



CITY COUNCIL AGENDA REPORT

MEETING DATE: MAY 18, 2010

ITEM NUMBER:

SUBJECT: AMENDING ARTICLE 8 OF THE COSTA MESA MUNICIPAL CODE REGULATING FIREWORKS

DATE: MAY 6, 2010

FROM: CITY MANAGER'S DEPARTMENT

PRESENTATION BY: THOMAS R. HATCH, ASSISTANT CITY MANAGER

**FOR FURTHER INFORMATION CONTACT: THOMAS R. HATCH, ASSISTANT CITY MANAGER @ 714-754-5328
KELLY R. SHELTON, EXEC. ASSIST. TO CITY MANAGER @ 714-754-5328**

RECOMMENDATION:

That the City Council give second reading to Ordinance 10-6 of the Costa Mesa Municipal Code (Attachment 1) with the following amendments:

1. Amend language to Costa Mesa Municipal Code Section 9-190(d) reflecting new hours of operation for fireworks stands on July 4; and
2. Amend language to Costa Mesa Municipal Code Section 9-190(a) allowing the sale of hand-held devices as deemed "safe and sane" by the California State Fire Marshall.

BACKGROUND:

At the City Council meeting of May 4, 2010 (Attachment 2), the City Council approved two amendments to the Costa Mesa Municipal Code relative to the hours of operation of firework stands on the 4th of July and the sale of "hand-held devices".

At the City Council meeting of April 20, 2010 (Attachment 3), the City Council reviewed a request from a number of non-profit organizations to amend the existing fireworks ordinance to extend the hours of operation for the sale of fireworks on the 4th of July from 8:00 p.m. to 9:00 p.m. and to allow the sale of hand-held devices as deemed "safe and sane" by the California State Fire Marshall. The City Council received public input and approved the request for the two changes with a vote of 3-1 for the request to extend operating hours on the 4th of July and with a vote of 4-0 to allow for the sale of hand-held devices. The approval of these two requests requires a modification to both Municipal Code Section 9-190(a) and (d) and a revision to Council Policy 400-2.

ANALYSIS:

At their April 20, 2010 meeting, the City Council approved two actions related to the sale of fireworks in the City of Costa Mesa. First, to extend the hours of operation for the sale of fireworks from 8:00 p.m. to 9:00 p.m. and secondly, to allow the sale of hand-held devices as deemed "safe and sane" by the California State Fire Marshall.

The City Council must adopt the following changes to Section 9-190 of the Costa Mesa Municipal Code:

1. Change wording in Section 9-190(d) to read, "No person shall sell or offer for sale fireworks within the city unless such sale occurs between July 1st and ~~8:00~~ 9:00 p.m. on July 4th, inclusive."; and
2. Change wording in Section 9-190(a) to read, "No person shall discharge, sell or offer for sale, any fireworks within the city which are classified as dangerous fireworks, ~~or wood core or metal core sparklers~~ as those terms are defined by the California Health and Safety Code."

In addition, Council Policy 400-2 must also be revised with the following wording:

1. Modify wording of No. 1 under Regulations to read, "The sale of "spinners" and similar fireworks ~~and the sale of any fireworks that are intended to be "hand held"~~ are prohibited. This prohibition shall be effective immediately for the sale of these devices individually or in homogeneous packages, and their sale within group packages containing an assortment of various fireworks devices shall be prohibited beginning in year 2006. The Fire Chief shall prepare (and update as needed) a list of the common names of the various fireworks devices that are ~~"hand held"~~ and "spinners." This list will be made available to fireworks manufacturers, distributors and other interested persons.
2. Modify wording of No. 10 under Regulations to read, "Fireworks sales to the public on 7/1 through 7/3 shall be limited to between the hours of 10:00 a.m. and 10:00 p.m. each day. On 7/4, fireworks sales to the public shall be limited to between the hours of 9:00 a.m. and ~~8:00~~ 9:00 p.m."

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 and attached Ordinance 10-6.

CONCLUSION:

Staff recommends that the City Council give second reading to Ordinance 10-6 of the Costa Mesa Municipal Code amending Article 8, Section 9-190 of the Costa Mesa Municipal Code regulating reflecting new hours of operation of the fireworks stands on July 4 and the permissible sale of hand-held devices.

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Assistant City Manager

KIMBERLY HALL BARLOW
City Attorney

ATTACHMENTS: 1 [Ordinance 10-6](#)
 2 [City Council Staff Report – May 4, 2010](#)
 3 [City Council Staff Report – April 20, 2010](#)

DISTRIBUTION: Fire Chief
 Police Chief
 Revenue Supervisor