



CITY COUNCIL AGENDA REPORT

MEETING DATE: May 19, 2009

ITEM NUMBER:

SUBJECT: MUNICIPAL CODE AMENDMENT FOR FIREWORKS ENFORCEMENT

DATE: MAY 7, 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 second 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: notification of enforcement measures to those areas that experience high levels of illegal fireworks via the reverse 911 system; and 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 these options. The City Council also approved changing the cap for the number of fireworks stands permits issued from a floating cap not to exceed 32 to a set cap of 40.

ANALYSIS:

At the April 7, 2009 meeting, the City Council approved three actions related to the enforcement of illegal fireworks. First, staff is working on the implementation of the reverse 911 system to notify areas that experience a high level of illegal fireworks of the increased enforcement this year.

Second, the City Council approved the issuance of civil citations for those caught using fireworks illegally. Costa Mesa already has in place a civil citations ordinance that gives the City the authority to issue civil citations for all code violations. The ordinance is codified in Chapter II of Title 1 of the Costa Mesa Municipal Code, beginning with

Section 1-34. For example, civil citations may be issued by Code Enforcement, or for violations of the dog license ordinance, among other provisions. No civil citations have yet been issued for violations of the provisions relating to the use and sale of illegal fireworks in the City.

According to the City Attorney's Office, the civil citation ordinance allows any city employee authorized to enforce the code to issue citations for violations of any provision of the Costa Mesa Municipal Code. Civil citations may also be issued for violations of any of the provisions of the 2007 California Fire Code, which relate to illegal fireworks. The 2007 California Fire Code is adopted by the City of Costa Mesa by reference pursuant to Section 7-14 of Chapter II of Title 7 of the Costa Mesa Municipal Code.

The following amendment to Section 9-179 of the Costa Mesa Municipal Code is recommended to clarify the intended meaning of "Safe and Sane Fireworks." This clarification ensures that persons who use or sell fireworks that have been altered in any way, or that are used in a manner contrary to their intended use, can be issued administrative citations for use, possession or sale of dangerous fireworks.

- 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 marshal.**"

In addition, during a final review of changes to the Code, the Fire Department indicated that Section 7-19 be added to reflect recent amendments to Chapter 33 of the 2007 California Fire Code, Explosives and Fireworks.

Third, City Council Policy 400-2 has been amended to reflect the cap of forty fireworks stand permits (see Attachment 2).

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 second 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.

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ATTACHMENTS: 1 [Ordinance 09-06](#)
 2 [Council Policy 400-2](#)

