

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 2007California 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 19th 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) ss
CITY OF COSTA MESA)

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