



# **CITY COUNCIL AGENDA REPORT**

---

MEETING DATE: May 5, 2009

ITEM NUMBER: **VIII-4**

**SUBJECT:** MUNICIPAL CODE AMENDMENT FOR FIREWORKS ENFORCEMENT

**DATE:** APRIL 29, 2009

**FROM:** CITY MANAGER'S DEPARTMENT/ADMINISTRATIVE DIVISION

**PRESENTATION BY:** ANN C. SHULTZ, LEGISLATIVE AND PUBLIC AFFAIRS MANAGER

**FOR FURTHER INFORMATION CONTACT:** ANN C. SHULTZ, 714 754-5667

---

## **RECOMMENDATION:**

That the City Council give first reading to Ordinance 09-06 of the Costa Mesa Municipal Code adding wording to Section 9-179 clarifying dangerous fireworks and adding Section 7-19 reflecting amendments to Chapter 33 of the 2007 California Fire Code, Explosives and Fireworks.

## **BACKGROUND:**

In 2008, the City Council reviewed and adopted a number of options aimed at educating the community on, and preventing the use of illegal fireworks. At the March 10, 2009 Study Session, Mayor Pro Tem Wendy Leece presented additional options for the prevention of illegal fireworks to be considered by the City Council. Subsequently Mayor Pro Tem Leece narrowed the list to two options; one of which was the addition of enforcement of illegal fireworks to the Civil Citation process. At the April 7, 2009 meeting, the City Council approved moving forward with this option.

## **ANALYSIS:**

One of the two options the City Council reviewed and approved at their April 7, 2009 meeting was to issue administrative citations for those caught using fireworks illegally.

Costa Mesa currently has a program in place for other administrative citations such as code enforcement and dog ordinance violations. According to the City Attorney's Office, to include enforcement against illegal fireworks the City Council must adopt the following change to Section 9-179 of Ordinance No. 09-06 of the Costa Mesa Municipal Code:

- 1) Change wording in Chapter II, Article 8 of Title 9, Section 9-179 to read "*Safe and sane fireworks* means only those fireworks articles that have been classified and registered as safe and sane by the state fire marshal, **and which have not**

**been altered or been tampered with or used in other than the manner prescribed by the Manufacturer and State Fire Marshall.**

In addition, the Fire Department has indicated that Section 7-19 must be added reflecting amendments to Chapter 33 of the 2007 California Fire Code, Explosives and Fireworks.

**FISCAL REVIEW:**

No fiscal review is necessary.

**LEGAL REVIEW:**

The City Attorney's Office has recommended, reviewed, and approved the changes to the Costa Mesa Municipal Code.

**CONCLUSION:**

Staff recommends that the City Council give first reading to Ordinance 09-06 of the Costa Mesa Municipal Code adding wording to Section 9-179 clarifying dangerous fireworks, and adding Section 7-19 reflecting amendments to Chapter 33 of the 2007 California Fire Code, Explosives and Fireworks.



ANN C. SHULTZ

Legislative and Public Affairs Manager



THOMAS R. HATCH

Assistant City Manager

---

KIMBERLY HALL BARLOW

City Attorney

ATTACHMENTS: 1 Ordinance 09-06

Changes to Mun. Code Related to  
Fireworks

April 29, 2009

10:10 AM

ORDINANCE NO. 09-6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING SECTION 9-179 AND ADDING SECTION 7-19 OF THE COSTA MESA MUNICIPAL CODE REGULATING FIREWORKS.

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

**Section 1.** Chapter II, Article 8 of Title 9 of the Costa Mesa Municipal Code is hereby amended to read as follows:

**ARTICLE 8. FIREWORKS SALES**

**Sec. 9-179. Definitions.**

(c) *Safe and sane fireworks* means only those fireworks articles that have been classified and registered as safe and sane by the state fire marshal, and which have not been altered or been tampered with or used in other than the manner prescribed by the Manufacturer and State Fire Marshal.

Section 7-19 is added and reads as follows:

**Sec. 7-19. Amendments to Chapter 33 of the 2007 California Fire Code, Explosives and Fireworks**

Section 3309 is added as follows:

**Sec. 3309. Requirements for fireworks stands.**

All temporary stands for the display and sale of fireworks shall be located, maintained and operated subject to the following provisions:

3309.1. No fireworks display or stand shall be erected within one hundred (100) feet of any gasoline dispensing device or room in which vehicles containing gasoline are repaired or within thirty-five (35) feet of any other structure. Minimum setback from a public sidewalk shall be five (5) feet; setback from street curbing shall be not less than

ten (10) feet where no sidewalk exists.

3309.2. There shall be maintained in each premises or stand within which fireworks are sold or offered for sale, a fire extinguisher with a minimum rating of 2A, 10BC located adjacent to each exit.

3309.3. No person shall light or cause or permit to be lighted any fireworks, match, lighter, or any other article or material within any such stand or within fifty (50) feet thereof.

3309.4. No smoking shall be allowed in any structure used for the sale and display of fireworks or within fifty (50) feet of said structure. "No Smoking" signs shall be displayed prominently and in a number prescribed by the fire chief.

3309.5. All such temporary stands shall be constructed to existing city requirements and specifications.

3309.6. All such temporary stands for the display and sale of fireworks shall obtain an electrical permit from the City of Costa Mesa prior to performance of any electrical work.

3309.7. No arc or klieg light shall be located within seventy-five (75) feet of any temporary stand selling fireworks.

3309.8. Reserved.

3309.9. Reserved.

3309.10. The permittee shall strictly comply with all of the provisions of the State Fireworks Law, Sections 12500 et seq. of the Health and Safety Code of the State of California.

3309.11. Fireworks shall be stored and kept only in the permittee's sale booth. It shall be unlawful to store any fireworks intended for sale in any building, residence, garage, home or automobile within the City of Costa Mesa.

3309.12. There shall be at least one (1) adult in attendance during any open or sale hours of the fireworks stand. No person under the age of eighteen (18) years, and no person who is physically or mentally unable to move himself shall be permitted within a fireworks stand.

3309.13. The permittee shall provide an adult night watchman to act and serve during the hours of storage. Under no circumstances shall any night watchman sleep

within any fireworks stand.

3309.14. No alcoholic beverages shall be allowed on the premises.

3309.15. All fireworks fuses shall be taped.

3309.16. All permits must be posted in a conspicuous place.

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

Section 4. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 5. Publication. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the NEWPORT BEACH/COSTA MESA DAILY PILOT, a newspaper of general circulation, printed and published in the

City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this 19<sup>th</sup> day of May, 2009.

\_\_\_\_\_  
Allan R. Mansoor, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Julie Folcik, City Clerk

\_\_\_\_\_  
Kimberly Hall Barlow, City Attorney

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

ss

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 09-6 was duly introduced for first reading at a regular meeting of the City Council held on the 5th day of May, 2009, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the \_\_\_\_ day of May, 2009, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this \_\_\_\_ day of May, 2009.

\_\_\_\_\_  
JULIE FOLCIK, CITY CLERK

(SEAL)

I hereby certify that the above and foregoing is the original of Ordinance No. 09-6 duly passed and adopted by the Costa Mesa City Council at the regular meeting held May \_\_, 2009, and that summaries of the Ordinance were published in the Newport Beach-Costa Mesa Daily Pilot on May \_\_\_\_, 2009 and May \_\_\_\_, 2009.

\_\_\_\_\_  
JULIE FOLCIK, CITY CLERK