



City Manager Office  
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Item # 28

**City of Santa Ana**  
**20 Civic Center Plaza, Santa Ana, CA 92701**  
**Staff Report**  
**April 19, 2022**

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**TOPIC:** Fireworks

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**AGENDA TITLE:**

Charter Review Ad Hoc Committee's Recommendation on Fireworks

**RECOMMENDED ACTION**

Accept informational report and provide direction to staff.

**DISCUSSION**

**Background**

At the December 21, 2021 City Council meeting, Mayor Pro Tem Bacerra, Councilmember Mendoza, and Councilmember Phan added the following councilmember requested item: Discuss and Consider Directing City Manager to Direct Staff to Introduce an Ordinance for a Ban on the Use, Possession and Sale of All Fireworks. There was consensus among the City Council to have the Charter Review Ad Hoc Committee consider a Charter amendment prohibiting all fireworks in Santa Ana.

**Legislative History**

The term "fireworks" has appeared in the Santa Ana Municipal Code since as early as 1984. Specifically, on April 16, 1984, the City Council adopted Ordinance No. NS-1727, adopting the 1982 Edition of the Uniform Fire Code as amended. Of significance, the ordinance defines and prohibits "dangerous fireworks," defines "safe and sane fireworks," and expressly allows discharging of safe and sane fireworks as specified. These regulations are found in Chapter 14, Article II of the Santa Ana Municipal Code.

***Definition of Dangerous Fireworks***

- (1) "Dangerous fireworks" includes all of the following:
  - (a) Any fireworks which contain any of the following:
    - (1) Arsenic sulfide, arsenates, or arsenites.
    - (2) Boron
    - (3) Chlorates, except:
      - (A) In colored smoke mixture in which an equal or greater amount of sodium bicarbonate is included.

- (B) In caps and party poppers.
- (C) In those small items (such as ground spinners) wherein the total powder content does not exceed 4 grams of which not greater than 15 percent (or 600 milligrams) is potassium, sodium, or barium chlorate.
- (4) Gallates or Gallic acid.
- (5) Magnesium (magnesium-aluminum alloys, called magnalium, are permitted).
- (6) Mercury salts.
- (7) Phosphorus (red or white except that red phosphorus is permissible in caps and party poppers).
- (8) Picrates or picric acid.
- (9) Thiocyanates.
- (10) Titanium, except in particle size greater than 100-mesh.
- (11) Zirconium.
- (b) Firecrackers.
- (c) Skyrockets and rockets, including all devices which employ any combustible or explosive material and which rise in the air during discharge.
- (d) Roman candles, including all devices which discharge balls of fire into the air.
- (e) Chasers, including all devices which dart or travel about the surface of the ground during discharge.
- (f) Sparklers more than 10 inches in length or one-fourth of one inch in diameter.
- (g) All fireworks designed and intended by the manufacturer to create the element of surprise upon the user. These items include, but are not limited to, autofoolers, cigarette loads, exploding golf balls, and trick matches.
- (h) Fireworks known as devil-on-the-walk, or any other fireworks which explodes through means of friction, unless otherwise classified by the State Fire Marshal pursuant to this part.
- (i) Torpedoes of all kinds which explode on impact.
- (j) Fireworks kits.
- (k) Such other fireworks examined and tested by the State Fire Marshal and determined by him, with the advice of the State Board of Fire Services to possess characteristics of design or construction which make such fireworks unsafe for use by any person not specially qualified or trained in the use of fireworks.

#### *Definition of Safe and Sane Fireworks*

"Safe and sane fireworks" means any fireworks which do not come within the definition of "dangerous fireworks" or "exempt fireworks".

#### *When Safe and Sane Fireworks May Be Discharged*

Sales and discharging are allowed during the following times:

- July 1<sup>st</sup>: 12 p.m. to 10 p.m.
- July 2<sup>nd</sup>: 10 a.m. to 10 p.m.
- July 3<sup>rd</sup>: 10 a.m. to 10 p.m.
- July Fourth: 10 a.m. to 9 p.m.

Additional elements of the City's fireworks regulations includes the following:

- Establishes a permitting process for fireworks booths
  - Capped at 85
  - Permits issued using a lottery
  - Establishes a fee
- Prescribes regulations for temporary stands
- Establishes public display permits
- Outlines storage and disposal requirements
- Declares that an individual cannot discharge fireworks toward any other person or in any other manner which threatens the safety of persons or property

The City's fireworks regulations have been amended four times, each time as part of the City Council adopting by reference updates to the State's Uniform Fire Code. Below is an overview of changes to the City's fireworks regulations as part of this process:

<b>Date</b>	<b>Changes</b>
May 7, 1990	Discharge of fireworks
February 3, 2003	Application for permit; Stand location on premises
November 15, 2010	Sale of safe and sane fireworks; hours of sale; Permits, issuance; Application for permit; Fee; Clean premises deposit; Electric circuits; Trash removal; Fireworks; public display; Exceptions; Prohibited areas
November 18, 2013	Application for permit; Regulations for temporary stands; Clean premises deposit; Stand location on premises; No smoking on premises; Electric circuits; Fireworks; public display; Seizure of fireworks

#### Implementation and Enforcement

Fireworks is a cross-departmental effort that encompasses several City departments. The Santa Ana Police Department enforces fireworks regulations, the Orange County Fire Authority responds to fires and injuries, and the Planning and Building Agency implements the permitting process for fireworks booths.

*Police Department*

Regarding fireworks, the Fourth of July Program includes education/outreach and enforcement/confiscation efforts. Field enforcement activity consists of undercover activity and uniformed enforcement. Prior to dedicated/assigned uniformed enforcement, Directed Patrol and regular patrol officers conduct a variety of sting operations and field fireworks-related calls for service. The majority of fireworks seizures occur prior to the Fourth of July holiday weekend.

Throughout the listed operations periods below, dedicated/assigned officers worked in both marked and unmarked police vehicles to respond to fireworks-related calls for service and enforce observed fireworks violations via confiscation and the issuance of administrative citations. These officers also handled a variety of music and party calls related to the Fourth of July holiday period.

The list below includes the respective year, operational period, total overtime hours, and total overtime cost for the Fourth of July operational period from 2017-2021.

<b>Year</b>	<b>Operational Period</b>	<b>Total Overtime Hours</b>	<b>Total Overtime Costs</b>
2017		313	\$22,536
2018	6/30 – 7/4	152	\$10,944
2019	6/29 – 7/5	45	\$3,975
2020	6/29 – 7/5	1,234.5	\$113,574
2021	6/28 – 7/5	616	\$59,203

Below is a by-year breakdown of the calls for service for the entire calendar year (note that the reporting period below differs from the table above):

<b>Year</b>	<b>Calls for Service</b>
2017	1,156
2018	1,128
2019	1,165
2020	2,673
2021	1,777

*Fire Department: Orange County Fire Authority (OCFA)*

OCFA is unable to sort fireworks-related expenditure data into specific itemized unit costing of fireworks-related calls for service, including investigations and fire prevention services. This is because OCFA provides a base annual contract price to the City that includes all necessary services such as emergency response, fire investigations, and fire prevention services that is inclusive of all call types. In short, OCFA's regional delivery system is one price that covers all services. However, OCFA prepares annual After Action

Reports that depict fireworks-related activity for each year. The After Action Reports for calendar years 2017 through 2021 are attached to this staff report (Exhibit 1). In summary, from 2017 to 2021, OCFA responded to 335 fireworks-related calls for service:

<b>Year</b>	<b>Calls for Service</b>
2017	74
2018	75
2019	69
2020	62
2021	55

### *Planning and Building Agency*

The Planning and Building Agency's Building Division administers the lottery and issues permits relating to fireworks stands. The cost to administer this program is approximately \$7,000 to \$8,500 per year. This cost includes staff time to issue permits, schedule and perform inspections, review fireworks applications, update the City website, handout materials, hold safety meetings, and correspond with vendors. To illustrate their activity, below is a table with a by-year breakdown of electrical permits issued associated with fireworks stands under this program, along with revenue generated for that year:

<b>Year</b>	<b>Electrical Permits Issued</b>	<b>Electrical Permit Fees Received</b>
2017	70	\$ 6,643.70
2018	49	\$ 4,806.90
2019	67	\$ 6,827.97
2020	58	\$ 6,142.78
2021	53	\$ 5,819.40

### *Fireworks Stands*

It is important to note that the City does not collect information relating to revenues received by organizations that operate fireworks stands.

### Environmental Impacts

Fireworks are classified as hazardous by the Federal Hazardous Substances Act because they can have dangerous adverse effects, including fires, injury, and death. Further, fireworks explosions emit gaseous sulfur dioxide, carbon dioxide and carbon monoxide, hazardous trace elements (such as aluminum, manganese, and cadmium), and particulate matter (PM). Exposure to PM is associated with adverse health effects, most of which affect the respiratory and cardiovascular systems. For example, breathing fine particulate matter can lead to a wide variety of cardiovascular and respiratory health effects, such as heart attacks, asthma aggravation, decreased lung function, coughing, or difficulty breathing, and may lead to premature death in people with heart or lung disease.

At the national level, the U.S. Environmental Protection Agency (EPA) sets national ambient air quality standards for PM. In a 2015 study, Dian Seidel and Abigail Birnbaum (2015) found that hourly PM<sub>2.5</sub> (fine particulate matter with diameters that are generally 2.5 micrometers and smaller) concentrations during the evening of July 4 and morning of July 5 are higher than on the two preceding and following days in July. The national average increase is largest (21 mg/m<sup>3</sup>) at 9-10 p.m. on July 4 and drops to zero by noon on July 5 (p. 197). This same study cites that PM levels in the South Coast Air Basin (which comprises all of Orange County and the urban portions of Los Angeles, Riverside, and San Bernardino Counties) are higher during this same period when compared to other sites that were included in their study.

At the local level, the South Coast Air Quality Management District (South Coast AQMD) monitors local air quality and regulates stationary sources of air pollution in the South Coast Air Basin. Data from South Coast AQMD's monitors have found that air quality in the South Coast Air Basin was substantially worse during the 2020 Fourth of July weekend than any year in the last decade. Based on video footage and the cancellation of most large public events, South Coast AQMD staff suspects that it is likely that a combination of increased use of safe and sane fireworks and stagnant air led to trapped air pollution that lingered for longer than usual.

Overall average concentrations of fine particulate matter (PM<sub>2.5</sub>) in the South Coast Air Basin were 70 percent higher than in previous years between 7 p.m. on July 4 to 7 a.m. on July 5. Monitors picked up an even greater increase in the maximum hourly measurements of PM<sub>2.5</sub>, with the highest concentrations detected at the Central Los Angeles, North Hollywood and Anaheim stations. Some instruments were found to have so much particulate matter residue on them that it resulted in readings so high the data could not be properly validated.

#### Fireworks Used for Religious Celebrations

While fireworks are commonly used to commemorate cultural celebrations, such as the Fourth of July in the United States, Fiestas Patrias in Hispanic America, Lunar New Year in East and Southeast Asian countries, the Lantern Festival and Spring Festival in China, and New Year's celebrations worldwide, they are sometimes used for religious celebrations. Examples of religious celebrations that typically are accompanied by the use of fireworks include Diwali in India and Taoism in China. Although the Santa Ana Municipal Code does not define "Exempt Fireworks," it is important to note that the California Health and Safety Code Section 12508 provides the following definition:

"Exempt fireworks" means any special item containing pyrotechnic compositions which the State Fire Marshal, with the advice of the State Fire Advisory Board, has investigated and determined to be limited to industrial, commercial, agricultural use, or religious ceremonies when authorized by a permit granted by the authority having jurisdiction.

Recommendation from the Ad Hoc Committee: Consider an Ordinance Prohibiting the Sale, Use, Storage, or Possession of All Fireworks for Either City Council Consideration or to be Presented to the Voters

Attached for discussion only is a draft ordinance (Exhibit 2) prohibiting the sale, use, storage, or possession of all fireworks. The Ad Hoc Committee recommends that the City Council either consider an ordinance for City Council consideration or an ordinance to be submitted to the voters as a ballot measure for the November 8, 2022 general municipal election. An ordinance for City Council consideration means that the ordinance can be approved, amended, and repealed by a majority vote of the City Council, whereas an ordinance presented to and approved by a majority of voters can only be amended or repealed by the voters.

Below is a summary of the provisions of the draft ordinance:

- Declares that it shall be unlawful for any person to possess, store, offer for sale, expose for sale, sell at retail, or use or explode any fireworks.
- Maintains the definition of fireworks (the same as defined California Health and Safety Code section 12511).
- Defines “Host” and declares that no host shall allow any person to violate a provision of the Fireworks Regulations on the host's private property.
- Declares that the Police Chief, Fire Chief, or their designee may seize fireworks at the fireworks owner's expense.
- Declares that violation of the Fireworks Regulations shall constitute grounds for issuance of an administrative citation, designated as an infraction, and assessment of a fine.
- References the existing fine amount of \$1,000.
- References a fireworks disposal fee of \$250.
- Declares that any person who violates the Fireworks Regulations shall be liable for the response costs (costs associated with law enforcement, fire, medical, or other emergency personnel responding to, remaining at, and leaving the scene of a gathering).
  - Response costs include, but are not limited to, the following: salaries and benefits of law enforcement, fire, medical, or other emergency personnel, administrative costs, medical treatment costs, costs of using City equipment, cost of repairing damaged City equipment or property, and other costs associated with enforcing the Fireworks Regulations.

The draft ordinance text may be used in either format (an ordinance for City Council consideration and an ordinance to be presented to the voters).

*Draft Resolution with Ballot Question Language*

For discussion, and should the City Council desire to direct staff to prepare an ordinance to be presented to the voters, attached is a draft resolution (Exhibit 3) giving notice of a general municipal election with the following ballot question:

Shall Chapter 14 of the Santa Ana Municipal Code be amended to ban the sale and use of fireworks within the City of Santa Ana?

The draft ordinance to be presented to the voters, in its final form, would accompany the ballot measure.

Options

The City Council has the following options relating to this matter:

1. Concur with the Ad Hoc Committee and direct staff to return to the City Council with an ordinance prohibiting the sale, use, storage, or possession of all fireworks for City Council consideration.
2. Concur with the Ad Hoc Committee and direct the City Attorney and Clerk of the Council to prepare necessary documents to place an ordinance prohibiting the sale, use, storage, or possession of all fireworks on the ballot for November 8, 2022 general municipal election.
3. Take no action.

**ENVIRONMENTAL IMPACT**

There is no environmental impact associated with this action.

**FISCAL IMPACT**

There is no fiscal impact associated with this action.

**EXHIBIT(S)**

1. OCFA After-Action Reports for 2017 through 2021
2. Draft Ordinance (for discussion only)
3. Draft Resolution with ballot language (for discussion only)

Submitted By: Kristine Ridge, City Manager

Approved By: Kristine Ridge, City Manager