



CITY COUNCIL AGENDA REPORT

MEETING DATE: OCTOBER 7, 2014 ITEM NUMBER: _____

SUBJECT: REQUEST FOR AMENDMENTS TO COUNCIL POLICY 400-2 REGULATIONS GOVERNING FIREWORKS

DATE: SEPTEMBER 17, 2014

FROM: CHIEF EXECUTIVE OFFICE

PRESENTATION: COUNCIL MEMBER WENDY LEECE

FOR FURTHER INFORMATION CONTACT: DAN BAKER (714) 754-5156

RECOMMENDATIONS:

It is recommended by Council Member Leece that the City Council consider and adopt the proposed changes to Council Policy 400-2 (Attachment 1) which deals with the sale and discharge of fireworks within the City of Costa Mesa.

BACKGROUND:

In 2010, at the request of a number of non-profit organizations, the City Council amended the Municipal Code and Council Policy 400-2 to extend the hours 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.

In 2011 the Council received additional requests from two non-profit groups seeking the City's approval to begin selling fireworks one day earlier by changing the commencement date from the current date of July 1st to commence on June 30th. This request allowed the non-profits one additional day to capture more sales over the extended weekend. Additionally, Council Policy 400-2 was amended to included ground spinning fireworks as deemed "safe and sane" by the California State Fire Marshall.

In 2012, the Council made additional amendments to Council Policy 400-2. The added provisions allowed for additional transparency regarding booth application paperwork, set a limit on the maximum number of booth applicants, and set maximum costs regarding site rental fees and waived all City permit and inspection fees.

Council Member Leece is seeking adoption of a number of changes to the existing policy due to July 4th falling on a Saturday in 2015, which could potentially lead to a greater level of celebration.

Council Member Leece indicates that she has received a number of complaints by Costa Mesa residents whose quiet enjoyment of their homes and pets during the days preceding and following July 4th is impacted by the City's current Council Policy 400-2 which allows for the sale of fireworks for 5 days and discharge for 3 days. After hearing these complaints

Council Member Leece formed a citizen firework study group. This groups recommendations are listed below for council consideration.

ANALYSIS:

It is the belief of Council Member Leece that the current policy grants too much liberty to the 4th of July celebrants who discharge fireworks and takes away liberty and in fact penalizes those who do not use fireworks. Council Member Leece also feels that the current policy, in granting extra days of sales and discharge, promotes an overuse and proliferation and is implied consent of illegal fireworks which are masked by neighbors using safe & sane fireworks.

In addition, she has heard concerns from residents that due to drought conditions, the discharge of illegal fireworks puts parts of Costa Mesa at greater risk of fire damage, including both Talbert and Fairview Park.

The proposed changes for consideration reduce the days which safe & sane fireworks can be sold and limit the number of days of discharge. The proposed changes limit the sale of fireworks to July 3rd and 4th and limit the day of discharge to only the 4th of July. Council Member Leece believes that celebrating only on July 4th highlights the American tradition of celebrating our American independence. Council Member Leece feels that the proposed policy changes are fair and will reduce the impact of fireworks while still allowing the community to celebrate this tradition. In addition, the changes could potentially assist police and fire to identify potential hot-spots of illegal discharge on days before and after July 4th.

The following changes are proposed for consideration to Council Policy 400-2:

- Add additional language to the purpose section to read, "**The City Council has a zero tolerance for the sale and discharge of illegal fireworks.**"

The proposed changes to the purpose would read:

The City Council wishes to adopt additional regulations governing the sale and discharge of fireworks in order to increase the protection and well-being of our citizens. The Council intends to tighten the safety regulations while still allowing our residents the limited use of fireworks. **The City Council has a zero tolerance for the sale and discharge of illegal fireworks.**

- Remove the language in Regulation No. 6 that states "~~2012~~," and replace it with "**2014**" and remove the number "~~38~~," and replace it with "**37**." In addition, replace the year "~~2012~~," with the year "**2014**".

The Proposed changes to Regulation No. 6 would read:

Currently, Council Policy 400-2 allows no more than 40 permits for firework sale stands to be issued annually for the 4th of July holiday. As of July 1, ~~2012~~ **2014**, the City issued ~~38~~ **37** firework sale stand permits. The Council, through attrition, desires to reduce the maximum allowed firework sale stand permits issued annual to 25. All user groups who were issued permits for the July 4th ~~2012~~ **2014** holiday will continue to be eligible to receive a permit until such time as the group relinquishes rights to the permit (even if the total is over the 25 permit limit). If less than 25 permits in any year are issued, the Finance Department will use a lottery system to allocate the remaining permits to the user groups that have been placed on a waiting list.

- Remove language in Regulation No. 9 that states “~~6/30 through~~”. In addition, remove the words, “~~each day.~~”

The proposed changes to regulation No. 9 would read:

Fireworks sales to the public on ~~6/30 through~~ 7/3 shall be limited to between the hours of 10:00 am 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 am and 9:00 p.m.

- Remove language in regulation 10 that reads “~~the Second of July (7/2) through~~”. Additionally, remove “~~and~~” and “~~each day.~~”

The proposed changes to regulation No. 10 would read:

Discharge of safe and sane fireworks shall be limited to ~~the Second of July (7/2) through~~ the Fourth of July (7/4) ~~and~~ during the hours of 4:00 pm to 10:00 pm ~~each day.~~

Additional changes for consideration:

After hearing complaints about illegal firework noise before and after July 4, 2014, Council Member Leece formed a Citizens' Fireworks Study Group. This group is proposing the seven recommendations listed below for council consideration.

Staff is requesting that council consider the following recommendations and provide staff direction on adoption or which of these should be studied further.

1. The City Manager/CEO form a Police Task Force and allocate up to \$50,000 for police overtime and hiring outside agency officers for firework abatement.
2. That City flyers prominently display flyers/sign boards, news releases, etc. stating citations from \$1,000 to \$50,000 and/or jail or prison time will be given to those who discharge illegal fireworks.
3. The City Manager/CEO coordinate a City celebration on July 4, 2015, which would include a fireworks show and fundraising booths for booster clubs.
4. The City Manager/CEO form a study group of booster club members including youths, residents and council members interested in studying new fundraising ideas such as Bingo, where the booster clubs would be successful in fundraising to support their activities. The Fireworks Study Group believes our local youth should be more involved in major fundraising activities. Currently only adults may sell safe and sane fireworks.
5. The City Manager/CEO determine the amount of money currently earned through fireworks sales by each booster club.
6. The City Manager/CEO revise regulation Number 7 to require that before any permits are issued for any year that the fireworks industry prepare and distribute flyers in both English and Spanish, explaining fireworks safety and water quality protection, to all Costa Mesa schools for their students.

7. The City Manager/CEO will contract with an autodialing service on or around the 4th of July holiday and will notify all residents that the City Council has a zero tolerance for illegal fireworks and will notify the residents of the new dates and times for sale and discharge of safe and sane fireworks.

Staff is requesting that council consider the aforementioned recommendations and provide staff direction on adoption or which of these should be studied further.

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved the amendments to the Council Policy as to form.

FISCAL REVIEW:

A number of the proposed changes will have potential fiscal impacts. However, it is unknown what these impacts may be at this time. Based upon Council direction, staff will research these impacts and provide Council with additional information if applicable.

CONCLUSION:

The proposed changes to Council Policy 400-2 will help clarify the sale and discharge for all user groups interested in applying for a firework stand permit as well as promote safety.

THOMAS R. HATCH
CEO

DANIEL K. BAKER
Management Analyst

Attachment 1 [Council Policy 400-2](#)