of banning fireworks and placing the measure on the ballot, but felt that the TOT tax increase needs further study.

Steve Shephard, Costa Mesa, spoke in support of maintaining the fireworks pointing out that the banning of fireworks will not keep the illegal fireworks from being discharged.

Linda Schwandt, Costa Mesa, relative to alternative fundraisers for youth groups suggested painting of addresses on city curbs.

Sandra Genis, Costa Mesa, supported the ban on fireworks and its placement on the ballot.

Terry Shaw, Costa Mesa, expressed support of placing the measure on the ballot and shared samples of illegal fireworks.

Beth Refakes, Costa Mesa, questioned the increase in the TOT tax and stated she would like to see the banning of fireworks and an alternative to youth funding.

Rich Detwiler suggested an increase in the fines for the regulation and use of fireworks and proposed a signed acknowledgement of fireworks condition when purchasing fireworks.

Bill Fifer, Costa Mesa, stated he is a fundraiser and supporter of fireworks. He indicated that 60% of their funds come from the money raised through the sale of fireworks.

Anne Hogan Shereshevsky, Costa Mesa, expressed support of banning fireworks and asked Council to give the community the advantage to decide.

Sherry Debeaumont, Garden Grove, spoke in support of the ballot measure on fireworks commenting on the safety issue.

Dennis Grady, Costa Mesa, spoke in support of placing the fireworks measure on the ballot for the community to vote.

Patricia Allen spoke about the impact of fireworks on pets and property.

Duke Noonan, Garden Grove, expressed support of the ban of fireworks and suggested inquiring of the other cities about their fundraising alternatives.

Helen Nevers, Costa Mesa, expressed support for placing the initiative of fireworks on the ballot.

Mayor Pro Tem Bever commented on the impacts and enforcement of fireworks, and finding alternative fundraising opportunities before banning fireworks. He recommended a fireworks survey rather than placing the measure on the ballot. He questioned the TOT increase proposal and expressed concern on the impacts on future travelers and the allocation of such funds into the community's youth groups.

Council Member Leece advised she was looking into fundraising alternatives, commenting that she was not ready to ban fireworks completely prior to establishing fundraising alternatives. She expressed reservation on placing the initiatives on the ballot.

Council Member Foley believed that the voters should decide on the issue and that there should be an alternative funding source in place. She suggested the Council give direction to staff to create a plan for a city-wide show and fireworks display as an alternative fundraiser for youth groups.

Council Member Dixon stated that she is neither for or against fireworks and indicated that it wasn't the Council's responsibility to find fundraising alternatives for sports groups and classroom activities. She hoped the Council would let the community decide on this issue.

MOTION: Place on the November 2008 ballot the opportunity for Costa Mesa residents to consider the prohibition on the sale and discharge of Safe and Sane Fireworks.

Moved by Council Member Linda Dixon, seconded by Council Member Katrina Foley.

SUBSTITUTE MOTION: Receive and file report.

Moved by Mayor Allan Mansoor, seconded by Mayor Pro Tem Eric Bever.

Mayor Mansoor expressed support of fireworks; commented on the need of an alternative source of youth fundraising and thought that a public venue for the community would reduce the desire for fireworks. He opposed the increase in taxes and noted that the Conference & Visitors Bureau and Business Improvement Area (BIA) should be included; and stated that he would not be supporting the item.

Council Member Foley asked if the Mayor would withdraw the substitute motion and direct staff to review the implementation of a plan for a public event, for next year. The Mayor expressed reservation. The City Manager confirmed that the matter of fundraising alternatives was agendized for a future study session as requested by Council Member Leece.

The substitute motion carried by the following roll call vote:

Ayes: Mayor Allan Mansoor, Mayor Pro Tem Eric Bever, Council Member Wendy Leece

Noes: Council Member Linda Dixon, Council Member Katrina Foley

Absent: None.

X. REPORTS

The City Manager acknowledged the retirement of Assistant Development Services Director Mike Robinson next month. He, along with the City Council, thanked him for his many years of service.

XI. ADJOURNMENT - The Mayor declared the meeting adjourned at 10:55 p.m., to August 14, 2007, at 4:30p.m., for a Study Session. The next Regular City Council Meeting will be held on August 21, 2007.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa



CITY COUNCIL AGENDA REPORT

MEETING DATE: August 14, 2007 ITEM NUMBER: 2

SUBJECT: FIREWORKS OPTIONS AND ENFORCEMENT

DATE: AUGUST 10, 2007

FROM: CITY MANAGER'S OFFICE

PRESENTATION BY: COUNCIL MEMBER WENDY LEECE

FOR FURTHER INFORMATION CONTACT: ALLAN L. ROEDER AT (714) 754-5327

BACKGROUND:

Following this year's Independence Day celebration, Council Member Wendy Leece discussed with staff a number of her concerns pertaining to fireworks. The Council Member's concerns were, in part, the result of a ride along with Fire Department personnel on July 4th. As a result of the Council Member's conversations with staff, some initial research has been conducted. In light of the breadth of the subjects the Council Member is interested in pursuing, the expected commitment of personnel resources and the high level of interest in the subject generally, this matter is being brought to the City Council for review and comment before proceeding further.

Council Member Leece will provide her thoughts on the subjects outlined below:

1. Identification of alternative means of fundraising for community organizations
2. Potential support for a community fireworks show that might also include fundraising components for community organizations
3. Consideration of additional restrictions on fireworks sales
4. Pursuit of efforts to stem the importation of illegal fireworks into California
5. Possible improvements in the City's enforcement strategies to address both illegal fireworks and the illegal use of State approved fireworks
6. Exploring opportunities to increase penalties/fines for fireworks-related offenses

As noted above, staff has conducted some cursory level research pursuant to Council Policy 300-6. Included with this report is the following:

- A. Background information on the Irvine Public School's Foundation regarding raffling homes as a fundraising technique
- B. A matrix of information from other cities pertaining to public fireworks shows
- C. State legislation currently under consideration pertaining to illegal fireworks trafficking
- D. A copy of the current year's Fireworks Enforcement Program debriefing

Based on prior such efforts by members of the City Council in June 1991 and again in May 2004, it is reasonable to expect research, development, community deliberation and implementation of combinations of the subjects referenced above will require a significant commitment of staff resources and possibly financial resources. This will require formal City Council approval and some evaluation/possible adjustment of current priorities. It is for this reason that feedback from the City Council is very important at the Study Session in advance of formal approval.

ALLAN L. ROEDER

City Manager

DISTRIBUTION: City Attorney
Police Chief
Fire Chief
Assistant City Manager
Finance Director
Legislative & Public Affairs Manager
Management Analyst

ATTACHMENTS: 1 CMPD Memo 7/8/07 Fireworks Enforcement Program
2 Legislative Bill AB 476
3 Legislative Bill SB 839
4 Orange County Fireworks Displays Survey
5 Memo of 8/8/07 Irvine Public Schools Foundation Home Raffle

COSTA MESA POLICE DEPARTMENT

ATTACHMENT 1

MEMORANDUM

TO: Christopher Shawkey, Chief of Police

FROM: Rich Allum, Sergeant

SUBJECT: **Fireworks Enforcement Program**
Debriefing Report

DATE: July 8, 2007

Introduction

The Costa Mesa Police and Fire Chiefs directed the implementation of a task force and operational plan to address illegal fireworks and misuse of "safe and sane" fireworks related problems during 2004. The practice was repeated in 2005, 2006 and this year. The goal of the task force was to ensure the safety of the community and to gain compliance of the ordinances governing the use of fireworks. In order to meet this goal, the program focused on educating the public about fireworks safety and laws as they apply to illegal fireworks. The original program was carried on and expanded to include extra educational activities.

As part of the increased effort to educate the public about the dangers of both illegal and misused "safe and sane" fireworks, activities began in mid-May 2007. Public Service Announcements were completed with CNN Headline news and Channel 24 (CMTV) and aired for several weeks prior to the 4th of July. Interviews with local print news were completed and resulting articles continued the effort to help make 2007 a safer holiday. "Safe and Sane" posters and informational packages were given out at the front desk of the Police Department, as well as being posted on the City's website and distributed through the Costa Mesa Chamber of Commerce to all members. The final attempt to help educate the public included a member of the local press corps who joined an enforcement team for the duration of the evening.

On-site education (and occasional enforcement) at all permitted fireworks stands was conducted from approximately 3:00 p.m. until 10:00 p.m. on July 1, 2, and 3 to help ensure compliance with local ordinances and State laws. This pre-holiday contact was also to ask those selling legal fireworks to remind their patrons to be responsible and to "police" out of city guests who might bring illegal fireworks to in-city gatherings. Volunteers working the stands were encouraged to call for Police/Fire assistance as needed, to be extra aware of possible

criminal activity around each groups stand (casing for thefts, discharge of fireworks, intoxicated patrons, etc). The pre-holiday contacts were generally well received.

An operational plan was created and the fireworks enforcement program was implemented on July 4th from 4:00 pm to midnight. During the course of the evening, enforcement officers responded to approximately 268 calls (revised from initial information provided) regarding fireworks, which were received by the Telecommunications Division. Officers maintained personal paper logs to document additional contacts made during the evening. The paper logs documented an additional 195 contacts which were self-initiated by assigned personnel (not including contacts handled by two teams of motors and one Lieutenant).

Officers, assigned to the Fireworks Enforcement Detail, issued thirty-five (35) citations for fireworks related violations, which included possession of dangerous fireworks, using fireworks in City parks, use of fireworks outside of the approved time, alcohol related violations in parks, and fireworks use by a minor. One arrest for \$22,500.00 in warrants was made after the subject was contacted for a fireworks related violation. In addition to issuing citations, Police and Fire Department personnel also confiscated several hundred pounds of illegal fireworks. Additionally, hundreds of citizens were contacted and educated about fireworks safety. Overall, the 2007 operation of the program exceeded activity levels from 2006 in all categories.

The following is a break down and evaluation of all aspects of the program for 2007 and recommendations for further refinements and improvements.

Planning and Direction

An operational plan was developed and was distributed to all involved Departments, as well as, personnel assigned to work the holiday. Before the execution of the plan, we conducted a briefing to familiarize each employee with his or her job assignment(s). Informational packages were provided to each team with cell phone numbers of the assigned personnel, call signs of deployed teams, all permitted fireworks stands, all permitted "block parties", Costa Mesa Municipal Code sections and related State laws pertaining to fireworks, alcohol possession and consumption, and use of parks.

Police and Fire personnel supervising the 4th of July staffing coordinated their efforts and activities quite well. The group seamlessly integrated personnel and provided a very effective division of labor/tasks resulting in the most comprehensive effort to date.

Police Staffing

A total of eleven (11) Police personnel worked the event, which consisted of one (1) Lieutenant (adjusted shift-straight time), two (2) motor Sergeants, one (1) Traffic Sergeant, one (1) motor Officer, two (2) Corporals, one (1) Officer, three

(3) Reserve Officers, and three (3) Park Rangers. Officers were teamed with Fire Department personnel (Arson Investigators). We staffed eight (8) teams (six Police/Arson Investigator and two motor teams) with units assigned to "roving" enforcement within designated areas. Teams operated in a modified, but distinct uniform while driving both marked and unmarked vehicles.

Despite assigned enforcement coverage, calls for service during the evening deployment were not always able to be handled immediately. Many calls for service that were received were "anonymous" and were general in nature. These types of calls were handled as "general broadcast" type calls. After the broadcast, the calls were closed and deployed units used them as markers for locations of attention. All calls requesting contact were handled with contact being made. Per agreement with Tele-Communications personnel, several anonymous calls received in close proximity would be dispatched to enforcement units if no contact was requested. In a few cases, calls for service were held for durations approaching 45 minutes. Unlike previous years, the specifically deployed teams were to handle all calls for service related to fireworks, including those requesting contact. In prior years, calls for service which required contact were dispatched to available patrol units. This change was made so as to free up Patrol officers for routine calls for service.

The use of unmarked vehicles allowed for a more effective enforcement capability as compared to the previous year of using marked patrol cars.

Park Rangers began their shifts at 8:00 a.m. and made routine, frequent checks of all City parks. They confirmed signs prohibiting discharge of fireworks were still present and posted. They educated those persons contacted about fireworks and time of park closing. They also issued citation for alcohol and fireworks violations as needed.

Total calls for service numbered approximately 272 from 4:00 p.m. to midnight on the 4th of July. Self initiated activity (calls for service) by enforcement units totaled approximately 200. Patrol units handled approximately 100 calls for service as part of their routine deployment. Costs associated with Police Department special deployment for the holiday activities was approximately \$6,700.00

Telecommunications

Telecommunications Division will provide their own debrief report. Initial information indicates that due to full staffing levels (overtime personnel and all consoles staffed), calls for service reached levels that were able to be handled, but exceeded normal calls for service on a Wednesday evening or other Holiday shifts. Telecommunications supplied two (2) dispatchers for six (6) hour shifts of overtime and one (1) on-duty dispatcher (eight hour shift) to handle the incoming phone calls and dispatched calls for service. Overtime costs associated with staffing Telecommunications were approximately \$712.00.

Fire Department Personnel

The fireworks enforcement program was a consolidated effort that included seven (7) Fire Department personnel, (six Arson Investigators and one Firefighter) working enforcement patrol with police officers. The Arson Investigators were invaluable to the enforcement teams by being able to quickly respond to suspected IED's (improvised explosive devices), of which we located four (4) during the deployment. Fire personnel assisted officers in educating the public and identifying illegal fireworks. An Arson Investigator also assisted in our briefing by training officers on identification of legal vs. illegal fireworks along with additional enforcement sections.

On-duty Fire personnel completed several checks during the morning and afternoon hours on the 4th in the area of City parks, block parties, local schools, and permitted fireworks stands.

Additionally, four (4) Fire Prevention personnel were utilized for legal, sanctioned "aerial" fireworks displays, two (2) additional medics were staffed in anticipation of increased calls for service, and one (1) firefighter working as the Battalion Chief's Aide was assigned.

Total cost of Fire Department personnel for the holiday activities totaled approximately \$10,658.00.

Equipment

Disposal bins for confiscated fireworks were maintained at Fire Station #4 on Placentia Avenue. One Firefighter was utilized as a "field pick up" to lessen the time needed to drop off confiscated items. At least three (3) 52-gallons drums were filled with confiscated illegal fireworks.

Fireworks enforcement teams utilized three (3) Police Department Detective Bureau vehicles, two (2) unmarked Fire Department Arson Investigator vehicles, one (1) marked Police unit, four (4) marked Police motorcycles, and one (1) Fire Department van. The van was used for confiscated fireworks pick up and transport.

Block Parties

Before the start of the enforcement portion of the program, investigators and on-duty fire personnel contacted organizers of each permitted block party in order to gain compliance with fireworks laws and street closures. They also checked the entire city for "unauthorized" block parties and street closures. Those contacted were educated about the process for obtaining a city authorized block party permit and the restrictions on fireworks usage in Costa Mesa. Generally, all of the permitted block parties were compliant with City imposed restrictions.

At several locations we discovered blocked off sections of the public roadway (non-permitted block parties). In all cases, residents were contacted and advised

to open the public right of way to all traffic. Each location or set of residents were given written instructions, provided by the City Manager's office, on how to apply for and obtain a block party permit.

Confiscation of Fireworks

During calls for service and self initiated contacts, officers were directed to confiscate all illegal fireworks. The total amount of confiscated fireworks filled at least three (3) 55-gallon barrels and was estimated to be several hundred pounds.

Four (4) separate incidents of IED's (homemade bombs constructed from legal fireworks) were documented. Two (2) incidents required the response of the Orange County Bomb Squad; the other incidents did not require their response. The "bombs" were made by disassembling fireworks, retrieving the flammable material and reconstructing it into plastic bottles with flammable liquids.

In many instances, officers used discretion by educating (rather than taking enforcement action) the public to gain compliance with related laws. This allowed officers to quickly complete contacts and move on to other pending calls for service. This discretionary approach increased the number of "voluntarily relinquished" illegal fireworks.

Fireworks Stands

Beginning July 1 and continuing through the evening of the 4th, personnel from the Fire and Police Departments made contact with each permitted fireworks booth to ensure compliance with State and local ordinances. Most of the fireworks vendor stands "generally" complied with permits and applicable laws, but the additional education supplied by on-duty personnel made a distinct improvement in the safety aspects associated with the stands. Also, in prior years, the 8:00 p.m. end of sales deadline was not generally adhered to, but was followed much more closely this year.

It is recommended for 2008, that the operation of pre-4th of July education and contact with the vendors continue. They were appreciative of our concern and aware that we were expecting compliance,

Parks and Schools

Officers and Park Rangers were directed to routinely check parks and schools for fireworks usage. The signs that were posted advising of the city ordinance against fireworks use in the parks appeared to assist us in this goal. Overall, usage in the parks appeared to be lighter, most of the day, and city personnel stated that most parks were in better condition on July 5, then in previous years.

Fireworks use at the schools appeared to be widespread, especially the north parking lot of Estancia High School. Both parking lots of this high school had not been locked up, which this served as an invitation for fireworks usage.

As a deterrent and by request of the Police Department, all park sprinkler systems were to activate at sunset. Based upon the observations of personnel in service at sunset, the sprinkler systems at all parks did not activate at sunset. This created the situation we had hoped to avoid, namely, persons entering the park to light legal fireworks, as well as persons entering for other reasons,

Particularly related to Vista Park: Approximately 300 persons were escorted from the park beginning at about 9:00 p.m. Some were discharging safe and sane fireworks; some were watching aerial fireworks in Huntington Beach. Both complained that they had no where else to either light their fireworks or to watch the aerial displays. Eventually, compliance was gained over the rowdy crowd.

Calls for service, related to the discharge of both illegal and "safe and sane" fireworks; in Tanager Park also occurred after sunset. Prior contact with a local resident next to this park had been made. The late discharge of the sprinkler system most likely accounted for these calls. For subsequent years, the effective utilization of the park sprinklers at sunset should assist any remaining persons in voluntarily leaving the parks, as is the requirement per the Municipal Code.

Helicopter Program

A.B.L.E. provided a helicopter to capture a video recording of the illegal aerial discharge of fireworks over the City.

Public Works

Contact with Public Works, at the time of this report, had not been completed. Some information was able to be forwarded to a 'free' clean up service available through one of the fireworks vendors.

Follow up /Suggestions for Subsequent Years

The continued use of pre-holiday PSA's and media contact should be expanded as available. Deployment of two (2) teams of personnel during the pre-holiday legal fireworks sales (July 1-3) should be continued as it allows for rapport between vendors and city personnel, as well as, an opportunity to verify permits and compliance with safety regulations.

Use of sign boards on the 4th of July are suggested at the entrances to the city to remind those coming to Costa Mesa that strict enforcement of fireworks violations should be expected.

As part of this years post-action, all citation numbers and related case numbers are being retained. They will be periodically checked through the Harbor Justice Center to verify the disposition of each issuance. This should help to give a more accurate overall picture of the validity of our actions.

Fiscal Impact

Below is an analysis (close estimate) of labor costs (Straight time and overtime costs for personnel) related to the Fireworks Education and Enforcement Program*.

<u>Personnel</u>	<u>Cost</u>
Police	\$ 6,700.00
Fire	\$10,658.00
Tele-communications	\$ 712.00
A.B.L.E. (not determined)	
Total Cost	* <u>\$18,170.00</u>

* Additional costs may be incurred as a result of properly destroying and removing the confiscated fireworks. Fire Department personnel will address this issue when the information becomes available.

RICH ALLUM
Special Events Sergeant

Attachments:
Listing of DR and citation numbers

Attachment #1

DR #'s

07-10724

MULTIPLE WARRANTS—ARRESTED.

Citations

CMZ033380	9-190 CMMC	Illegal fireworks discharge
CMZ033381	9-190 CMMC	Illegal fireworks discharge
CMZ034496	9-190 CMMC	Illegal fireworks discharge
CMZ034497	9-190 CMMC	Illegal fireworks discharge
CMZ045405	9-190 CMMC	Illegal fireworks discharge
CMZ045406	9-190 CMMC	Illegal fireworks discharge
CMZ045407	9-190 CMMC	Illegal fireworks discharge
CMZ045408	9-190 CMMC	Illegal fireworks discharge
CMZ045409	9-190 CMMC	Illegal fireworks discharge
CMZ045410	9-190 CMMC	Illegal fireworks discharge
CMZ045689	9-190 CMMC	Illegal fireworks discharge
CMZ045690	9-190 CMMC	Illegal fireworks discharge
CMZ045691	9-190 CMMC	Illegal fireworks discharge
CMZ046058	9-190 CMMC	Illegal fireworks discharge
CMZ046059	9-190 CMMC	Illegal fireworks discharge
CMZ046060	CVC VIOLATIONS	During/in area of fireworks
CMZ046061	9-190 CMMC	Illegal fireworks discharge
CMZ046062	9-190 CMMC	Illegal fireworks discharge
CMZ046180	9-190 CMMC	Illegal fireworks discharge
CMZ047176	9-190 CMMC	Illegal fireworks discharge
CMZ047201	9-190CMMC	Illegal fireworks discharge
CMZ047202	9-190 CMMC	Under age w/fireworks
CMZ047251	9-190 CMMC	Illegal fireworks discharge
CMZ047713	12-20(A) (4) CMMC	Illegal fireworks discharge
CMZ047714	12-20(A) (4) CMMC	Fireworks in park
CMZ047778	12-120(A) CMMC	Fireworks in park
CMZ047858	11-3 CMMC	Possess altered fireworks
CMZ047859	25620 B&P	Drinking in public (park)
CMZ047860	12-23 CMMC	Open container in park
CMZ047861	12-20(A) (A) CMMC	In park after dark
CMZ047862	12-23 CMMC	Fireworks in park
CMZ047863	12-20(A) (A) CMMC	In park after dark
CMZ047862	12-23 CMMC	Fireworks in park
CMZ047863	12-20(A) (A) CMMC	In park after dark
CMZ047863	12-23 CMMC	Fireworks in park
CMZ047863	12-20(A) (A) CMMC	In park after dark
CMZ047863	12-23 CMMC	Fireworks in park

RECEIVED

JUL 09 2007

PUBLIC SERVICES

**CITY OF COSTA MESA
Interoffice Memorandum**

TO: William J. Morris, Director of Public Services
FROM: Rick Simons, Assistant Street Superintendent^{RS}
DATE: July 6, 2007
SUBJECT: Fourth of July

After a vigorous display of fireworks in celebration of the fourth of July here in the City of Costa Mesa, the aftermath was surprisingly light. Most of our residents did an excellent job cleaning up their spent Fireworks by early morning. There were several of our usual locations, Fillmore Street, Shalimar Drive, Balearic Center, Moon Park, that indeed had their share of debris. However, even these locations have been worse in the past. Our Parks overall sustained minimum usage and consequently, very little Firework debris. Our continued effort, community education, posting of the No-Fireworks signage and the cycling of the irrigation in the evening, has been very successful at deterring would-be offenders.

The much appreciated volunteer representatives of TNT Fireworks, a Mr. John Kelly and crew, were given a list of a trouble area's and I am sure, were also surprised at the lack of debris in many areas they checked.

The City of Costa Mesa's Stand-by personnel was not called out for any reason on the night of the fourth, and had nothing to report.

Even though the Fourth of July fell mid-week this year, I believe there were as many legal and illegal Fireworks spent, as in any year in the past, however in contrast, the amount of debris left for clean-up has decreased significantly.

REGULAR AJOURNED MEETING (STUDY SESSION) OF THE

**CITY COUNCIL
CITY OF COSTA MESA**

August 14, 2007

The City Council of the City of Costa Mesa, California met in a Regular Adjourned Meeting (Study Session), on Tuesday, August 14, 2007, at 4:35 p.m. in the Conference Room 1A of City Hall, 77, Fair Drive, Costa Mesa. The meeting was called to order by the Mayor.

ROLL CALL:

Council Members Present: Mayor Allan Mansoor
Mayor Pro Tem Eric Bever
(entered at 4:40 p.m.)
Council Member Linda Dixon
(entered at 5:00 p.m.)
Council Member Katrina Foley
Council Member Wendy Leece

Council Members Absent: None

Officials Present: City Manager Allan Roeder
Assistant City Attorney Harold Potter
Development Services Director Donald Lamm
Chief of Police Christopher Shawkey
Police Sergeant Phil Myers
Senior Planner Claire Flynn
City Clerk Julie Folcik

I. PUBLIC COMMENT

1. Ann Hogan Shereshevsky, Costa Mesa, encouraged the Council to consider the banning of fireworks and the alternative means for the youth organizations to raise funds for their sport activities.

II. ITEMS FOR DISCUSSION

1. Presentation and Discussion with State Senator Tom Harman, 35th District, on State and Local Issues.

Senator Tom Harman reported on topics of interest at the state level relative to the status on the adoption of the state budget; status of Senate Bills that are of local interest, such as Senate Bill 32, Greenhouse Gas Emission's bill, SB 1000, regarding Sober Living Homes, SB 427, CEQA Reform, SB 657, the "Gang Bill, and SB 839, regarding the increasing of fines for the transportation and selling of illegal fireworks, SB 974, regarding infrastructure repair. He responded to questions from the Council. No action was taken.

2. Discussion Regarding Fireworks Enforcement and Fundraising Alternatives
Council Member Leece summarized the staff report and presented ideas for alternative means for fundraising for the youth groups. She commented that the goal was a diminishing need for this type of fundraising by the groups. She felt that that a community fireworks display was a viable alternative along with a home raffle in addition to encouraging the State Legislators to limit the transportation of the illegal fireworks. Discussion ensued amongst the Council regarding additional ideas for possible fundraising opportunities, restrictions on firework sales, enforcement strategies, increasing educational opportunities.

3. Barking Dog Ordinance Review
Police Sergeant Phil Myers summarized the staff report informing of the statistics of the complaints received in the last year, the procedures that are followed in the division, the violations and penalties associated with them. Discussion included quality of life issues and the rights of the owners of the animals as well as neighbors, some reasons for barking by dogs, educational opportunities and a review of the newly adopted ordinance regarding barking dogs by Orange County Board of Supervisor's. Police Chief Chris Shawkey and the Police Sergeant responded to questions from the Council.

4. Standardized Plans for Freedom Homes Room Additions
Senior Planner Claire Flynn, presented the staff report, gave a history of the neighborhood and preliminary plans for the work effort for the architectural designs that could be pre-approved rebuilding plans for home owners. Mary Fuell, a resident and real estate professional gave her perspective of the benefits. Discussion amongst staff and Council included legal concerns, fees, design and streamlining the approval process. No action was taken on this item

November 30, 2007

OPTIONS FOR DEALING WITH FIREWORKS**1. Establish a Hotline**

Establish a hotline prior to Fourth of July that residents can use to report any illegal activity related to fireworks (Lakewood, Ontario, Simi Valley, San Antonio, Spokane).

2. Increase Publicity

Increase publicity about the safe use of safe and sane fireworks as well as spotting and reporting illegal fireworks. This can be done via the City's newsletter, press conferences, press events, letters to HOAs, flyers, website, access channel and press releases that encourage the local media to spotlight this issue. Many cities' publicity materials include pictures of illegal fireworks so citizens can more readily identify them. A few cities produce and distribute a training video on how to identify illegal fireworks as well as how to identify other types of explosives. The fireworks season might be launched with a rally/media event that includes a demo on the effects of illegal fireworks. Links to other fireworks safety organizations can be added to Costa Mesa's website. Finally, an educational campaign throughout Costa Mesa schools via brochures, coloring books, videos and on campus visits by firefighters can be instituted. In addition, CAL Fire's "Don't Get Burned" video can be obtained and aired (Lakewood, Auburn, Fillmore, Roseville, Marysville, Spokane).

3. Citizen Patrols

Institute training for citizen patrol groups. These groups can assist public safety in their enforcement efforts. Neighborhood workshops can be held and information on illegal fireworks can be distributed (Auburn, Spokane, Oak Harbor, Burleson, Cincinnati).

4. Senate Bill 839

SB 839 was passed and signed into law this last legislative session. It becomes effective on January 1, 2008. This measure calls for the Office of the State Fire Marshal (SFM) to develop a model ordinance that permits local jurisdictions to adopt streamlined enforcement and administrative fine procedures related to the possession of 25 pounds or less of dangerous fireworks. In addition, it increases the penalties for the possession of dangerous fireworks, based on total weight and the number of prior convictions. It is anticipated that it will take the next year for the SFM to implement the program.

5. Cash Rewards

Establish a reward for tips leading to the arrest and conviction of illegal firework dealers (Lakewood, New York, Detroit).

6. Assess a Fee or Surcharge

Assess a fee or surcharge on all sales of fireworks in Costa Mesa. The assessment can then be used to pay for the cost of processing and issuing fireworks stand permits, inspection of the stands, a public education campaign, enforcement against illegal fireworks, cash rewards for tips and cleanup after the 4th of July. For 2007, Costa Mesa documented \$18,170 of costs related to increased enforcement and clean-up. In one city, the amount of the assessment is determined after stand operators submit their sales reports to the City. The assessment cannot be more than ten percent of total gross sales of all the fireworks sold in the city that season. In another city, all wholesalers and distributors are charged a fee of approximately \$20,000 (Chino, Gardena, Santa Rosa, Muncie).

7. Interim or Permanent Moratorium on Fireworks

Institute an interim or permanent moratorium on fireworks. In the case of a permanent moratorium, the fireworks industry as well as local fundraisers could be noticed of the moratorium three to five years previous to its implementation.

8. Install Seasonal or Permanent Signage

Install metal signage on major arterials that indicates illegal fireworks are not allowed in the City and the fines and penalties that can be imposed. Post vinyl banners at the civic center, other city-owned facilities, schools and other public places (Irvine, Newport Beach, Vancouver).

9. Further Limit Number of Days Fireworks Can Be Sold

The number of days fireworks can be sold could be further limited from the current four days (July 1, 2, 3 and 4) the City currently allows.

10. Further Limit Number of Fireworks Stands

The number of fireworks stands permitted can be decreased.

11. Limit Hours of Fireworks Sales

Limit the hours of firework sales. For example, limit sales to the hours of 8:00 a.m. and 10:00 p.m.

12. Require a Post Sale Audit of All Stands

Require that all fundraising organizations that run a firework stand provide a financial accounting of sales.

13. Prohibit Discharge of Fireworks in Specified Areas

The City could prohibit the discharge of fireworks in specific areas (i.e. brush areas, around senior living residences and schools) or restrict the use of fireworks to private residential property only (San Bernardino, Gibson)

14. Institute a Public Fireworks Alternative

Hold a Fourth of July Event to encourage participation at a public display as an alternative to the use of safe and sane fireworks. A number of neighboring cities hold successful Fourth of July displays and events (Irvine, Dana Point, Laguna Niguel, San Clemente).

15. NPDES Standards Enforcement

Pursuant to the NPDES standards on ocean pollution, seek a ruling from the State Water Resources Board on the impact of firework residue and debris on storm drains and runoff to the ocean.

FIREWORKS WORKSHOP

April 3, 2008

Public Education/Information

1. Develop a public information packet highlighting the differences between Safe & Sane fireworks and illegal fireworks and distribute this information via Newsletters, Press Conferences, Press Events (including live demonstrations), distribution of flyers through Homeowner Associations and through the Schools, posting of information on the City's Website and Public Access Channel, on-campus visits by Fire personnel to demonstrate the dangers of illegal fireworks and all other identifiable means of communication with the public.

Purpose: Focus attention on the dangers of possession, sale or discharge of illegal fireworks with the objective of substantially reducing/eliminating their use in Costa Mesa.

Workshop Attendee Comments:

- Strong enforcement as last year will help this year.

Consensus:

Strong support with no comments opposed to fining people at the highest possible limit.

2. Beyond the existing practice of fireworks stands providing information to all customers, require the placement of posters or banners on the exterior of fireworks stands.

Purpose: Utilizes the point of sale for safe & sane fireworks as a place to get the message across about not purchasing or discharging illegal fireworks in Costa Mesa.

Workshop Attendee Comments:

Due to time constraints, this item was not discussed.

3. Post all access points into Costa Mesa prior to July 4th with signs advising of the City's Zero Tolerance for illegal fireworks, including information on fines, possible arrest and conviction of violators.

Purpose: This is not only intended to serve as a reminder to Costa Mesa residents, but non-residents as well that visit the area on July 4th that simply because safe & sane fireworks are permitted, that does not mean illegal fireworks are allowed as well.

Workshop Attendee Comments:

Due to time constraints, this item was not discussed.

Tighter Regulations

1. Insure that fines for violations of fireworks regulations are at the highest level allowed by law.

Purpose: Self explanatory.

Workshop Attendee Comments:

Due to time constraints, this item was not discussed.

2. Further restrict the number of days fireworks are permitted for sale (current limitation is July 1st through July 4th).

Purpose: Unfortunately, the discharge of safe & sane fireworks begins with the opening of sales despite local regulations restricting discharge to July 4th. The intent behind restricting sales to 2 days is simply to reduce the amount of time fireworks are discharged illegally. While this does not address the discharge of illegal fireworks, it will reduce early discharge of safe & sane fireworks.

Workshop Attendee Comments:

- Reduction in number of days adversely impacts the number of sales & funds.
- Those interested in buying fireworks early would go to Santa Ana
- Sales are slow until the day of the 4th
- The volume of material would require storage of fireworks off-site
- The fireworks industry does not support a two day sale
- List the number of citations and post them on each stand each day
- The public humiliation idea – list the names of those that got citations in the newspaper and promote “Don’t get your name in the paper”

Consensus:

No change to existing practices.

3. Raise the age requirement for purchase of fireworks to 21 years (current age restriction is 18 years of age).

Purpose: Safe & sane fireworks routinely end up in the hands of juveniles, oftentimes involving discharge prior to July 4th. Raising the age for fireworks purchase does not limit the opportunity for juveniles to discharge safe & sane fireworks on July 4th – it simply constrains the opportunity to acquire and discharge them prior to the 4th.

Workshop Attendee Comments:

- One in attendance had a twenty year old son that just got back from Korea and felt that if he is old enough to vote and fight for his country, then he should be able to buy fireworks.
- Maybe the Police Department can conduct some secret shopper buys with kids under 18 to ensure that the age restriction of 18 is being followed.
- Regarding fireworks, some 21 year olds may be even less responsible than 18 year olds.

Consensus:

No Change to existing practices.

4. Further restrict the number of stands permitted by the City (current limit is no more than 40 stands).

Purpose: The number of 40 stands permitted by code was adopted in 2004. Since that time, the number of qualified applicants for stand permits has dropped. A reduction in the number of stands permitted by the City will reduce the longer-term dependence on the sale of fireworks by community groups.

Workshop Attendee Comments:

- Allow only the same groups.
- If 40 booths are allowed and only 35 are being used, can a group get a second stand – increase number of booths per high school.
- Allow high schools to have more stands

Consensus:

No consensus.

5. Restrict the hours of sale from fireworks stands (current requirements establish a 10:00 p.m. closing time on July 1, 2 & 3 and 8:00 p.m. on July 4, but no limit on opening for sales).

Purpose: This is an oversight brought to the City's attention by members of the 2007 Orange County Grand Jury. While the code does set closing times, there is no time limit for the opening of stands.

Workshop Attendee Comments:

- 10:00 a.m. opening on July 1, 2, 3 and 9:00 a.m. opening on July 4.

Consensus:

General agreement.

6. Require all fireworks stand permittees to provide the City with a verified profit & loss statement. In addition, require all permittees to submit a list of names and addresses of Booster Club members (parents) and students who will receive money earned from the fireworks stands.

Purpose: Several of the community organizations that operate fireworks stands contend that they cannot continue without the proceeds from fireworks sales. Yet the City receives no financial data on fireworks sales and no information as to how the proceeds are spent. Also, at a recent liaison meeting with the school district, a district official stated booster organizations receive funds from the school district to support their programs. This is a key factor in the City's continuing to allow fireworks in Costa Mesa yet we have no information to support it.

Workshop Attendee Comments:

- The School District should be in attendance.
- John Kelly from TNT agreed to provide the financial data.
- General agreement that financial data can be made available and the City application can require groups to provide a profit and loss statement certified by the appropriate responsible board member.

- Some groups want to be able to use City/District recreational facilities to conduct tournaments to raise money.
- Report net revenue generated and outline its use for Costa Mesa students.

Consensus:

General agreement on providing financial data to the City.

7. Further restrict stand locations so they are not located near City boundaries with communities that prohibit safe & sane fireworks.

Purpose: With the exception of the City of Santa Ana, all of the communities abutting Costa Mesa prohibit all fireworks. This proposal is a “good neighbor” step to our neighboring communities.

Workshop Attendee Comments:

- It is difficult to secure locations and some groups have had the same location for many years and they want their customers to know where they are located. Some groups felt that if someone was going to buy fireworks, that driving a little further isn’t going to make an impact but they want to stay where they are. For 2008, the sites have already been chosen.

Consensus:

General agreement on not restricting where stands are located.

8. Require a fixed percentage of the profit from fireworks sales be sub-vented to the City to offset additional costs for enforcement, clean up and public education. In no event would this amount exceed actual costs borne by the City.

Purpose: While the City does receive a very small amount of revenue from the issuance of fireworks stand permits, the majority of the cost of enforcement and cleanup falls to taxpayers. This would allow the City to recoup its costs.

Workshop Attendee Comments:

- If a fee is to be implemented, then they want a credit for sales tax and fine revenue.
- Can the groups help pick up trash? The general feeling was this is a good idea but only in areas like parks that are away from traffic.
- Groups should not be responsible for cost of enforcement/clean-up for illegal fireworks.

Consensus:

No consensus.

9. Limit the discharge of fireworks to the curb area of the street (this would have to be operationally defined but the intent is to insure streets remain clear for safe passage of vehicles at all times)

Purpose: Establishing a defined area adjacent to the curb will help get fireworks out of the middle of public streets and will allow streets to remain open for public access.

10. Prohibit the placement of any structures in the public right of way for discharge of fireworks (this would preclude the use of ladders, scaffolding, tables, etc., to “elevate” fireworks displays).

Purpose: To maintain clear access to public streets at all times.

ITEMS 9 AND 10:

Municipal Code section currently exists addressing the use of public right-of-way.

Expanded Enforcement

1. Institute a “hotline” for residents to call in information on sale and/or use of illegal fireworks.

Purpose: To provide a means for residents to promptly and confidentially report information on illegal fireworks.

2. Implement training for “Citizen Patrols” to increase awareness and reporting of illegal fireworks importation, sales & discharge.

Purpose: This is simply a matter of capitalizing on the Neighborhood Watch concept by organizing neighbors to be on the look-out and report illegal fireworks.

3. Extend the existing team enforcement concept (pairing Fire and Police personnel) for both education and enforcement up to two weeks before July 4th (currently this enforcement mode is only used on July 4th).

Purpose: The problems associated with illegal fireworks do not start on July 4th so this proposal seeks to initiate both enforcement and education beforehand.

4. Institute a program of cash rewards for the identification, apprehension and conviction of those transporting, selling or discharging illegal fireworks.

Purpose: As with other reward programs, the City may see a greater willingness with members of the community in offering rewards for the arrest and conviction of those transporting, selling or discharging illegal fireworks.



CITY OF COSTA MESA

P.O. BOX 1200

CALIFORNIA 92628-1200

 FROM THE OFFICE OF CHRISTOPHER SHAWKEY, CHIEF OF POLICE

TO: Allan Roeder
City Manager

FROM: Christopher Shawkey
Chief of Police

SUBJECT: 2008 Fireworks Response Plan After Action Report

DATE: July 21, 2008

Introduction

The purpose of this memorandum is to provide an after action report on the City's operational plan for the 2008 4th of July holiday. This report is based on information provided by the Police and Fire Departments, as well as Telecommunications and Public Services.

The Costa Mesa Police and Fire Chiefs directed the implementation of a task force and operational plan to address illegal fireworks and misuse of "Safe and Sane" fireworks related problems during 2004. The practice was repeated in 2005, 2006, 2007 and again this year. The goal of the task force was to ensure the safety of the community and to gain compliance to the city ordinances and state laws governing the use of fireworks.

As part of the increased effort to inform the public about the dangers of both illegal and misused "Safe and Sane" fireworks, activities began in mid-May 2008. Public Service Announcements (PSA's) were completed and aired for several weeks prior to the 4th of July on Channel 24 (CMTV). Interviews with the local print media were completed and the resulting articles continued the effort to help make 2008 a safer holiday. "Safe and Sane" posters and informational packages were posted at the front desk of the Police Department, as well as being posted on the City's website.

On-site education was conducted at all permitted fireworks stands from approximately 4:00 p.m. until 10:00 p.m. on July 1st, 2nd, and 3rd to help ensure compliance with local ordinances and state laws. As part of the pre-holiday contact, officers directed personnel working at the fireworks booths to educate customers about all applicable fireworks laws and ordinances, with particular emphasis being placed on customers that live outside Costa Mesa. Volunteers working the stands were encouraged to call the Police and Fire Departments for assistance as needed. Increased cooperation was evident between the vendors and city personnel, and these pre-holiday contacts were well received.

An operational plan was created and the fireworks enforcement program was implemented on July 4th from 5:00 p.m. to 1:00 a.m. During the course of the evening, enforcement officers responded to approximately 370 calls regarding fireworks.

Officers assigned to the Fireworks Enforcement Detail issued one citation for a fireworks related violation, and made one arrest for a dangerous firework which involved a bomb squad response from the Orange County Sheriff's Department. In addition, Police and Fire Department personnel also confiscated several hundred pounds of illegal fireworks.

Program Details

Planning and Direction

As in previous years, an operational plan was developed and distributed to all personnel assigned to work the holiday. Before the execution of the plan, a briefing was held to familiarize each employee with their job assignment. Informational packages were provided to each team with cell phone numbers of the assigned personnel, call signs of deployed teams, all permitted fireworks stands, all permitted "block parties," Costa Mesa Municipal Code sections and related State laws pertaining to fireworks, alcohol possession and consumption, and use of the parks.

Police and Fire personnel supervising the 4th of July staffing coordinated their efforts and activities quite well. The group seamlessly integrated personnel and provided a very effective division of labor/tasks resulting in the most comprehensive effort to date.

Police/Fire Staffing

Two teams consisting of two police and fire personnel were established to inspect and monitor firework stands from July 1st to the 4th. The duties of these teams were noted in the introduction.

On the 4th of July, the Police Department had a total of fifteen police personnel assigned to work the event. The personnel consisted of two sergeants, one motor officer, ten patrol officers, and two park rangers. Eight enforcement teams were staffed with the motor officer assigned to "roving" enforcement within designated areas. Teams operated in full uniform while driving both marked and unmarked vehicles.

The Fire Department increased its staffing for the 4th of July to forty-one, opposed to their normal staffing of thirty three. The increase consisted of one Engine Company (captain, engineer, and two firefighter /paramedics), three firefighters, and an additional battalion chief. The number of fire vehicles deployed for the event was twelve.

Calls for Service

Despite assigned enforcement coverage and more staffing levels than last year, the enormous volume of calls for service resulted in delayed responses to many of the calls. In a few cases, fireworks calls for service were held approximately 45 minutes. As a result, teams had to rely more on educational contacts and warnings rather than taking enforcement action. This allowed officers to quickly complete contacts and move on to other pending calls for service.

Many of the calls for service that were received were "anonymous" and general in nature. These types of calls were handled as "general broadcast" calls. After the broadcast, the calls were closed and deployed units used them as markers for locations of attention. All calls requesting contact were handled with contact being made. Firework enforcement teams were able to handle all calls for service related to fireworks, including those requesting contact. In prior years, calls for service which required contact were dispatched to available patrol units. This change was made to allow patrol officers to respond to routine calls for service.

Total fireworks related calls for service numbered approximately 370 on the 4th of July. Self initiated activity by enforcement units generated an additional 150 calls, for a total of 520 calls for service, a 10% increase over last year.

The Fire Department also responded to a higher than average number of calls on the 4th of July than they would on a typical Friday night. Normal call volume for a Friday is approximately 26 calls, compared to the 47 calls they responded to on Friday, July 4th. In comparison, the Fire Department responded to 53 in 2007 (Wednesday), 41 in 2006 (Tuesday), and 42 (Monday) in 2005.

As indicated, the Fire Department responded to 47 total calls on the 4th of July this year as opposed to 53 total calls last year. However, the Fire Department responded to only one fireworks related call this year versus ten such calls last year. They responded to fewer mutual aid calls this year in Newport Beach because the Newport Beach Fire Department significantly increased their staffing levels. The following table illustrates the Fire Department's calls for service:

Year	2005	2006	2007	2008
Total Number of Calls	42	41	53	47
Fireworks Related	10	7	10	1
Mutual Aid	6	4	13	2

Equipment

Disposal bins for confiscated fireworks were maintained at Fire Station #4 on Placentia Avenue. One firefighter was utilized as a "field pick up" to minimize the time needed to drop off confiscated items. Three 55-gallons drums were filled with confiscated illegal fireworks.

Block Parties

Police and fire personnel contacted organizers of each permitted block party in order to gain compliance with fireworks laws and street closures. They also checked the entire city for "unauthorized" block parties and street closures. Those contacted were educated about the process for obtaining a city authorized block party and the permit restrictions on fireworks usage in Costa Mesa. Generally, all of the permitted block parties were in compliance with City imposed restrictions.

Confiscation of Fireworks

During calls for service and self initiated contacts, officers confiscated all illegal fireworks they discovered. The total amount of confiscated fireworks filled three 55-gallon barrels and was estimated to be several hundred pounds.

One isolated incident involved a homemade type explosive, modified from legal fireworks. This incident occurred on Darrel Street and required the response of the Orange County Bomb Squad. The explosive was made by disassembling fireworks, retrieving the flammable material and reconstructing it into plastic bottles with flammable liquids.

Parks and Schools

Officers and Park Rangers were directed to routinely check parks and schools for fireworks usage, with special emphasis at Vista and Tanager Park based on activity levels and complaints from last year. Staff reported that activity levels at all city parks were high his year, and that as soon as a park was cleared and teams moved to another location, crowds would return to the parks.

As a deterrent and by request of the Police Department, all park sprinkler systems were to activate either a half hour before or after sunset. Based upon the observations of personnel in service at sunset, the sprinkler systems at some parks did not activate near sunset, but sometime after. As a result, there was more fireworks usage in some city parks than anticipated.

At Vista Park, Police Department staff went through the park at regular intervals throughout the day instructing people that the park would be closed at 8:34 p.m. This was done to give them the opportunity to relocate to another location for the purpose of viewing fireworks. While we

received some complaints about this, it was much more effective than last year when people were ordered to leave just prior to the start of the Huntington Beach fireworks display.

Fireworks related calls for service were received at Tanager Park, but because of the additional patrols in that area throughout the day, the number of calls was less than last year.

Fireworks use at the schools appeared to be consistent with prior years, especially the north and south parking lots of Estancia High School. Both parking lots of this high school had not been secured, which served as an invitation for illegal fireworks usage. Again, staff regularly patrolled the school and ordered people to leave, but like the parks, people would return once police personnel left the area.

Helicopter Program

ABLE provided a helicopter to capture a video recording of the illegal aerial discharge of fireworks over the City.

Other Enforcement

Based on prior years' experience and resident input, emphasis was directed to areas identified as potential problem locations. Those areas were:

1. Meyer Place between Wilson Street and Victoria Avenue
2. Republic Avenue near Linden Place
3. 700 Victoria Avenue / contact with residents at D-3 (per their request)
4. Tanager Park
5. Vista Park
6. Other locations that were known to illegally block city streets to construct makeshift fireworks displays

Fiscal Impact

Below is an analysis (overtime estimate) of labor costs related to the Fireworks Education and Enforcement Program.

<u>Personnel</u>	<u>Cost</u>
Police	\$ 5,631.11
Fire	\$ 14,428.92
Tele-communications	\$ 828.00
Total Cost	*\$ 20,888.03

* Additional costs may be incurred as a result of properly destroying and removing the confiscated fireworks. Fire Department personnel will address this issue when the information becomes available.

In addition, Public Services was responsible for manufacturing, installing, and removing over 40 signs at 20 entry points into the City as well as at different parks. They also were responsible for cleaning up areas that had higher than acceptable fireworks debris or other garbage. Below is an analysis of cost breakdown as reported by Public Services:

<u>Service</u>	<u>Cost</u>
Labor	\$ 2,936.21
Sign Materials	\$ 3,073.50
Street Sweeping	\$ 521.12
Programmable Message Boards	\$ 285.07

Vista Park Sign Installation	\$ 154.69
Total Cost	\$ 6,970.59
Total city-wide cost related to the 4th of July:	\$ 27,858.62

Follow up / Suggestions for Subsequent Years

The continued use of pre-holiday PSA's and media contact should be expanded. Deployment of two teams of personnel during the pre-holiday legal fireworks sales period (July 1st-3rd) should be continued as it provides the opportunity to develop a rapport between vendors and city personnel. It also allows public safety personnel to verify permits and compliance with safety regulations.

Closure signage at Vista Park should be larger in size and manufactured. The signs for this year consisted of standard sized paper affixed to wooden posts, and the instructions were in small typeface and difficult to read.

Use of sign boards at entrances to the City was helpful and should be used every year.

It is recommended for 2009 that the pre-4th of July contact with the fireworks vendors continue. They were appreciative of our concern and aware that we were expecting strict compliance.

Work with the Newport Mesa Unified School District to ensure that the parking lots to Estancia and Costa Mesa High School are secured in order to prevent people from congregating on those properties to discharge fireworks.

Conclusion

A significant amount of attention was placed on the City of Costa Mesa and its approach to the fireworks issue this year. City staff was cognizant of the fact that the holiday fell on a Friday this year, placing an additional burden on what is already a very busy night of activity for both the Police and Fire Departments. As a result, this year's operational plan allowed for even more pre-holiday educational efforts and increased staffing levels for the holiday.

The results of this year's plan were promising. The pre-holiday educational efforts were well received by fireworks vendors, and the City received many favorable comments about the portable message boards that were placed at the city borders. The City received more fireworks related calls for service (perhaps because of the increased awareness the City created to the issue), but all staff that worked the event felt there was more overall compliance to the municipal ordinance and state laws regulating the use of fireworks. As a result, significantly fewer arrests were made this year, and staff was able to handle the additional workload as efficiently as in years past, albeit there were still several calls for service held longer than what would normally be considered an acceptable amount of time.

Several locations still required an inordinate amount of attention from public safety, but the response to those locations was managed throughout the day, as opposed to requiring an overwhelming response immediately after sunset.

The City received significantly fewer complaints after the holiday this year compared to last year. Media accounts regarding how the City responded and handled the 4th of July this year were also very positive. Last, at the City Council meeting after the holiday, there were no negative public comments regarding the City's response to the holiday.

Attachments

What follows is the after action report submitted by the Fire Department. There are three attachments to this report. They are detailed breakdowns of Fire Department and Public Services costs for the 4th of July program, and the Fire Department Loss Report.

Fire Department After Action Report

The following report will address the fire department contribution to the Fireworks Enforcement Program for July 1st – July 6th 2008. Areas covered include Staffing, Call Volume, Block Parties, Community Patrol, Community Service Requests, Fireworks Enforcement, and Fiscal Impact.

Staffing

The fire department had normal staffing on July 1st, 2nd, 3rd, 5th, and 6th. Normal staffing consists of thirty-three (33) fire personnel per shift; one (1) Battalion Chief, eight (8) Captains, eight (8) Engineers, ten (10) Firefighter/Paramedics, and (6) Firefighters delivering service on nine fire vehicles. On July 4th we increased our staffing to forty-one (41). This included the addition of one (1) Engine Company (Captain, Engineer, and two (2) Firefighter /Paramedics), an additional Battalion Chief, and three (3) Firefighters. This also increased the number of fire vehicles deployed from nine to twelve.

Call Volume

As expected, we did respond to a higher than average number of calls on the 4th of July. Normal call volume for a Friday, the 4th fell on a Friday this year, is approximately 26 calls. We responded to 47 calls; an increase of 44%. In comparison, we responded to 53 in 2007 (Wednesday), 41 in 2006 (Tuesday), and 42 (Monday) in 2005. The numbers seem fairly consistent from year to year, but a closer examination reveals they are not.

Last year, of the 53 calls, 13 were into Newport Beach. This year, Newport Beach Fire Department up-staffed significantly, and we only had 2 responses into their jurisdiction. In addition to those calls, we had 10 that we deemed as "fireworks related" compared to one this year. This year, the police department took a much more active role in enforcement and confiscation which minimized the number of "fireworks" related calls we responded too. When those numbers are subtracted, the total drops to 30 calls.

2006 and 2005 were similar. In 2006 there were 4 calls into Newport Beach and there were 6 calls in 2005. In 2006 there were 7 fireworks related calls and in 2005 there were 10. Again, when these are subtracted from the total, there were 30 calls in 2006 and 26 in 2005. See table below:

Year	2005	2006	2007	2008
Total Number of Calls	42	41	53	47
Fireworks Related Calls	10	7	10	1
Mutual Aid	6	4	13	2
Total Calls	26	30	30	44

(Excluding fireworks related and Mutual Aid)

Block Parties

Fire Department personnel visited all approved block parties. Visits were conducted by the Arson Investigators, Battalion Chiefs and on-duty Fire Suppression Personnel. All were generally in compliance with stated city requirements.

Community Patrol

Starting at approximately 1700, all fire apparatus began patrolling their respective first due areas. In addition, one extra manned engine company was assigned to the Westside incorporating both Station 3 and 4's area. The purpose of these patrols was twofold; to educate the public on the safe usage of "Approved" Safe and Sane Fireworks, and to confiscate, where safe, any illegal fireworks.

The public, for the most part, seemed receptive to the education component. A majority of the education involved reminding citizens that all safe and sane fireworks need to be discharged on the ground, not off of step ladders, need an adequate safety zone from viewing areas, and that they need to be cognizant of both pedestrian and vehicular traffic.

The confiscation aspect was much more difficult and far less successful. Observed violations were difficult to trace to the source and when those areas were located, violators disappeared into the crowd or the illegal fireworks were removed from plain view prior to our arrival. Obviously, large fire apparatus are highly visible and any chance to catch violators "in the act" of discharging illegal fireworks is slim. Overall, the effectiveness of the fire department in curbing the use of illegal fireworks, especially aerial ones, was negligible.

In addition to the neighborhood patrols, fire vehicles routinely checked to make sure that the fireworks stands were complying with all appropriate regulations. This included making sure product was not stacked outside of the sales facilities and that they stopped selling by 8:00PM.

Community Service Requests

The fire department did respond to several community service requests. They consisted of static displays at block parties and also for leading short neighborhood processions or parades.

Fireworks Enforcement

This year the Arson Investigation Unit continued its fireworks enforcement program with the CMPD. Enforcement teams conducted patrols on July 1st through July 6th. Each night arson investigators were teamed up with patrol officers for the specific function of enforcing the City's fireworks ordinances. All confiscated fireworks were taken to Station 4 and deposited in 55-gallon barrels located next to the training tower. The amount of fireworks collected filled approximately three (3) barrels and will be turned over to the State Fire Marshall's office on July 24th. The Orange County Bomb Squad was called into the City to retrieve an Improvised Explosive Device created from a Piccolo Pete and a 2-Liter plastic bottle. The individual who made the device was arrested and transported to the CMPD jail. The CMPD will be presenting a more detailed report on arrests and citations issued.

Fiscal Impact

Fire department labor costs related to the Fireworks Enforcement Program totaled \$14,428.92. These costs included the addition of Arson Investigators, the deployment of an additional engine company and Battalion Chief on the 4th, plus three additional firefighters to augment current staffing. For a more detailed breakdown of staffing and costs for the July 1st – July 6th period, see the attached spreadsheet.

Fire Loss

There were a total of seven (7) loss incidents from July 1 – July 6, 2008 for a Total Dollar Loss of \$62,700.00. These incidents included two (2) building fires and five (5) outside trash, rubbish or waste fires. See the attached Fire Department Loss Report for more details.

CHAPTER II CIVIL CITATIONS**Sec. 1-34. Applicability.**

- (a) This chapter makes any violation of the provisions of this Code subject to civil fines.
- (b) This chapter establishes the administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines pursuant to Government Code section 53069.4 and the city's general police power.
- (c) The issuance of a civil citation under this chapter is solely at the city's discretion and is one option the city has to address violations of this Code. By adopting this chapter, the city does not intend to limit its discretion to utilize any other remedy, civil or criminal, for such violations that the city may select in a particular case.
- (d) The purpose of issuing civil citations pursuant to this chapter is to encourage voluntary and complete compliance with the provisions of this Code and to eliminate nuisances for the protection and benefit of the entire community.
- (e) Notwithstanding any lease, license or any other instrument or agreement, the owner of any real property has the right to enter upon his or her own property to the extent reasonably necessary to abate any nuisance or correct any violation of this Code existing thereon. The provisions of this subsection shall be an implied term of any instrument affecting the right to possession of real property located in the City of Costa Mesa.
- (f) Because of the serious blighting conditions that can result affecting the residents' health and safety, this chapter is intended to impose strict civil liability upon the owners of real property for all building, housing, fire, health, land use, and abandoned vehicle code and zoning violations that occur upon the subject premises.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-35. Definitions.

The following definitions apply to the use of these terms for the purposes of this chapter:

- (a) *Building violation* shall mean any violation of this Code pertaining to building, housing, plumbing, electrical, or other similar structural or zoning regulations, including regulations set forth in Title 5 of this Code, that does not create an immediate danger to health or safety.
- (b) *Citation* shall mean civil citation issued pursuant to this chapter stating there has been a violation of this Code. Citation includes a notice of noncorrection unless the context clearly shows otherwise.
- (c) *Citee* shall mean person given a civil citation charging him or her as a responsible person for a Code violation.
- (d) *Code enforcement officer* shall mean any city employee or agent of the city designated by the city council pursuant to section 1-33.1 to have the authority and responsibility to enforce certain provisions of this Code.
- (e) *Correction period* shall mean the period of time allowed for a citee to correct a building violation shown on a civil citation.
- (f) *Department* shall mean the Development Services Department of the City of Costa Mesa.

- (g) *Director* shall mean the director of the department or his or her designee.
- (h) *Hearing officer* shall mean the person appointed by the city manager to serve as the hearing officer for administrative reviews. Prior to conducting hearings the hearing officer must first be certified by the city attorney as qualified to provide a fair and impartial hearing based on appropriate education, training and experience.
- (i) *Issued* shall mean giving a citation to the citee and issuance occurs on the date when a citation is personally served on the citee, the date it is mailed to the citee, or the date it is posted on real property where a property related violation exists.
- (j) *Notice of decision* shall mean a form prepared by the department used to inform a citee of the decision made regarding various provisions of this chapter.
- (k) *Notice of noncorrection* shall mean a notice contained in the second citation issued for a building violation which notes the violation on the prior citation has not been corrected within the applicable correction period.
- (l) *Responsible person* shall mean any of the following:
- (1) A person who causes a code violation to occur.
 - (2) A person who maintains or allows a code violation to continue, by his or her action or failure to act.
 - (3) A person whose agent, employee, or independent contractor causes a code violation by its action or failure to act.
 - (4) A person who is the owner of, lessee or sublessee with a current right of possession of, real property where a property related code violation occurs.
 - (5) A person who is the on-site manager of a business who normally works daily at the site when the business is open and is responsible for the activities at such premises.
 - (6) A person who is the beneficiary under a deed of trust for the property where a property related violation exists and that person has not corrected the violation within thirty (30) days after being notified by the director in writing of the violation and the fact that the trustee under the deed of trust is no longer living on the property and his or her whereabouts is unknown.

For purposes of this subdivision "person" includes a natural person or legal entity, and the owners, corporate officers, trustees, and general partners of a legal entity. There shall be a legal rebuttable presumption that the record owner of a parcel according to the County of Orange's latest equalized property tax assessment rolls and a lessee or sublessee of a parcel has notice of any Code violation existing on the premises. For the purposes of this chapter, there may be more than one responsible person for a violation, and a minor at least fourteen (14) years of age may be a responsible person subject to the provisions of this chapter for a violation personally committed by the minor.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-36. Civil citation--General.

- (a) Any city code enforcement officer upon determining that a provision of this Code, which he or she is charged to enforce, has been violated has the authority to issue a civil citation to any responsible person or persons. A code enforcement officer may issue a citation for a violation not committed in the officer's presence if the officer has determined through investigation that the responsible person cited did commit the violation. A responsible person to whom a citation is

issued shall be liable for and shall pay to the city the fine or fines described in the citation when due pursuant to the provisions of this chapter.

(b) Every person who applies for and receives a permit, license, or any type of land use approval (e.g., subdivision maps, conditional use permits, variances), shall comply with all conditions imposed upon the issuance of the permit, license or other approval. If a person violates any condition of such permit, license or approval, he or she may be issued a civil citation and be liable for civil fines under the provisions of this chapter.

(c) Each day a violation of this Code exists shall be a separate violation and be subject to a separate fine. A citation may charge a violation for one (1) or more days on which a violation exists, and for violation of one (1) or more Code sections.

(d) The city may take into consideration the fact that a person has been issued citations when the city is determining whether to grant, modify, suspend, revoke, or deny any permit, license, or any type of land use approval regarding that person, and such citations are evidence that the person has committed acts that are not compatible with the health, safety and general welfare of other persons and businesses in the vicinity.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-37. Civil citation--Building violations.

(a) When a citation is issued for a building violation, a thirty (30) day correction period shall be allowed for the correction of the violation and the citee shall correct the violation within that period. Notwithstanding section 1-36, no responsible person for a building violation shall be liable for a civil fine unless the violation continues after the thirty (30) days allowed for its correction, plus any extension pursuant to subdivision (b), and he or she is issued a second citation containing a notice of noncorrection.

(b) The citee of a building violation may request an extension of the correction period provided that a request is filed with the director before the thirty (30) [day]-correction period ends. The director may, in his or her discretion, grant a reasonable extension of the period of time to correct the violation if the citee has supplied substantial evidence showing that the correction cannot reasonably be made within the thirty (30) day period. The filing for such an extension does not, unless granted, extend the thirty (30) day period or any other time periods set by this chapter.

(c) If a building violation has not been corrected by the end of the correction period, the code enforcement officer has authority to issue to the responsible person a second citation containing a notice of noncorrection. The citee to whom the notice of noncorrection is issued shall be liable for and shall pay to the city the fine or fines described in the citation which fine shall be due on the date this second citation is issued. Additional citations may be issued and fines imposed for every day the violation continues uncorrected from the date the second citation is issued.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-38. Citation contents.

(a) Each citation shall contain the following information:

- (1) Name of the responsible person for the violation of this Code.
- (2) Date on which the Code violation occurred.
- (3) The Code section violated.
- (4) Address where the Code violation occurred.

- (5) Description of the violation.
- (6) Amount of the fine for the violation and procedure to pay the fine and avoid a late payment penalty.
- (7) Designation of the building violation (if applicable), date the thirty (30) day correction period expires, and how to request an extension of that period, and designation of a notice of noncorrection when the building violation has not been corrected.
- (8) Designation of prior citations issued for the same Code violations, if known by the code enforcement officer.
- (9) Description of the procedure for requesting a waiver of fine deposit and/or an administrative review to contest a citation.
- (10) Designation of an assigned hearing date, time and location to be used if the citee files a request for waiver of the fine deposit and/or an administrative review.
- (11) A notice that the Code violation is a nuisance and the process for the collection of unpaid fines and/or nuisance abatement costs as more specifically set forth in section 1-48.
- (12) Signature of the code enforcement officer issuing the citation.
- (13) Date the citation is issued.
- (14) A self-addressed envelope in which the citee can send to the city the fine or a request for a waiver of fine deposit and/or an administrative review.
- (15) Any other information deemed necessary by the director for enforcement or collection purposes.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-39. Service of civil citations.

A civil citation may be served as follows:

- (a) A code enforcement officer may personally serve the citation on the citee. The citee shall sign a copy of the citation showing his or her receipt of the citation.
- (b) A code enforcement officer may mail the citation by first class mail, if the citee is not present for personal service when the officer determines there has been a violation. The citation shall be mailed to the citee's address shown on the county's last equalized property tax assessment rolls for a property related violation, or to any address known for the citee for all other violations.
- (c) A code enforcement officer may post a copy of the citation on the property in a conspicuous place for a property related violation when the citee resides at an unknown address other than where the violation occurs. A copy of the citation will also be mailed to the citee at the property address.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-40. Amount of civil fines.

- (a) The amount of the fines for violating particular provisions of this Code shall be set in a schedule of fines adopted by resolution by the city council. The schedule may include escalating fine amounts for repeat Code violations occurring within specified periods of time.

(b) The schedule of fines may also specify the amount of interest and late payment penalty owed for any fine not paid when due. A late payment penalty and interest shall be imposed for fines not paid within thirty (30) days of their due date.

(c) Fines are due on the day the citation is issued, except (i) fines for building violations shall be due on the day the second citation containing the notice of noncorrection is issued and (ii) when a fine deposit has been waived pursuant to section 1-44 and the hearing officer upholds the citation the fine shall be due on the date the decision is made and the notice of decision given to the citee at the end of the hearing by the hearing officer, or the date the notice of decision is mailed to the citee.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-37.

Sec. 1-41. Payment of civil fines.

(a) A civil fine shall be paid to the city finance department within thirty (30) days of its due date.

(b) Payment of a fine shall not excuse the citee from correcting the Code violation. The issuance of a citation and/or payment of a fine does not bar the city from taking any other enforcement action regarding a Code violation that is not corrected, including issuing additional civil citations, and/or filing criminal complaints.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-38.

Sec. 1-42. Preliminary review.

(a) A person given a civil citation may request a preliminary review, if the request is received by the department within fourteen (14) days of the date the citation is issued, except a citation containing a notice of noncorrection of a building violation shall not be subject to a request for preliminary review.

(b) To obtain a preliminary review, the citee shall appear at the public service counter of the department at City Hall and bring a copy of the citation and file a signed written request stating the reasons why and any evidence showing no violation occurred or why he or she is not a responsible person for the violation. All filed requests shall be date stamped upon receipt by the department.

(c) The preliminary review shall be conducted by a city employee designated by the director. The reviewer shall not be the Code enforcement officer who issued the citation. The purpose of the review is to uncover and cancel any mistakenly issued citations due to errors that are easily verifiable, and not to resolve factual disputes concerning the violation that is the subject of the citation.

(d) The preliminary review may be decided on the same day filed by the citee and shall consist of a review of the citation and the written statement and any other evidence submitted at the time of the request by the citee and, at the discretion of the reviewer, any other related information. The review shall be decided whenever reasonably possible at the time the request is received or otherwise within three (3) business days of receipt of the request.

(e) The citee shall be notified of the results of the review by being given a notice of decision. The notice may be made by mail, facsimile, or in person. The department shall keep a record of all preliminary review requests, decisions, and notices for a two (2) year period.

(f) A request for preliminary review does not extend any time periods for compliance, including the fine due date, the time any correction period ends, and the time to request an administrative review.

(g) If the conclusion of the preliminary review is that no Code violation occurred or that the citee was not responsible for the violation, the citation shall be canceled.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-39.

Sec. 1-43. Request for administrative review.

(a) Any person receiving a civil citation may contest it by filing a request for an administrative review, except that a review of a building violation may not be requested unless and until a second citation containing a notice of noncorrection is issued. To obtain an administrative review, the citee shall file a signed written request form contained on the reverse side of the citation and indicate the grounds for contesting the citation and fine. A citee may contest the citation by denying that a violation occurred, by denying that it was not corrected within the correction period, if applicable, or by denying that the citee is a responsible person for the violation.

(b) To be effective and complete, the request must be received by the city within thirty (30) days of the date the citation was issued, and be accompanied by a deposit of the full amount of the fine. The request will not be accepted for filing if not accompanied by the fine deposit unless the citee also requests a waiver of the fine deposit pursuant to section 1-44. Where a request and fine deposit are mailed by the citee, the request and fine deposit shall be deemed filed on the date received by the city. All requests shall be date stamped upon receipt by the city. The director is authorized to designate the location within the city where the fines and deposits must be delivered to the city to satisfy this subdivision.

(c) The person requesting the administrative review shall appear at the hearing on the date, time and place specified on the citation. Failure to personally attend the hearing will be considered a nonappearance. Non-appearance by the citee shall constitute an abandonment of the request unless the hearing was continued pursuant to section 1-45(f).

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-44. Waiver of fine deposit.

(a) A person filing a request for an administrative review may also request at the same time a hardship waiver of the fine deposit. To seek such a waiver and obtain a separate hearing on the request, the citee shall file with the city the signed written request form contained on the reverse side of the citation, check the box indicating this request, and attach a statement on the grounds for the request. The procedure governing the filing of such requests shall be the same as provided in section 1-43(b).

(b) The person requesting the waiver bears the burden of establishing by substantial evidence that he or she does not have the financial ability to make the deposit of the fine. The citee shall personally appear at the hearing on the request and non-appearance shall constitute an abandonment of the request unless excused pursuant to section 1-45(f).

(c) The request will be decided by the hearing officer at the hearing date, time and place specified on the citation. The request shall be heard at a separate hearing before the administrative review hearing on the contest of the citation. At the conclusion of the hearing on the waiver request, the hearing officer shall issue a decision that the fine deposit is or is not

waived. The hearing officer shall then insert on the notice of decision form the new date set for the administrative review which shall be within forty-five (45) days. A copy of the notice of decision shall be delivered to the citee at the end of the hearing on the waiver request.

(d) If the waiver is denied, the hearing officer shall give the citee a self-addressed envelope to use in making the fine deposit. The citee shall mail the deposit in the envelope provided so that it is postmarked at least three (3) business days before the date designated on the notice of decision for the administrative review. The director is authorized to designate the address to which the deposit is to be mailed. Failure to make the deposit by the time required shall be deemed an abandonment of the contest.

(e) The filing of a request for hardship waiver of the fine deposit does not extend the time within which to request an administrative review or any other time set forth in this chapter, except as provided in subsection (d), above. A hearing officer decision on the waiver is final and not subject to an appeal pursuant to section 1-47.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-41.

Sec. 1-45 Hearing procedures.

(a) Hearings shall be conducted by a hearing officer either: (i) on the date, time and place specified in the citation, (ii) on the date designated on the notice of decision when there was a request to waive the fine deposit which was heard on the date noted on the citation, or (iii) on a date set by the director at least ten (10) but not more than thirty (30) days after the citee requests a hearing pursuant to section 1-48(c) and at least ten (10) days notice thereof shall be given to the citee.

(b) The director shall ensure that the pertinent citation records are delivered to the hearing officer for a citation set for hearing, including information showing all fine deposits and waivers granted. The director shall also make available to the citee before the hearing a copy of any additional reports concerning the citation that are provided to the hearing officer.

(c) The citee shall be given the opportunity to testify and to present evidence relevant to financial hardship, the Code violation specified in the citation, or the fact that all fines have been paid. A parent or legal guardian of a citee who is a juvenile, under 18 years of age, shall accompany the citee at the hearing or any request or contest shall be deemed abandoned.

(d) The citation, and any other reports prepared by the code enforcement officer, or prepared at his or her request, concerning the Code violation, attempted correction of the Code violation, or fine payments that are provided to the hearing officer shall be accepted by the hearing officer as prima facie evidence of the code violation and the facts stated in such documents.

(e) Neither the code enforcement officer nor any other representative of the city shall be required to attend the hearing, nor shall the hearing officer require that there be submitted any evidence, other than the citation, that may exist among the public records of the city on the violation. However, any such appearance and/or submission may be made at the discretion of the code enforcement officer or any city employee or agent.

(f) The hearing officer, director, or city attorney may continue a hearing if a request is made by the citee, or the citee's representative, or the representative of the city, upon a showing of good cause. All continuance requests shall either (i) be made in person at the hearing by the citee or a representative if the citee is physically unable to attend, or (ii) be made by a written request received by the department at least twenty-four (24) hours before the hearing date. If the continuance is granted, a new hearing date shall be set within forty-five (45) days and noted on the notice of decision. If the continuance is denied, the hearing shall proceed as scheduled, and if the citee is not present the request shall be deemed abandoned in accordance with

subdivision (h) below. The decision on the continuance request is final and the notice shall either be delivered personally to the citee or the representative if present or be mailed by the department. If the request for continuance is not made in person, the citee is responsible for determining whether the request is denied and the hearing is to proceed as scheduled.

(g) The hearing shall be conducted informally and the legal rules of evidence need not be followed. The hearing officer does not have the authority to issue a subpoena.

(h) The failure of the citee to appear at the hearing, unless the hearing was continued per subdivision (f) above, shall constitute an abandonment of the request for waiver of the fine deposit and/or administrative review, and a failure to exhaust administrative remedies concerning the violation as set forth in the citation. The fine deposit shall be credited by the city upon the fine due for the violation. The citee's failure to appear shall be noted on the notice of decision by the hearing officer and it shall be mailed to the citee.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-42.

Sec. 1-46. Administrative review decision.

(a) After considering all the evidence and testimony submitted at the administrative review, the hearing officer shall issue a written decision to uphold the citation or cancel it based upon a conclusion of whether or not a violation occurred for which the citee was a responsible person. The hearing officer has no discretion or authority to reduce or modify a fine. The decision will be made on a notice of decision form and designate the reasons and evidence considered for the decision. The decision of the hearing officer shall be made at the conclusion of the hearing and shall be final. The notice of decision shall be personally delivered to the citee at the conclusion of the hearing.

(b) If the decision is to uphold the citation, the city shall keep the fine deposited. If the decision is to cancel the citation, the city shall refund the fine deposit to the citee within thirty (30) days of the filing of the decision. If the citation is upheld and the fine deposit had been waived, the fine shall be due on the date the decision is given to the citee at the end of the hearing by the hearing officer, or the date the notice of decision is mailed to the citee. The hearing officer may collect any fine due from the citee at the end of the hearing.

(c) The hearing officer's continued employment, performance evaluation, compensation, and benefits shall not directly or indirectly be linked to the number of citations upheld or canceled by the officer.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-43.

Sec. 1-47. Right to judicial review.

(a) The citee may seek judicial review of the administrative review decision by filing an appeal with the superior court within twenty (20) calendar days after the citee receives a copy of the notice of decision at the conclusion of the hearing in accordance with the provisions of California Government Code section 53069.4. The appeal filed with the court shall also contain a proof of service showing a copy of the appeal was served upon the "City of Costa Mesa (Attention: City Attorney)." The citee must pay to the superior court the statutory filing fee when the appeal is filed.

(b) No appeal is permitted from a decision regarding:

- (1) A request for preliminary review,
 - (2) An extension of the thirty (30) day correction period for building violations,
 - (3) A request for waiver of the fine deposit, or
 - (4) A decision the citee is deemed to have abandoned the contest of the citation or fine due to her or his failure to appear at the hearing or failure to deposit the fine.
- (c) The city attorney shall forward to the superior court within fifteen (15) days of its request, the pertinent citation documents for any case appealed to that court. If the superior court cancels any citation, the city will refund any fine deposit made and the appeal filing fee.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-44.

Sec. 1-48. Collection of unpaid fines.

- (a) The city at its discretion may pursue any and all legal and equitable remedies for the collection of unpaid fines, interest and penalties. Pursuit of one remedy does not preclude the pursuit of any other remedies until the total fines, interest and penalties owed by a person under this chapter have been collected.
- (b) the city may refuse to issue, extend, or renew any city permit, license, or other city approval to any person, who has unpaid delinquent fines, interest, penalties, liens or assessments due under this chapter, related to the permit, license, or approval.
- (c) The city may suspend any permit, license, or land use approval issued to a person who has unpaid fines related to the permit, license, or approval totaling five hundred dollars (\$500.00) or more that have been delinquent for over thirty (30) days. The suspension shall become effective twenty (20) days after the day notice of the suspension is placed by the director in the U.S. mail, postage prepaid, addressed to the person and shall continue until the delinquency is paid in full. The person may request an administrative hearing pursuant to the procedures in section 1-45 on the issue of fine delinquency only, if the request is filed with the director before the twenty (20) day period ends. Continuing to operate under a suspended permit, license or approval shall be grounds for revocation of the permit, license or approval. Revocation may be made by the city planning commission at a public hearing for which the same notice shall be given as required for issuance of the permit, license, or approval involved, but in no event shall there be less than ten (10) days written notice.
- (d) It shall be unlawful for a citee to fail to pay any civil fine, interest, or penalty imposed pursuant to this chapter. The city attorney, at his or her discretion, may issue a criminal citation or complaint for an infraction to any citee who fails to make such a payment. The criminal fine for this violation shall be a mandatory minimum of one hundred dollars (\$100.00).
- (e) Any violation of this Code shall constitute a nuisance. To compel code compliance, the city may seek to abate the nuisance and collect the costs incurred by means of a nuisance abatement lien and/or special assessment against the property where a property related violation occurred. Any unpaid delinquent civil fines, interest and penalties may be recovered as part of any such lien or special assessment against the property of the responsible person who is the owner of the property where the violation occurred pursuant to Government Code sections 38773.1 and 38773.5.
- (1) To pursue an abatement of a code violation as a nuisance and recover the costs, including any delinquent civil fines, interest and penalties as an abatement lien or special assessment, the city's director of finance may at his or her discretion take the following steps:

- a. Submit to and receive from the city council a resolution certifying the amounts of the liens and special assessments sought to be collected from each property owner;
- b. Request the Orange County Recorder to record a notice of any liens, or special assessments, and send the Recorder the resolution certifying the amounts;
- c. Request the Orange County Tax Collector to collect any special assessments certified by the city council; and
- d. Take any other necessary action to enforce collection of any liens, or special assessments provided for in this chapter.

(2) The director may pursue the lien and special assessment remedies whether or not the city is pursuing any other action to terminate an ongoing Code violation that was the basis for the fine.

(3) All citations shall contain a notice that unpaid fines, interest and penalties are subject to the assessment and lien collection procedures of this section. The lien or assessment shall be imposed on the date the citation for the Code violation is issued to the responsible person and becomes effective upon the recording of a Notice of Lien or Assessment by the County Recorder. This notice shall satisfy the notice requirements of Government Code sections 38773.1 and 38773.5, when a civil citation is personally served on the citee. In addition, the city finance director shall send notice by first class mail stating the date, time and location of the meeting to each property owner listed in the proposed resolution at least ten (10) days before the city council considers the resolution and certifies the amounts of the liens and special assessments.

(4) A citee may contest the amount and/or validity of any lien or assessment for a civil fine at the public hearing to certify the amount of the lien or assessment by city council pursuant to subsection (e) of this section. Such contests shall be limited to the issue of the amount and/or validity of the lien or assessment and may not consider whether the underlying Code violation occurred. Pursuit of such a contest by a responsible person is necessary to exhaust the administrative remedies concerning a legal challenge to the validity of any such lien or assessment.

(f) The parent or legal guardian of a citee who is a minor shall be liable for any fines imposed upon the minor pursuant to the provisions of this chapter. Any such fines may be collected from the minor, parent or guardian.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-45.

Sec. 9-179. Definitions.

Dangerous fireworks means every fireworks article which does not bear the safe and sane classification label of the state fire marshal, or whose sale is prohibited by city council resolution.

Fireworks means blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, fire balloons (balloons of a type which have burning material of any kind attached thereto or which require fire underneath to propel them), firecrackers, torpedoes, sky rockets, roman candles, daygo bombs, sparklers, or other fireworks of like construction and any fireworks containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, but does not include toy pistols, toy canes, toy guns, or other similar devices in which paper caps containing not more than twenty-five hundredths (0.25) grain of explosive compound per cap, is used.

Principal and permanent meeting place means a place that is owned, rented, or leased by the organization, or a meeting room, hall, or facility where the organization has a right to demand exclusive occupancy at specific times and dates for regularly scheduled meetings.

Safe and sane fireworks means only those fireworks articles that have been classified and registered as safe and sane by the state fire marshal.

Youth means persons under nineteen (19) years of age.

(Ord. No. 04-5, § 1, 5-17-04)