

Villa Park City Council Adjourned Regular Meeting

April 30, 2013
General Session – 7:00 p.m.



Brad Reese, *Mayor*
Rick Barnett, *Mayor Pro Tem*
Diana Fascenelli, *Councilwoman*
Greg Mills, *Councilman*
Deborah Pauly, *Councilwoman*

City of Villa Park, 17855 Santiago Boulevard, Villa Park, CA

The Villa Park City Council welcomes you to this meeting. We encourage your participation. This agenda contains a brief general description of each item to be considered.

If you wish to speak on an item contained on the agenda, please approach the podium at the time the item is being considered. Upon recognition by the presiding officer, state your name and address for the record prior to providing your comments. Speakers will be limited to a time period set by the presiding officer. Items on the agenda may be addressed in any order during the meeting at the discretion of the City Council, so please plan accordingly.

If you wish to speak on an item that is not on the agenda, please do so during the periods listed for Oral Communications. All supporting information is available for public review in City Hall during regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday. Agendas are available on the City's Website at www.villapark.org. Meetings are broadcast live on VPTV Time Warner Channel 3 and AT&T Uverse Channel 99.

In compliance with the Americans with Disabilities Act, the City of Villa Park will make every reasonable attempt to accommodate attendees or participants at this meeting who need special assistance beyond what is normally provided. Please contact City Hall at (714) 998-1500 at least 48 hours prior to this meeting to inform us of your particular needs and to determine if accommodation is feasible. Please advise us at the time of your call if special assistance is required to attend or participate in meetings on a regular basis.

GENERAL SESSION
7:00 p.m. – City Council Chambers

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE TO THE FLAG

PRESENTATIONS/ ANNOUNCEMENTS/ INTRODUCTIONS

Any writings or documents provided to a majority of the Villa Park City Council regarding any item on this agenda will be made available for public inspection at City Hall located at 17855 Santiago Boulevard, Villa Park, California during normal business hours, Monday through Friday from 8:00 a.m. to 5:00 p.m. In addition, such writings and documents will be posted on the City's website at www.villapark.org.

ORAL COMMUNICATIONS

Members of the public in attendance wishing to address the City Council on matters not otherwise appearing on the agenda and within the jurisdiction of the City Council, upon recognition by the presiding officer, state their name, address, and subject. Oral Communications are governed by Government Code Section 54954.3 and Villa Park Municipal Code Section 2-3.10. Oral Communications shall be limited to a time period set by the presiding officer, three (3) minutes for individual speakers.

PUBLIC HEARING(S)

1. Discussion regarding the sale and use of state-approved safe and sane fireworks in the City of Villa Park.

RECOMMENDATION: Awaiting Council Direction.

ADJOURNMENT

AFFIDAVIT OF POSTING

I, Jarad L. Hildenbrand, City Clerk of the City of Villa Park, California, do hereby certify that on the 25th day of April, 2013, I did post a true and correct copy of Said Agenda in the designated area (s) at 4:00 PM:

17855 Santiago Boulevard, Villa Park, California
18021 Lincoln Street, Villa Park, California
www.villapark.org

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of April, 2013.

Jarad L. Hildenbrand
City Clerk

**PUBLIC HEARINGS
AGENDA ITEM # 1**

**CITY OF VILLA PARK
CITY COUNCIL
APRIL 30, 2013**

To: Honorable City Council

From: Jarad Hildenbrand, City Manager 

SUBJECT: **DISCUSSION REGARDING SAFE AND SANE FIREWORKS**

At its April 23, 2013, regular meeting, the City Council adjourned to an adjourned regular meeting on Tuesday, April 30, 2013 at 7:00 p.m. in the Council Chambers for a discussion concerning the sale and use of safe and sane fireworks in Villa Park.

BACKGROUND

At its January 22, 2013, regular meeting, the City Council, on a 5-0 vote, approved the item submitted by Mayor Reese and Mayor Pro Tem Barnett directing staff to prepare an ordinance regarding the sale and use of safe and sane fireworks in Villa Park.

Staff prepared such ordinance, known as Ordinance No. 2013-574, and it was introduced, by a 4-1 vote with Councilmember Pauly dissenting, at the February 26, 2013, regular meeting. The second reading of the ordinance was held at the March 26, 2013, regular meeting, and it was adopted by a 3-2 vote with Councilmembers Mills and Pauly dissenting.

At the April 23, 2013, regular meeting, Councilmember Pauly agendized a discussion to rescind Ordinance No. 2013-574 and on a 5-0 it was continued to April 30, 2013, for further consideration.

RECOMMENDATION

That the City Council considers:

- a. First reading of Ordinance No. 2013-577 repealing Ordinance No. 2013-574 (Article 11-2 of the Villa Park Municipal Code) pertaining to safe and sane fireworks; and
- b. Second reading of Ordinance No. 2013-575 repealing Section 11-1.3.59 of the Villa Park Municipal Code regarding safe and sane fireworks.

ATTACHMENTS

1. Ordinance No. 2013-577
2. Ordinance No. 2013-575

ORDINANCE NO. 2013-577

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VILLA PARK, CALIFORNIA, REPEALING ORDINANCE NO. 2013-574 (ARTICLE 11-2 OF THE VILLA PARK MUNICIPAL CODE) PERTAINING TO SAFE AND SANE FIREWORKS.

THE CITY COUNCIL OF THE CITY OF VILLA PARK ORDAINS AS FOLLOWS:

SECTION 1. Ordinance No. 2013-574, codified at Villa Park Municipal Code Article 11-2, pertaining to safe and sane fireworks, is hereby repealed in its entirety. The sale and use of safe and sane fireworks is not permitted in the City of Villa Park.

SECTION 2. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty (30) days after its final passage.

PASSED, APPROVED AND ADOPTED THIS 28th DAY OF MAY, 2013.

Brad E. Reese
Mayor of the City of Villa Park

ATTEST:

Jarad L. Hildenbrand
City Clerk

I, Jarad L. Hildenbrand, City Clerk of the City of Villa Park, California, do hereby certify that the foregoing Ordinance No. 2013-577 was duly introduced for the first reading on the 30th day of April, 2013 and regularly adopted at a regular meeting of the City Council of the City of Villa Park on this 28th day of May, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I hereunto set my hand and affix the official seal of the City of Villa Park on this 28th day of May, 2013.

Jarad L. Hildenbrand
City Clerk

ORDINANCE NO. 2013-575

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VILLA PARK, CALIFORNIA, REPEALING SECTION 11-1.3.59 OF THE VILLA PARK MUNICIPAL CODE REGARDING SAFE AND SANE FIREWORKS.

WHEREAS, in 1987, the City Council adopted Ordinance No. 87-367 prohibiting the sale and use of safe and sane fireworks in the City of Villa Park; and

WHEREAS, on January 22, 2013, the City Council directed staff to prepare an ordinance permitting the sale and use of state-approved safe and sane fireworks in the City of Villa Park; and

WHEREAS, on February 26, 2013, the City Council introduced and approved the first reading of Ordinance No. 2013-574 permitting the sale and use of state-approved safe and sane fireworks in the City of Villa Park; and

WHEREAS, the City Council approved the second reading and adopted Ordinance No. 2013-574 at its meeting on March 26, 2013; and

WHEREAS, in order to provide consistency and clarity, the City's Fire Code should also be amended to allow for the sale and use of state-approved safe and sane fireworks in the City of Villa Park.

NOW, THEREFORE, the City Council of the City of Villa Park does hereby ordain as follows:

SECTION 1. The portion of Ordinance No. 2010-554, codified at Villa Park Municipal Code Section 11-1.3.59, pertaining to Section 3301.2 (Retail Fireworks) of the California Fire Code and the prohibition of Safe & Sane fireworks, is hereby repealed to the extent inconsistent with Ordinance No. 2013-574 and any extensions thereof.

SECTION 2. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty (30) days after its final passage.

PASSED, APPROVED AND ADOPTED THIS 30th DAY OF APRIL, 2013.

Brad E. Reese
Mayor of the City of Villa Park

ATTEST:

Jarad L. Hildenbrand
City Clerk

I, Jarad L. Hildenbrand, City Clerk of the City of Villa Park, California, do hereby certify that the foregoing Ordinance No. 2013-575 was duly introduced for the first reading on the 26th day of March, 2013 and regularly adopted at an adjourned regular meeting of the City Council of the City of Villa Park on this 30th day of April, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I hereunto set my hand and affix the official seal of the City of Villa Park on this 30th day of April, 2013.

Jarad L. Hildenbrand
City Clerk

Previous staff reports regarding safe and sane fireworks.

**MAYOR AND COUNCILMEMBER MATTERS
AGENDA ITEM # 13**

**CITY OF VILLA PARK
CITY COUNCIL
JANUARY 22, 2013**

To: Honorable City Council

From: Jarad Hildenbrand, City Manager

SUBJECT: COUNCILMEMBER REQUESTED MATTER (REESE AND BARNETT): SALE AND USE OF SAFE AND SANE FIREWORKS

STATEMENT OF REQUEST

The City of Villa Park permitted the sale of "safe and sane" fireworks until 1987. Today, there are eight cities in Orange County that permit the sale and use of fireworks: Huntington Beach, Garden Grove, Costa Mesa, Santa Ana, Westminster, Buena Park, Fullerton and Stanton.

Mayor Reese and Mayor Pro Tem Barnett would like to consider allowing safe and sane fireworks in Villa Park.

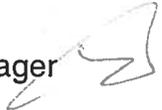
RECOMMENDATION

That the City Council direct staff to prepare an ordinance permitting the sale and use of state-approved "safe and sane" fireworks on a one-year trial basis. The ordinance shall include provisions to address specific areas where fireworks would be prohibited, and shall also address areas of concern including permits, dates of sale, date and hour of discharge, firework stand locations, 24-hour security, and fees to offset City costs.

**PUBLIC HEARINGS
AGENDA ITEM # 5**

**CITY OF VILLA PARK
CITY COUNCIL
FEBRUARY 26, 2013**

To: Honorable City Council

From: Jarad Hildenbrand, City Manager 

SUBJECT: **FIRST READING OF ORDINANCE NO. 2013-574, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VILLA PARK, CALIFORNIA, ADDING ARTICLE 11-2 TO CHAPTER XI OF THE VILLA PARK MUNICIPAL CODE RELATING TO SAFE AND SANE FIREWORKS**

BACKGROUND

At the January 22, 2013, City Council meeting, the City Council on a 5-0 vote approved the item submitted by Mayor Reese and Mayor Pro Tem Barnett directing staff to prepare an Ordinance regarding the sale and discharge of Safe and Sane Fireworks in Villa Park.

The proposed Ordinance (Attachment 1) would allow for the sale and discharge of State-approved Safe and Sane Fireworks on a trial basis for the Fourth of July holiday this year, 2013. Other areas of concern that are addressed in the Ordinance include:

- Permits
 - No more than 3 permits may be issued in 2013
- Dates of Sale
 - June 28, 29, 30; and July 1, 2, 3 from 10:00 a.m. to 10:00 p.m.
 - July 4 from 10:00 a.m. to 8:00 p.m.
- Date and hour of discharge
 - July 4th only from 12:00 noon to 10:00 p.m.
- Areas where discharge is prohibited
 - Public Property except residential public ROW
 - C-N Zone
 - School Grounds
- 24-hour security
 - Required for each stand location
 - Person to be preapproved and over 25
- Fees to offset City costs
 - \$1,000 deposit, based on time and material

Currently, fireworks are prohibited in Villa Park. The Ordinance, if adopted, will allow for the sale of state-approved Safe and Sane Fireworks during the period immediately preceding the Fourth of July holiday and the discharge only on July 4th. In addition, upon adoption of this Ordinance, the City's Fire Code will require amending to allow for these changes.

The Ordinance also will assess a regulatory fee on all fireworks sold within the City. The purpose of the fee will be used to defray the cost of administration, inspection and supervision of Safe and Sane Fireworks licenses as well as to offset the cost of the City clean up in areas where fireworks are used. The City Council will be presented with a fee resolution for adoption at a later date.

As proposed in the draft Ordinance, up to 3 permits may be issued in 2013. The Villa Park community non-profit organizations (Foundation, Friends, Rotary, and Women's League) shall receive 1 permit, to be shared as a joint venture, and the schools (SE, VPE, CVMS, VPHS) Parent Faculty Student Organizations shall also receive 1 permit, to be shared as a joint venture. In the event they decide not to apply for a permit, the City will issue the remainder through a lottery process.

FISCAL IMPACT

The costs for this program are difficult to estimate. For each permit issued, the following staff time is anticipated:

Planning Manager:	2 hours (Site Plan Review, Temp. Sign Review)
Building Official:	2 Hours (Stand construction and location)
City Manager:	2 Hours (Permit administration)
City Attorney:	1 Hour (Document review)
Finance Manager:	1 Hour (Financial review)
Street Sweeping:	8 Hours

Total permit issuance: \$1,130

RECOMMENDATION

That the City Council hold a Public Hearing, introduce and approve a first reading of Ordinance No. 2013-574, and schedule a second reading and adoption at the March 26, 2013, City Council Meeting.

ATTACHMENTS

1. Ordinance No. 2013-574 - Draft
2. 2007-2008 Grand Jury Report – Anatomy of Fireworks
3. Senate Bill 839, Calderon. Fireworks. SB 839 addresses the penalties for anyone in possession of or transporting illegal fireworks in California.

ORDINANCE NO. 2013-574

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VILLA PARK, CALIFORNIA, ADDING ARTICLE 11-2 TO CHAPTER XI OF THE VILLA PARK MUNICIPAL CODE RELATING TO SAFE AND SANE FIREWORKS

The City Council of the City of Villa Park does hereby ordain as follows:

SECTION 1. Article 11-2 of the Villa Park Municipal Code is hereby added to read as follows:

Chapter XI - FIRE PREVENTION

Article 11-2. – Safe and Sane Fireworks

Sec. 12-2.1 Purpose.

The purpose of this Article is to bring the City's regulation of the use of fireworks into compliance with the California State Fire Marshal's Department regulations and to protect and secure the public health, safety and general welfare.

Sec. 12-2.2 Definition – "Safe and Sane Fireworks".

"Safe and Sane Fireworks" shall be as defined in Section 12504 of the California Health and Safety Code, as that section may in the future be amended.

Sec. 12-2.3 Sale and Discharge of "Safe and Sane Fireworks".

- A. Only Safe and Sane Fireworks may be discharged within the City only on July 4th of each year between the hours of 12:00 noon and 10:00 p.m. Individuals participating in the discharge of the Safe and Sane Fireworks are also responsible for removing and properly disposing of any debris resulting from the discharge of the fireworks.
- B. Safe and Sane Fireworks may only be sold within the City by temporary stand permit holders on the dates and during the times in this section. Sales shall be between the hours of 10:00 a.m. and 10:00 p.m. during the days of June 28th, June 29th, June 30th, July 1st, July 2nd and July 3rd, and between the hours of 10:00 a.m. and 8:00 p.m. on July 4th of that same year. All sales of Safe and Sane Fireworks shall cease at 8:00 p.m. on July 4th, until the next calendar year.

- C. No person under the age of eighteen (18) shall be allowed to purchase Safe and Sane Fireworks.
- D. No person under the age of eighteen (18) shall use or discharge any Safe and Sane Fireworks within the City except when under the direct supervision and in the presence of an adult over the age of twenty-five (25).
- E. The discharge of Safe and Sane Fireworks shall not be permitted in the "C-N Zone", on schools' grounds, or on any public property with the exception of residential public rights-of-way located immediately adjacent to a dwelling of individuals participating in the discharge of the Safe and Sane Fireworks and only if the discharge is conducted in a safe manner to ensure public safety and traffic flow.
- F. No person shall allow the use or discharge of any Safe and Sane Fireworks within thirty (30) feet of any residence, dwelling or other structure.

Sec. 12-2.4 Permit Required; Application for Permit to Sell Safe and Sane Fireworks.

- A. Except as otherwise provided herein, no person shall offer for sale or sell fireworks of any kind in the City, without having first applied for and received a temporary stand permit.
- B. All applications for permits to sell Safe and Sane Fireworks shall:
 - 1. Be made in writing, accompanied by a filing fee made payable to the City, in the amount established by resolution of the City Council, which will be used to defray the cost of administration, inspection and supervision of Safe and Sane Fireworks licensees as well as to offset the cost of the City clean up in areas in the City where Safe and Sane Fireworks are used.
 - 2. Be submitted between the first and the last day of April each year, except when the last day falls on a day when City Hall is closed, then the following business day shall be the last day.
 - 3. Set forth the proposed location of the temporary stand applied for in a drawing or sketch of stand's location on property showing all distances to comply with this Article. Each stand must be on private property located in the "C-N Zone", or on public land at the sole discretion of the City, or on school grounds at the discretion of the School District. A signed statement from the owner of record of the property must accompany the application.

4. Be accompanied by an agreement from the manufacturer and/or wholesaler of the Safe and Sane Fireworks to defend, indemnify and hold the City harmless from any claims, liability, litigation, damages or other injuries resulting from defective Safe and Sane Fireworks.
 5. Include a statement that the applicant agrees to comply strictly with the terms of any temporary stand permit granted to it and furnish any additional information upon request of the City Manager, the City Council or their authorized employees and/or representatives.
- C. At the time of issuance of the temporary stand permit, the applicant must deliver to City evidence of public liability insurance in an amount not less than one hundred thousand dollars (per occurrence) / three hundred thousand dollars (aggregate) (\$100,000.00/\$300,000.00) and not less than fifty thousand dollars (\$50,000.00) property damage insurance in the form and content required by the City, certificated, and a copy of the requisite permit from the State Fire Marshal.
- D. The applicant shall comply with any and all state or county requirements applicable to Safe and Sane Fireworks, including but not limited to payment of the State Fire Marshal Fee or other applicable requirements.

12-2.5 General Requirements for Safe and Sane Fireworks Permits.

The following qualifications must be met by each applicant for a temporary stand permit issued hereunder:

- A. No permit shall be issued to any person, firm or corporation except non-profit associations or corporations organized primarily for civic betterment or youth activities. Such organizations, groups or individuals shall be limited to one (1) temporary stand permit per year.
- B. Each such organization must have its principal and permanent meeting place within the corporate limits of the City, must maintain a bona fide membership of at least twenty (20) Villa Park resident members, and must have been organized and established in the City's corporate limits for a minimum of one (1) year continuously preceding the filing of the application for the temporary stand permit.
- C. No organization shall receive more than one (1) temporary stand permit for Safe and Sane Fireworks sale during any one (1) calendar year. One (1) temporary stand permit may be issued to two (2) or more qualifying applicants as a joint venture, but such joint venture may only operate one (1) stand. The maximum number of temporary stand permits which may

be issued pursuant to this Article during any one (1) calendar year shall not exceed three (3).

- D. The Villa Park Community Services Foundation, Friends of the Villa Park Library, Villa Park Rotary and Villa Park Women's League shall be issued one (1) temporary stand permit each year, to be shared as a joint venture, so long as those organizations continue to meet all of the terms and conditions of this Article. If these conditions are not met, the temporary stand permit will be forfeited for that year and issued according to the requirements and procedures set forth elsewhere in this Article.
- E. The schools (SE, VPE, CVMS, VPHS) Parent Faculty Student Organizations shall be issued one (1) temporary stand permit each year, so long as it continues to meet all of the terms and conditions of this Article. If these conditions are not met, the temporary stand permit will be forfeited for that year and issued according to the requirements and procedures set forth elsewhere in this Article.
- F. The balance of the available temporary stand permits shall be issued by lottery to the remaining non-profit or not-for-profit organizations that qualified under the terms of this Article. The lottery, if necessary, shall take place at a City Council meeting.

12-2.6 Sales Stands – Operation and Employees.

- A. No person other than the permitted organization(s) shall operate the stand for which the temporary stand permit is issued or share or otherwise participate in the profits of the operation of such stand.
- B. No person other than the individuals who are members of the permitted organization(s), or the spouses or adult children of such members, shall sell or otherwise participate in the sale of Safe and Sane Fireworks at such stand(s) except that in no instance shall a person under the age of eighteen (18) years be permitted to sell or otherwise participate in the operation of the stand.
- C. No person shall be paid any consideration by a fireworks company or the non-profit organization for selling or otherwise participating in the sale of Safe and Sane Fireworks at a stand.
- D. All Safe and Sane Fireworks sales must be made from within a temporary stand, and sales from any other building or structure are prohibited.
- E. No person shall light, cause or permit to be lighted any "Safe and Sane Fireworks", matches, or any other material within 100 feet of such temporary stand.

- F. Each temporary stand must have an adult, over the age of twenty-five (25), in attendance and in charge thereof while fireworks are stored therein. Sleeping or remaining in the temporary stand after close of business each day is forbidden. No person under the age of eighteen (18) shall be permitted within any temporary stand.
- G. All unsold stock and accompanying litter shall be removed from the temporary stand location by 5:00 p.m. on July 6th.
- H. Each temporary stand must have one or more designated persons over the age of twenty-five (25), who will act and serve as a watchperson for the temporary stand during all hours when the temporary stand is not in operation selling "Safe and Sane Fireworks". The designated person must be pre-approved by the City Manager or designee, prior to the installation of the temporary stand at the designated location. The designated person will remain outside but within eyesight of the temporary stand.
- I. Each organization operating or participating in a temporary stand shall submit to the City a financial statement of actual sales and profit by 5:00 p.m. on August 31 of the same calendar year following the sale, unless that day falls on a day when City Hall is closed, then the following business day shall be the last day. Failure to comply with this requirement may result in revocation of future permit eligibility for such organization.

12-2.7 Sales Stands – Construction Specifications.

- A. Each temporary stand shall obtain a safety inspection and clearance from the City and Orange County Fire Authority (OCFA) prior to opening.
- B. No change of stand locations will be permitted without prior approval from City and OCFA.
- C. Temporary stands need not comply with the provisions of the Building Code, provided, however, all stands shall be erected under the supervision of the Building Official, and must be constructed in a manner that will reasonably ensure the safety of attendants and patrons.
- D. No temporary stand shall be located within twenty-five (25) feet of any other building or within one hundred (100) feet of any gasoline pump.
- E. No temporary stand shall be located closer than twenty (20) feet from the shoulder of any public road or highway.
- F. No temporary stand shall have a floor area in excess of three hundred (300) square feet.

- G. Each temporary stand must have at least two (2) unobstructed exits; and each stand in excess of forty (40) feet in length must have at least three (3) unobstructed exits spaced approximately equidistant apart, provided, however, that in no case shall the distance between the exits exceed twenty-four (24) feet.
- H. Each temporary stand shall maintain two (2), two and one-half (2-1/2) gallon "water pressure" type or 2A10BC dry chemical type fire extinguishers, underwriter approved, in good working order, with up-to-date inspection tag, and easily accessible for use in case of fire.
- I. All weeds and combustible materials shall be cleared from the location of the temporary stand and for a distance of at least fifty (50) feet from any point of the temporary stand.
- J. "No Smoking Within 100 Feet" signs must be prominently displayed on the temporary stand.
- K. If stands are operated at night, only electric lights may be used and the wiring shall meet the requirements of the California Building Code. Minimum separation between generators and temporary stand is 20 feet.
- L. Each temporary stand shall display on the interior and exterior a sign of at least ten (10) square feet stating that 1) discharge of fireworks is only legal within the City limits between the hours of 12:00 noon and ten (10) p.m. on July 4th, and 2) stating that the minimum age to purchase Safe and Sane Fireworks is eighteen (18) years of age.
- M. Each person making a purchase at a temporary stand shall be given a City-approved flyer designating rules and safety guidelines for discharge of "Safe and Sane Fireworks".
- N. There shall be no drinking or storage of alcoholic beverages in or around a temporary stand at any time.
- O. No temporary stand may be erected or constructed on any premises prior to June 15th. The temporary stand shall be removed, and the site cleared by 12:00 noon on July 7th.
- P. City approved barricades sufficient to prevent the parking of motor vehicles within twenty (20) feet of any temporary stand shall be provided and maintained.
- Q. A City approved sign stating that the use of Safe and Sane Fireworks is not legal in many counties and cities shall be prominently displayed on the temporary stand.

12-2.8 Temporary Sales Tax Permit Required; Display of License and Permit.

- A. Organizations permitted by the City for Safe and Sane Firework sales are required to obtain a temporary sales tax permit from the State Board of Equalization. The organization shall comply with all sales tax requirements and remit to the proper authorities required sales tax payments.
- B. The temporary sales tax permit and the City permit to sell Safe and Sane Fireworks must be displayed in a prominent place in the stand.

12-2.9 Suspension and Revocation.

- A. The City Manager or designee, or any public safety officer, may immediately suspend a permit and close a temporary stand, upon determining that the operation of the stand creates an imminent or substantial danger to the public health, safety or welfare.
- B. The City Manager or designee may revoke any temporary stand permit when it is determined that the permittee has: (i) failed to comply with any provisions of this article; (ii) violated any condition of its temporary stand permit; (iii) operated or is operating a temporary stand in a manner which causes or threatens to cause a danger to public health, safety or welfare.
- C. Upon revocation of any temporary stand permit, the City Manager or designee at his or her discretion, may grant another temporary stand permit to another eligible organization that had previously submitted a completed application for that permitting year, provided the total number of valid permits granted for that permitting year shall not exceed the number authorized by this article.

12-2.10 Penalties.

Any person violating any provision of this Article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of five hundred dollars (\$500.00), or imprisonment not to exceed one hundred eighty (180) days, or both fine and imprisonment. Further, the temporary stand permit of any permittee who violates or permits any provision of this Article to be violated shall be revoked and the permittee shall not be entitled to receive a temporary stand permit for a period of three (3) years thereafter.

12-2.11 Expiration of Ordinance.

This ordinance will expire August 31, 2013, unless otherwise extended by the City Council.

SECTION 2. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty (30) days after its final passage.

PASSED, APPROVED AND ADOPTED THIS 26th DAY OF MARCH, 2013.

Brad E. Reese
Mayor of the City of Villa Park

Jarad L. Hildenbrand
City Clerk

I, Jarad L. Hildenbrand, City Clerk of the City of Villa Park, California, do hereby certify that the foregoing Ordinance No. 2013-574 was duly introduced for the first reading on the 26th day of February, 2013 and regularly adopted at a regular meeting of the City Council of the City of Villa Park on this 26th day of March, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I hereunto set my hand and affix the official seal of the City of Villa Park on this 26th day of March, 2013.

Jarad L. Hildenbrand
City Clerk

Attachment 2

2007-2008 Orange County Grand Jury Report

**THE ANATOMY OF SAFE AND SANE FIREWORKS SALES
IN ORANGE COUNTY**

Published by Grand Jury: 04/24/08

THE ANATOMY OF SAFE AND SANE FIREWORKS SALES IN ORANGE COUNTY

SUMMARY

Last Fourth of July taxpayers in Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton paid a total of \$188,000 for extra police and fire services, primarily for enforcement of both legal and illegal fireworks activity. Safety officials, specifically police and fire personnel, in these five cities are often overwhelmed in calls-for-service on this holiday and many refer to sections of their cities as resembling a “war zone” because of fireworks-related issues. Safety officials contend that the sale of State-approved “safe and sane” fireworks in these five cities contribute to a significant increase in illegal fireworks activity and add to the chaos of social disorder. This activity spills over into adjacent cities where all fireworks are illegal, causing safety agencies in those cities significant enforcement problems.

The 2007-2008 Grand Jury found the fireworks permit process in these cities flawed in several areas:

- Some city administrators believe non-profit organization sellers are exempt from collecting and remitting sales tax to the California Board of Equalization.
- Non-profit organizations that sell legal fireworks and the wholesalers that distribute them are not required to help pay the municipal cost of disposing of fireworks debris left on public streets, sidewalks and parks, nor the additional costs for police and fire services.
- No ordinances require sellers to advise fireworks purchasers that safe and sane fireworks are illegal in any area of Orange County other than in these five cities.
- Most cities’ ordinances do not require a post-sales period accounting from non-profit organizations detailing sales tax paid, net profit and the manner in which the proceeds benefit the community.
- Cities do not give non-profit organizations encouragement or guidance to use in other fund raising methods.

Most of these city councils are reluctant to put the issue of fireworks sales to a citizen vote and have been equally reluctant to encourage a public display of fireworks. Many safety officials believe it would take at least three years to significantly deter illegal fireworks activity if the sale of legal fireworks were banned. The Grand Jury recommends that these cities declare a minimum three-year moratorium on fireworks sale to allow the safety officials to better serve and protect their citizens on the Fourth of July.

REASON FOR INVESTIGATION

The sale of legal fireworks¹ is one of the most polarizing municipal issues affecting the five Orange County cities which continue to allow this activity. It has pitted neighbor against neighbor, and associations and senior groups against non-profit organizations. Municipal and County safety agencies are constantly trying to combat ever-increasing social chaos, injuries to citizens and destruction of property that are by-products of legal fireworks sales. The 1988-1989 Orange County Grand Jury study discussed much of what was wrong with selling legal fireworks in Orange County. The issues raised continue to be an annual problem. That Grand Jury

¹ The term “legal fireworks” will be used throughout this report in place of “safe and sane”

recommended that the sale of legal fireworks be discontinued and that cities take a more active role in encouraging local community non-profit groups in raising funds for their organizations. A few of the cities heeded the recommendations of the 1988-1989 Grand Jury, other cities did not. Since the rancor regarding this issue has not abated, the 2007-2008 Grand Jury decided that this issue should be revisited with a more in-depth study and with an emphasis on how regulations are implemented and sales are conducted in Orange County.

METHOD OF INVESTIGATION

- Interviewed administrative personnel and elected officials from Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton.
- Interviewed law enforcement personnel and fire department personnel from Buena Park, Costa Mesa, Garden Grove, Santa Ana, Stanton and the Orange County Fire Authority, as well as some contiguous cities.
- Obtained and reviewed municipal ordinances, city council opinions, and safety agency "After Action Reports".
- Interviewed officials from the State of California Board of Equalization; obtained and reviewed related documentation.
- Interviewed an official of the County of Orange Animal Care Services and obtained and reviewed documentation.
- Obtained and reviewed city permits and applications from all non-profits to sell legal fireworks in the cities of Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton.
- Obtained and reviewed recapitulation reports detailing gross and net profits for the sale of legal fireworks filed by non-profits.
- Interviewed personnel from a legal fireworks wholesaler and obtained and reviewed documentation.
- Interviewed an official from the County of Orange Resources and Development Management Department.
- Obtained and reviewed copies of Fair Political Practice Commission, California form 460 (campaign financial disclosures) filed by City Council members and candidates from city clerks' offices.
- Reviewed copies of Fair Political Practice Commission Form 461, Major Donor and Independent Expenditure Committee Statement as filed with the California Secretary of State, www.sos.ca.gov.

BACKGROUND AND FACTS

The annual sale of legal fireworks in local cities continues to be one of the most polarizing issues faced by city governments. This issue annually pits neighbor against neighbor and retirement associations and neighborhood watch programs against youth-oriented non-profit organizations, often leading to angry confrontations in city council meetings. Those against the sale of legal fireworks lobby city councils to place the issue before voters, a political process frequently avoided by most city councils. The anti-sales groups also complain that their communities suffer great disruption and peril during the Fourth of July holiday as a direct result of legal fireworks sales. Those in favor of continuing the sale of legal fireworks flood city halls with allegations that local sports programs will be undone and claim that youth organizations will be innocent victims and suffer the consequences. Political pressure is brought to bear from both sides. All

involved citizens have an opinion and the issue tends to be either black or white depending on one's point of view.

For years, local media have reported instances of citizens suffering significant injury or property damage as a result of fireworks activity. While many of these were caused by the use of illegal fireworks, others were caused by using legal fireworks or a combination of both. Fireworks in the hands of an unsupervised child, a reckless disregard for safety, or the alteration of legal fireworks are some of the causes of accidents related to legal fireworks sales. Interviewed law enforcement officers and fire officials are unanimous in their opinion that there is a very significant escalation of illegal fireworks activity in cities that allow the sale of legal fireworks. The detonation of illegal fireworks tends to be obscured when interspersed with the detonation of legal fireworks.

When the 1988-1989 Orange County Grand Jury studied the sale of legal fireworks, it recommended that the cities of Buena Park, Costa Mesa, Fullerton, Garden Grove, Orange, Santa Ana and Westminster take necessary steps to join the rest of the County in banning the sale of legal fireworks in their jurisdictions. It also recommended that those cities take a more active role in encouraging charities and civic groups to replace the selling of fireworks with alternate fundraising methods. Fullerton, Orange and Westminster subsequently followed the Grand Jury's recommendation and stopped the sale of legal fireworks in their cities.

Currently, the sale of fireworks in Orange County is legally conducted during the Fourth of July holiday period in five Orange County cities: Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton. These cities have existing municipal ordinances legalizing the possession, sale and subsequent detonation of legal fireworks. Possession, sale and subsequent detonation of legally sold fireworks are illegal in all other Orange County cities and all unincorporated areas. Legal fireworks are sold in other southern California counties with the exception of San Diego County and any of its cities.

Permit Process

According to municipal ordinances, only a non-profit organization may sell legal fireworks from a code-approved fireworks booth. City requirements for fireworks sale permits vary slightly from city to city, but each applicant generally has to comply with the same basic requirements. The non-profit organization must:

- Obtain designation as a certified, legal non-profit from the State of California
- Pay a city permit fee and a sales booth inspection fee for building and safety, and State Fire Marshal compliance
- Pay an additional annual State Fire Marshal fee
- Show proof of insurance with various amounts of coverage in case of property damage or injury in the vicinity of the sales booth
- Obtain a sales site, usually in a strip mall or other commercial location
- Take delivery of the sales booth
- Attend a meeting with city officials to learn of any annual municipal code updates or city council policy changes relating to the sale of legal fireworks
- Obtain a Seller's Permit from the State of California Board of Equalization for required sales tax collection

- Take delivery of the product, supply a sales staff to sell the product and determine the price they will charge for the product.

In reality, a non-profit organization, though corporately responsible for compliance with all of the previously stated mandates, does little to meet these requirements independently and uses none of its finances upfront to pay for fees, services and products. With the exception of supplying the sales staff, attending a mandatory meeting and agreeing on a recommended sales price, all of the other requirements are satisfied as a “fee-for-service” by the fireworks wholesalers.

Suppliers

Legal fireworks wholesalers are professionally-operated, for-profit businesses that provide significant inducements and services to non-profit organizations. The wholesalers:

- Assist the non-profit with their 501 C (3) filings with the California Secretary of State to obtain non-profit status
- Pay all permit, inspection and other fees for the non-profit organization
- Assist the non-profit with the various government forms and procedures to secure a city permit to operate a fireworks sales booth
- Provide liability insurance for the non-profit
- Find a location in the city for a fireworks sales booth
- Deliver the booth
- Supply the product
- Provide all goods, fees and services at no up-front cost to the non-profit.

All sales of fireworks are based on consignment. The wholesaler removes the booth and retrieves the unsold fireworks inventory shortly after the close of sales on the night of July 4th or early the next day. Within seven to ten days following the close of the sales period, the wholesaler itemizes the cost of their services, fees and product sales and presents a bill for payment. After paying the wholesaler and remitting the sales tax collected to the California Board of Equalization, the non-profit realizes its net profit from the sales period.

When the non-profit takes possession of the legal fireworks for sale, the wholesaler suggests a retail price for each individual item or packaged items. The wholesaler charges the non-profit 50% of the suggested retail price for the fireworks. The non-profit may sell the legal fireworks for any amount over 50% of the suggested retail price. If the product is sold at the suggested retail price, the non-profit earns a gross profit of 50%. If the legal fireworks are sold for less than the suggested retail price, then the gross profit for the organization will be less. The non-profit is required to collect 7.75% sales tax on each sale and remit the sales tax to the California Board of Equalization. Of the 7.75% collected, the state retains 6.75% and 1.0% is subsequently remitted to the city.

The Grand Jury found that not all of the five cities mandate that non-profit sellers obtain a California Board of Equalization Seller’s Permit and show proof of doing so before being allowed to sell legal fireworks. The Grand Jury found inconsistencies and confusion when interviewing various city representatives. In one city the administration mistakenly believes that it is the California Board of Equalization, and not the California Secretary of State, which grants

non-profit status to the organization. In another city the administration mistakenly believes that non-profits are exempt from collecting sales taxes. Nevertheless, the California Board of Equalization mandates that a non-profit obtain a Seller's Permit, collect 7.75% tax on each firework sale and remit the collected taxes. It is illegal for a non-profit to fail to remit sales tax.

The Grand Jury found that different cities require different amounts of liability insurance coverage for each fireworks booth. One city requires a policy with limits of \$100,000 per event and a policy total of \$300,000. Other cities require liability insurance in the amount of \$1,000,000.

Sales Activities

Cities do not monitor the sales activity in the booths. Non-profits police themselves to accurately declare true and correct sale proceeds. Legal fireworks sales are largely a cash-and-carry business, although the wholesaler will facilitate the non-profit's ability to accept ATM and credit card payments for purchases. The Grand Jury found that most cities fail to mandate a complete and accurate itemization of sales and profits from the non-profit awarded a permit to operate a fireworks booth. This lack of mandated filing may lead to underreporting sales or diverting income derived from sales. City officials are quick to point out that they have long suspected that these violations probably occur with a few non-profits, but they believe that most non-profits are honest in their dealings.

Net profits are calculated after up-front service fees are paid to the wholesaler and unsold product and sales tax are remitted. The cost of these services can vary, depending upon the location of the sales booth, the amount of set-up monies paid out by the non-profit, the amount of inventory sold and the degree of ancillary services, such as helping obtain non-profit status or the installation of ATM/credit card machines in the booth. Those issues notwithstanding, the primary purpose of fireworks sales is to make as much money for an organization as possible. For most, if not all non-profits, the annual sale of legal fireworks is the most significant, or perhaps the only, fundraiser conducted in any given year.

The Grand Jury has learned of significant disparities in some reported net income as shown by actual non-profit sales in 2007:

Non-Profit	Gross Income	Net Income (Profit)	Profit Percentage
"A"	\$33,601	\$4,689	14%
"B"	\$19,026	\$6,623	35%
"C"	\$22,972	\$2,128	9%
"D"	\$34,561	\$556	2%
"E"	\$21,838	\$567	3%

Cities have long been suspicious about the stated purpose and goals of some non-profits. Some cities require information as to how non-profits spend their legal fireworks sales profits. Generally, to receive a city permit a non-profit must be located within the city limits and require a certain percentage of its members, usually more than 50%, to be citizens of the city. Each organization's stated goals must benefit the local citizenry. Cities often struggle with church-affiliated non-profits because some tend to use their entire profit for outreach programs that operate outside the city or even outside the country. The causes of a few non-profits are so vague

that cities sometimes question the organization's benefit to the local community. Each city tries to weigh each non-profit applicant on a case-by-case basis, with seniority often a deciding factor.

One non-profit earned a net profit of \$4,689 and spent \$3,000 of the profit for a "state convention." One church non-profit used its \$6,574 profit to pay the church mortgage. Another non-profit used its \$3,974 profit to pay its annual insurance renewal. Some did not list how profits were spent. Others gave vague and ambiguous answers as to how sales profits were spent.

Events occurred in Stanton last year that highlight the irony of fireworks sales. One city councilman was listed on the front page of two fireworks sales permit applications, as an officer of both Stanton Charities and the Stanton Kiwanis Club. The first application was dated April 30, 2007, and the second was dated May 7, 2007. This same councilman, then acting in his capacity as the Mayor of Stanton, signed a city declaration stating that legal fireworks sales were a major problem in Stanton: "Whereas, in recent years the City of Stanton, along with neighboring jurisdictions that permit the sale of safe and sane fireworks, have experienced a dramatic increase of complaints and disturbances associated with the discharge of fireworks, both legal and illegal, during the annual Fourth of July celebration." as per Ordinance No. 935, signed on May 22, 2007.

Politics

Both constituencies, those who support the sale of legal fireworks and those who oppose it, bring political pressure to bear on local elected leaders. The sale of legal fireworks is a controversial issue that will not go away anytime soon:

- On November 16, 1990, Costa Mesa had a citizen advisory vote regarding the ban of legal fireworks sales. The citizens voted to ban the sale by less than one percentage point, but the city council took no action because the vote was only advisory.
- On April 22, 2003, the Buena Park city council took action and voted 3-2 to ban the sale of legal fireworks. Immediately afterwards, various non-profit organizations formed a Political Action Committee (PAC), supported by a legal fireworks wholesaler to put the issue to a vote of the citizens. The PAC funded political mailers, signage in the city, phone banks and organized opposition at city council meetings. One fireworks wholesaler contributed \$112,800 in monetary support and \$62,029.73 in non-monetary support to overturn the city council's decision to ban fireworks sales.² The city had no legal authority to fight the referendum and the city council's action was overturned by popular vote in a special election on March 2, 2004.
- The city of Garden Grove has long been ground zero for political pressure on this issue. The American Association of Retired Persons (AARP) Garden Grove chapter, neighborhood watch groups, and community associations have continually called for the issue to be put before the voters. The non-profits have been extremely vocal on the opposite side of the issue, predicting dire financial consequences for local sports programs and charities. The city council has balked at allowing the issue to be put before the voters.
- Officials in all five cities agree that if the issue goes to a ballot initiative, the deciding vote will be extremely close. Most estimate the vote would be split almost 50/50.

² Per Form 461 Major Contributors filed with the California Secretary of State (www.sos.ca.gov)

The legal fireworks wholesalers are sophisticated business people and operate like any other large corporation. At least one of the wholesalers maintains a full-time lobbyist in Sacramento. They are responsive to the concerns of their clients, which tend to be the non-profit organizations. They are also sensitive to the concerns of opposition groups. In 2007, one wholesaler partnered with the Santa Ana Fire Department to help finance and produce a DVD along with printed information relating to fireworks laws and safe usage.

Wholesalers contribute to local elected officials' political campaigns. The Grand Jury obtained copies of Major Contributors forms filed with the California Secretary of State, as well as copies of solicitations from local politicians and/or their election committees, for campaign contributions in the following amounts:³

2004

Friends of Lori Galloway	\$100
Mark Leyes for Assembly	\$500
Mark Rosen for City Council	\$250
Bill Dalton for Mayor	\$250
Curt Pringle for Mayor of Anaheim	\$250
Claudia Alvarez for City Council	\$249
Jose Solorio for City Council	\$249
Carlos Bustamante for City Council	\$125
Broadwater for Supervisor	\$500
Van Tran for Assembly	\$500
Linda Dixon for City Council	\$249
Richard Carroll for City Council	\$250
Steve Berry for City Council	\$250
Rob Richardson for School Board	\$100
Rudy Bermudez for Assembly 2004	\$250

2005

Friends of Eric Bever	\$100
Bill Dalton for Mayor	\$250
Claudia Alvarez for City Council	\$249
Friends of Janet Nguyen	\$250
Friends of Allan Mansoor	\$249
Van Tran for Assembly 2006	\$1,000

2006

Friends of Janet Nguyen	\$500
David Shawver for Supervisor	\$500
Jose Solorio for Assembly	\$500
Fortino Rivera for City Council	\$500
Friends of David Benavides	\$249
Friends of Allan Mansoor	\$249
Committee for Patsy Marshall	\$500
Friends of Mark Rosen	\$250

³ Per Form 461 Major Contributors filed with the California Secretary of State for the years referenced

<u>2007</u>	
Friends of Allan Mansoor	\$500
Jose Solorio for Assembly 2008	\$250
Friends of Janet Nguyen	\$150
Van Tran for Assembly	\$500
TOTAL REPORTED	\$10,818

Alternatives

The 2007-2008 Grand Jury found that cities that allow the sale of legal fireworks do little to encourage non-profits in finding other forms of fundraising. Churches, youth groups, service clubs, and school districts in other Orange County cities use bingo games, band competitions, candy and cookie dough sales, car washes, sale of sport logo items and community solicitations and sponsorships to name a few methods. City officials are of the general opinion that it is the only reason for so much resistance by the participating non-profits is that they are reluctant to forgo the quick revenue of fireworks sales, since this revenue requires little effort and no up-front cost.

The Grand Jury found that the same city councils that allow the sale of legal fireworks and are hesitant to put the issue before voters are now reluctant to sponsor or allow sponsorship of any public display of fireworks. All these cities except Stanton have the public space available for such displays. In the past, there have been public fireworks displays in these cities. Most recently, Garden Grove helped sponsor a one-time fireworks display in 2006 as that city celebrated its fiftieth anniversary. Safety officials agree that a public display in lieu of the sale of legal fireworks is much safer and it is much easier to enforce traffic and crowd control. The detonation of pyrotechnics is managed by professionals. Public displays usually draw a friendly gathering of families and community members.

Public Safety Issues

Even the most ardent supporters of legal fireworks sales cannot deny that there is a dark side to the detonation of these fireworks. Law enforcement officials, firefighters, paramedics, public works employees and animal control officers deal with the worst results of legal fireworks sales. The Fourth of July is the busiest day of the year for all safety personnel, primarily due to the sale and use of legal and illegal fireworks. They are constantly “running from call to call” most of the day. Social disorder, injuries to persons and property, clogged streets where the free movement of safety vehicles and timely response to incidents are frustrated, littered public sidewalks and public streets, debris-strewn catch basins and unhealthy air that reeks of detonated fireworks are all significant results of the sale of legal fireworks. The most common characterization used by safety personnel when describing their community on the evening of the Fourth of July is “war zone.” Another law enforcement official’s description was “a two to three hour window of controlled anarchy.”

The Grand Jury found that the additional cost of public safety services for the Fourth of July increased taxpayer burden which is not shared by the non-profit organizations. Most of the calls for service are firework related, for both legal and illegal fireworks. In 2007, the added safety-related cost for Fourth of July enforcement was as follows:

Buena Park	\$30,000
Costa Mesa	\$18,170
Garden Grove	\$100,000
Santa Ana	\$34,564
Stanton	\$5,217
TOTAL	<u><u>\$187,951</u></u>

The Grand Jury found that city and safety officials are unable to enforce some municipal ordinances due to the sheer volume of illegal activity. For instance, most cities have an ordinance prohibiting the detonation of legal fireworks on public streets, public sidewalks, city parks and public thoroughfares. Despite these ordinances public areas are where most fireworks are detonated. Unfortunately, a byproduct of detonation on public property is a significant amount of expended fireworks shells that are not properly disposed of, or that are thrown into storm drains, which accumulate in catch basins. Stanton's Public Works crews schedule no work for the entire week following the Fourth of July so that it can concentrate on cleaning debris from city streets, both mechanically and by hand. Other cities do not change the normal street sweeping schedule to clean the debris from the streets immediately. Regarding the debris one city official said that "eventually, the wind blows it away." Non-profits do not pay any of the cost for cleaning up the debris left in public areas.

Safety officials stated that roving gangs come from as far away as San Diego to ignite illegal fireworks in the five Orange County cities, all the while masking their activities by integrating with large crowds detonating legal fireworks. Most illegal fireworks are aerial. By the time safety officials follow the vapor trails to the site of the illegal detonation, the offenders have moved on to another area of the city. Public parks have become a prime location for the detonation of both legal and illegal fireworks. In response, cities have posted notices and closed public parks before sundown on the Fourth of July. The sprinkler systems are also activated to deter anyone from coming into the parks. Activating the sprinkler system in the public parks has been an effective method of deterring any fireworks activity at those locations. In 2007 legal and illegal fireworks caused a peaceful gathering in a park to be disrupted. Local residents had gathered in a public park in anticipation of viewing a public fireworks display in an adjoining city. While that gathering was peaceful and largely made up of local families, a separate gathering occurred in another section of the park. People began detonating fireworks, both legal and illegal. Their activity drew a response from the local police department and the park was evacuated. Subsequently, complaints were directed at the officers, instead of those who disrupted the lawful gathering by their detonation of legal and illegal fireworks.

In another city, rival gang members fashioned shoulder-mounted grenade launchers out of PVC pipe. The launchers were loaded with a combination of illegal fireworks and altered legal fireworks. The gangs blocked the street with stolen shopping carts to impede police response and proceeded to have a "fire-fight" against each other.

It is not unusual in some neighborhoods to see rows of step ladders in the streets used to elevate the detonation of legal fireworks for visual effect. According to one safety official, the smoke can be so thick from fireworks detonation in some neighborhoods that it resembles an “eerie fog.” One senior citizen mobile home park was completely shut off from safety services because of persons detonating fireworks and blocking the entrance to the residences. Residents were unable to enter or exit the mobile home park because of these blocked entrances.

A non-profit organization in one city stopped selling legal fireworks as a fundraiser three years ago when bottle rockets were shot over and at their booth on the Fourth of July. According to the non-profit’s manager, “Chemical bombs stronger than M80s exploded in the air and shook our booth.” Most board members of that non-profit voted against selling fireworks as a result. This non-profit determined that the sale of fireworks was not worth the potential injury to a child and decided that it is safer to attend a public display in an adjoining city.

Most of the five cities allow non-profits to sell legal fireworks from stands which are literally on the border of a neighboring city where any fireworks possession is illegal. Law enforcement officials in one city prohibiting possession of legal fireworks often observe buyers purchasing these fireworks and attempting to bring them into their city. Usually, the legal fireworks are confiscated and the person in possession is issued a citation.

Safety officials in several municipalities abutting the five cities that allow the sale of legal fireworks were asked if their cities were affected by these sales during the Fourth of July holiday. It was their unanimous opinion that the sale of legal fireworks significantly impacts their cities. Last year, one city confiscated over 200 pounds of both legal and illegal fireworks. Although legally purchased in an adjacent city, every year there is an increase in the illegal detonation of fireworks in contiguous neighborhoods that ban the possession of all fireworks. Two beach cities incur added expenses annually for placing signs along major thoroughfares leading to and from an adjoining city that allows the sale of legal fireworks. Citizens are warned against buying legal fireworks in an adjoining city and bringing them into the beach cities. Even so, each year the beach cities are negatively impacted by the illegal detonation of fireworks on public beaches.

The Grand Jury found other situations where non-profits and cities seem to be immune from liability for allowing the sale of legal fireworks. Legal fireworks may only be sold to persons 18 years of age or older. Cities have no requirement to verify the age of a purchaser of fireworks by a valid government issued identification such as a driver license. Also, non-profits do not provide sufficient information to purchasers as to where these fireworks are illegal to possess or detonate.

Animal control officers see a dramatic spike in calls for services on the Fourth of July and in the days following because of an increase in runaway animals. The Orange County Animal Care Services agency is confident that the primary reason for the increase in runaway animals, particularly dogs, is the use of legal and illegal fireworks. Animals easily get confused and frightened and try to escape their homes when loud, shrill noises, such as the “Piccolo Pete” and other fireworks are detonated. It is natural for animals to seek shelter away from an area where any type of pyrotechnic is being detonated. When runaway animals are impounded their owners may incur significant costs to retrieve their pets.

The Grand Jury found safety officials to be unanimous in their opinion that the sale of legal fireworks should be banned. Their use contributes to the injury of persons, usually children, and the destruction of private and public property. Legal fireworks also masks the use of illegal fireworks in the community and often contributes to a disruption of public order. Police officials believe that they could significantly reduce the usage of illegal fireworks if the sale of legal fireworks were banned. Many estimate that it would take approximately three years to curb the current culture of public disorder on the Fourth of July if sales were banned.

The Orange County Fire Chief's Association incorporated their view of legal fireworks in their "4th OF JULY POST ACTION REPORT 2007." In it the President of the Association wrote:

"Even with aggressive public education and enforcement efforts, the public, as well as the public safety agencies and hospitals, continue to be adversely impacted by the use of State-approved (so-called "Safe and Sane") and illegal fireworks. Based on the data we have collected and evaluated, our surveys show little or no decline in property loss or injuries over several years. Instead, the use of non-State approved (illegal) fireworks continues to climb, and when combined with injuries and damage resulting from the use of State-approved consumer fireworks, has created a situation where the occurrence of property damage and personal injury exceed that of any holiday period. These consequences stretch public safety resource capabilities and adversely impact the ability to meet the emergency demands for service in a timely and efficient manner."

FINDINGS

In accordance with California Penal Code sections 933 and 933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 Orange County Grand Jury has arrived at the following findings:

- F-1. Not all cities that allow the sale of legal fireworks require applicants to show proof of a valid Seller's Permit issued by the State of California Board of Equalization.***
- F-2. Cities have varying requirements for legal fireworks applicant's liability insurance amounts that need to be re-examined for appropriate coverage.***
- F-3. Cities do not require legal fireworks sellers to file a post-sales report to the city documenting gross and net sales of fireworks detailing the manner and in what amounts the net profits are spent to benefit the community and ensuring that the cities receive their one percent share of the sales tax.***
- F-4. Cities do not provide sufficient information and encouragement to fireworks sellers to seek other methods of fundraising.***
- F-5. Some cities are reluctant to put the issue of legal fireworks sales to the voters in their cities.***

- F-6. Some cities are reluctant to sponsor free public displays of fireworks or to solicit sponsoring partners from businesses or neighboring cities in lieu of the sale of fireworks.*
- F-7. Fireworks sellers do not share the financial burden of added law enforcement, fire safety and public works costs incurred by cities, in large part due to the sale of legal fireworks.*
- F-8. Cities do not require fireworks sellers to advise all purchasers that it is illegal to detonate legally sold fireworks in any area of Orange County other than in the incorporated city limits of Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton.*
- F-9. Safety officials cannot enforce all laws and municipal ordinances regarding the illegal use of legal fireworks due to the large volume of activity on the Fourth of July.*
- F-10. The use of illegal fireworks is significantly greater in cities that allow the sale of legal fireworks.*
- F-11. The use of legal fireworks can mask the use of illegal fireworks.*
- F-12. Safety officials are of the opinion that legal fireworks sales should be banned in the interest of public safety.*
- F-13. Safety officials can significantly curb the use of illegal fireworks in these cities within three years if the sale of legal fireworks were banned.*

Responses to Findings F-1 through F-13 are required from the mayors of Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton.

Responses to Findings F-9 through F-13 are requested from the police chiefs of the cities of Buena Park, Costa Mesa, Garden Grove, Santa Ana and required from the Orange County Sheriff-Coroner Department.

Responses to Findings F-10 through F-13 are requested from the fire chiefs of the cities of Costa Mesa, Garden Grove, Santa Ana and required from the Orange County Fire Authority.

RECOMMENDATIONS

In accordance with California Penal Code sections 933 and 933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings of this report, the 2007-2008 Orange County Grand Jury makes the following recommendations:

- R-1. Require all fireworks applicants, as part of the permit application process, to show proof of a valid Seller's Permit issued by the California Board of Equalization.*
- R-2. Require all fireworks applicants, as part of the permit application process, to show proof of current liability insurance in amounts not less than \$1,000,000.*
- R-3. Require all fireworks applicants to file an accurate after-sales financial report with the city documenting gross sales and net profits of fireworks detailing the manner and amount in which the net profit is spent to benefit the community*
- R-4a. Require all fireworks applicants, as part of the permit application process, to file a detailed accounting of additional fundraising efforts conducted over the course of the previous year other than fireworks sales.*
- R-4b. Encourage cities to become more pro-active in encouraging and fireworks applicants to find other fundraising options, in lieu of fireworks sales.*
- R-5. Let the issue of legal fireworks sales be decided by the voters in each city.*
- R-6. Invite area businesses, civic groups and/or neighboring communities to join with the city to sponsor a public fireworks display in lieu of fireworks sales.*
- R-7. Increase the permit fee to offset the extra costs of law enforcements services, fire services and public works in the enforcement of municipal codes and subsequent clean-up of debris of fireworks detonation in public areas.*
- R-8. Require all fireworks sellers to advise all purchasers, both verbally and in written form that it is illegal to detonate legally purchased fireworks in any area of Orange County, other than in the incorporated city limits of Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton.*
- R-9. Declare a moratorium of fireworks sales for at least three or more consecutive years in the cities of Buena Park, Costa Mesa, Garden Grove, Santa Ana, and Stanton to allow law enforcement and fire officials in these cities the opportunity to curb the escalating use of illegal fireworks activity. (This recommendation arises from Findings F-9 through F-13)*

Responses to Recommendations R-1 through R-9 are required from the mayors of Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton.

REQUIRED RESPONSES:

The California Penal Code specifies the required permissible responses to the findings and recommendations contained in this report. The specific sections are quoted below:

§933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

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AMENDED IN ASSEMBLY AUGUST 31, 2007
AMENDED IN ASSEMBLY AUGUST 20, 2007
AMENDED IN ASSEMBLY JUNE 25, 2007
AMENDED IN SENATE JUNE 4, 2007
AMENDED IN SENATE MAY 10, 2007
AMENDED IN SENATE MAY 1, 2007
AMENDED IN SENATE APRIL 19, 2007
AMENDED IN SENATE APRIL 16, 2007
AMENDED IN SENATE APRIL 9, 2007

INTRODUCED BY Senator Calderon

FEBRUARY 23, 2007

An act to amend Sections 12551, 12552, 12700, 12702, and 12726 of, and to add Sections 12556, 12557, 12703, 12704, 12706, 12727, and 12728 to, the Health and Safety Code, and to add Section 15301 to the Vehicle Code, relating to fireworks.

LEGISLATIVE COUNSEL'S DIGEST

SB 839, Calderon. Fireworks.

(1) The State Fireworks Law requires the State Fire Marshal to adopt regulations relating to fireworks as may be necessary for the protection of life and property, and requires the State Fire Marshal to appoint deputies and employees as may be required to carry out the provisions of that law. That law provides that the State Fire Marshal, his or her salaried deputies, or a chief of a fire department, or his or her authorized representatives, a fire protection agency, or any other public agency authorized by statute to enforce the State Fire Marshal's regulations, may seize any fireworks, as described, and may charge a person whose fireworks are seized with specified costs of transporting, storing, and handling the seized fireworks. That law also makes it unlawful for a person to, among other matters, transport fireworks unless those fireworks have been classified and registered by the State Fire Marshal.

This bill would make it unlawful for a person to possess a specified amount of dangerous fireworks, and upon conviction, is guilty of a public offense punishable by a fine or by imprisonment, as specified. By creating a new crime, the bill would impose a state-mandated local program. The bill would require the State Fire Marshal, on or before July 1, 2008, to identify and evaluate specified data relating to fireworks, and require the State Fire Marshal to furnish a copy of the evaluation methods to any interested person upon request. The bill would require the State Fire Marshal, in conjunction with the Attorney General, to send notices regarding unauthorized shipments of fireworks in California, as specified.

The bill would create the State Fire Marshal Fireworks Enforcement and Disposal Fund. The bill would provide that 65% of the penalty imposed by these provisions, except for administrative fines imposed by local jurisdictions, shall be deposited in the fund for use by the State Fire Marshal, upon appropriation by the Legislature, to enforce, prosecute, dispose of, and manage dangerous fireworks and to educate public safety agencies in the proper handling and management of dangerous fireworks. The bill would also provide that 35% of the penalty, except for administrative fines imposed by local jurisdictions, will remain with the public safety agency for specified expenses. The bill would require the county treasurer in the county where the offense was committed to forward those penalties as specified in these provisions. By imposing a higher level of service on a local agency, the bill would impose a state-mandated local program.

The bill would require the Office of the State Fire Marshal, consulting with public safety agencies and other stakeholders, to develop a model ordinance that permits local jurisdictions to adopt a streamlined enforcement and administrative fine procedures related to the possession of 25 pounds or less of dangerous fireworks, as specified. The bill would also require the State Fire Marshal, in consultation with local jurisdictions, to develop regulations, in conjunction with the model ordinance, to specify a procedure on how to reimburse the Office of the State Fire Marshal for the actual costs associated with the disposal of seized dangerous fireworks and to recover those costs, as part of an administrative fine, from any person who violates that ordinance, as specified. The bill would require a local ordinance in effect on or after January 1, 2008, that is not the model ordinance to comply with these provisions. By requiring a higher level of service on a local agency, the bill would impose a state-mandated local program.

The bill would further require the State Fire Marshal, pursuant to the requirements and procedures established by the Office of Administrative Law, to establish regulations to assess fees on all import and export, wholesale, and retail fireworks licensees in California, as specified. The bill would provide that these fees shall be deposited in the State Fire Marshal Fireworks Enforcement and Disposal Fund for use by the State Fire Marshal, upon appropriation by the Legislature, to carry out specified statewide programs.

(2) Existing law prohibits a driver of a commercial motor vehicle from operating a commercial motor vehicle for one year if the driver is convicted of a first violation of specified vehicle-related offenses or convicted of other specified crimes.

This bill would require the Department of Motor Vehicles, in conjunction with the State Fire Marshal, to develop regulations and procedures to temporarily suspend the commercial motor vehicle license of a person who is operating a commercial motor vehicle while transporting dangerous fireworks having a gross weight of 10,000 pounds or more. The bill would also prohibit a driver of a commercial motor vehicle from operating a commercial motor vehicle for 3 years if the driver is convicted of transporting dangerous fireworks having a gross weight of 10,000 pounds or more.

(3) This bill would also make various technical, nonsubstantive changes to these provisions.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the

state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12551 of the Health and Safety Code is amended to read:

12551. The State Fire Marshal shall appoint deputies and employees as may be required to carry out the provisions of this part, subject to approval in the annual Budget Act.

SEC. 2. Section 12552 of the Health and Safety Code is amended to read:

12552. The State Fire Marshal shall adopt regulations relating to fireworks as may be necessary for the protection of life and property not inconsistent with the provisions of this part. These regulations shall include, but are not limited to, provisions for the following:

(a) Granting of licenses and permits for the manufacture, wholesale, import, export, and sale of all classes of fireworks.

(b) Classification of fireworks and pyrotechnic devices.

(c) Registration of employees of licensees.

(d) Licenses and permits required for presentation of public displays.

(e) Granting of licenses and permits for research or experimentation with experimental or model rockets and missiles.

(f) Investigation, examination, and licensing of pyrotechnic operators of all classes.

(g) Registration of emergency signaling devices and the classification and use of exempt fireworks.

(h) Transportation of all classifications of fireworks, model rockets, emergency signaling devices, and exempt fireworks.

SEC. 3. Section 12556 is added to the Health and Safety Code, to read:

12556. In addition to the obligations described in Section 13110.5, on or before July 1, 2008, the State Fire Marshal shall identify and evaluate methods to capture more detailed data relating to fires, damages, and injuries caused by both dangerous fireworks and safe and sane fireworks. These evaluation methods shall include a cost analysis related to capturing and reporting the data and shall meet or exceed the specificity, detail, and reliability of the data captured under the former California Fire Incident Reporting System (CFIRS). The State Fire Marshal shall furnish a copy of these evaluation methods to any interested person upon request.

SEC. 4. Section 12557 is added to the Health and Safety Code, to read:

12557. (a) The Office of the State Fire Marshal shall consult with public safety agencies and other stakeholders as deemed necessary by the State Fire Marshal and develop a model ordinance that permits local jurisdictions to adopt a streamlined enforcement and administrative fine procedures related to the possession of 25

pounds or less of dangerous fireworks. These procedures shall be limited to civil fines and as authorized pursuant to Section 53069.4 of the Government Code, and provide that the fines collected pursuant to this section shall not be subject to Section 12706. The model ordinance shall include provisions for reimbursing the Office of the State Fire Marshal for the costs associated with the disposal of seized fireworks and collecting these disposal costs as part of an administrative fine as described in subdivision (c).

(b) An ordinance of a local jurisdiction in effect on or after January 1, 2008, that is related to dangerous fireworks and is not the model ordinance described in subdivision (a) shall, as soon as practicable, comply with all of the following:

(1) The ordinance shall be amended or adopted to include provisions for cost reimbursement to the Office of the State Fire Marshal and the collection of disposal costs as part of an administrative fine as described in subdivision (c).

(2) The ordinance shall be amended or adopted to provide that the ordinance shall be limited to a person who possesses or the seizure of 25 pounds or less of dangerous fireworks.

(3) The ordinance shall be amended or adopted to provide that the fines collected pursuant to the ordinance shall not be subject to Section 12706.

(c) The State Fire Marshal shall, in consultation with local jurisdictions, develop regulations to specify a procedure on how to cover the cost to the Office of the State Fire Marshal for the transportation and disposal of dangerous fireworks that are seized by local jurisdictions. The regulations shall include, but are not limited to, all of the following:

(1) A cost recovery procedure to collect, as part of an administrative fine, the actual cost for transportation and disposal of dangerous fireworks from any person who violates a local ordinance related to dangerous fireworks.

(2) The method by which the actual cost for transportation and disposal by the Office of the State Fire Marshal will be calculated.

(3) The method, manner, and procedure the local jurisdiction is required to follow to forward the amounts collected pursuant to paragraph (1) to the State Fire Marshal.

SEC. 5. Section 12700 of the Health and Safety Code is amended to read:

12700. (a) Except as provided in Section 12702 and subdivision (b), a person who violates any provision of this part, or any regulations issued pursuant to this part, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not exceeding one year, or by both that fine and imprisonment.

(b) A person who violates any provision of this part, or any regulations issued pursuant to this part, by possessing dangerous fireworks shall be subject to the following:

(1) A person who possesses a gross weight, including packaging, of less than 25 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not exceeding one year, or both that fine and imprisonment. Upon a second or subsequent conviction, a person shall be punished by a fine of not less than one thousand dollars (\$1,000)

or by imprisonment in a county jail not exceeding one year or by both that fine and imprisonment.

(2) A person who possesses a gross weight, including packaging, of not less than 25 pounds or more than 100 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a public offense, and upon conviction shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000), or by both that fine and imprisonment.

(3) A person who possesses a gross weight, including packaging, of not less than 100 pounds or more than 5,000 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a public offense, and upon conviction shall be punished by imprisonment in the state prison or the county jail for not more than one year, or by a fine of not less than five thousand dollars (\$5,000) or more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(4) A person who possesses a gross weight, including packaging, of more than 5,000 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a public offense, and upon conviction shall be punished by imprisonment in the state prison or the county jail for not more than one year, or by a fine of not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000), or by both that fine and imprisonment.

(c) Subdivision (b) shall not apply to a person who holds and is operating within the scope of a valid license as described in Section 12516 or valid permit as described in Section 12522.

SEC. 6. Section 12702 of the Health and Safety Code is amended to read:

12702. Notwithstanding the provisions of Section 12700:

(a) A person who violates this part by selling, giving, or delivering any dangerous fireworks to any person under 18 years of age is guilty of a misdemeanor and upon a first conviction shall be punished as prescribed in subdivision (b) of Section 12700.

(b) Upon a second or subsequent conviction of the offense, the person shall be punished by an additional fine of five thousand dollars (\$5,000), or by imprisonment in a county jail for up to one year or by both that fine and imprisonment. The person shall not be granted probation and the execution of the sentence imposed upon the person shall not be suspended by the court.

SEC. 7. Section 12703 is added to the Health and Safety Code, to read:

12703. (a) The State Fire Marshal shall, in conjunction with the Department of Motor Vehicles, develop regulations and procedures to temporarily suspend the commercial motor vehicle license of a person who is operating a commercial motor vehicle while transporting unaltered dangerous fireworks, as defined in Section 12505, having a gross weight, including packaging, of 10,000 pounds or more.

(b) A driver of a commercial motor vehicle shall not operate a commercial motor vehicle for three years if the driver is convicted of transporting unaltered dangerous fireworks, as defined in Section 12505, having a gross weight, including packaging, of 10,000 pounds or more, as described in Section 15301 of the Vehicle Code.

(c) This section shall not apply to a person who holds and is operating within the scope of a valid license as described in Section 12516 or valid permit as described in Section 12522.

SEC. 8. Section 12704 is added to the Health and Safety Code, to

read:

12704. The State Fire Marshal, at least once a year and in consultation with the Attorney General, shall serve notice to any individual or business known to supply fireworks that any unauthorized shipments of fireworks into California will result in an immediate report to federal authorities with a request for any relevant federal prosecution.

SEC. 9. Section 12706 is added to the Health and Safety Code, to read:

12706. Notwithstanding Section 1463 of the Penal Code, all fines and forfeitures imposed by or collected in any court of this state, except for administrative fines described in Section 12557, as a result of citations issued by a public safety agency, for any violation of subdivision (b) of Section 12700 or of any regulation adopted pursuant to subdivision (b) of Section 12700, shall be deposited, as soon as practicable after the receipt of the fine or forfeiture, with the county treasurer of the county in which the court is situated. Amounts deposited pursuant to this section shall be paid at least once a month as follows:

(a) Sixty-five percent to the Treasurer, by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, for deposit in the State Fire Marshal Fireworks Enforcement and Disposal Fund, as described in Section 12728, on order of the Controller. At the time of the transmittal, the county auditor shall forward to the Controller, on the form or forms prescribed by the Controller, a record of the imposition, collection, and payments of the fines or forfeitures.

(b) Thirty-five percent to the local public safety agency in the county in which the offense was committed to reimburse the local public safety agency for expenses, including, but not limited to, the costs for handling, processing, photographing, and storing seized dangerous fireworks.

SEC. 10. Section 12726 of the Health and Safety Code is amended to read:

12726. (a) The dangerous fireworks seized pursuant to this part shall be disposed of by the State Fire Marshal in the manner prescribed by the State Fire Marshal at any time after the final determination of proceedings under Section 12724, or upon final termination of proceedings under Section 12593, whichever is later. If no proceedings are commenced pursuant to Section 12724, the State Fire Marshal may dispose of the fireworks after all of the following requirements are satisfied:

(1) A random sampling of the dangerous fireworks has been taken, as defined by regulations adopted by the State Fire Marshal pursuant to Section 12552.

(2) The analysis of the random sampling has been completed.

(3) Photographs have been taken of the dangerous fireworks to be destroyed.

(4) The State Fire Marshal has given written approval for the destruction of the dangerous fireworks. This approval shall specify the total weight of the dangerous fireworks seized, the total weight of the dangerous fireworks to be destroyed, and the total weight of the dangerous fireworks not to be destroyed.

(b) To carry out the purposes of this section, the State Fire Marshal shall acquire and use statewide mobile dangerous fireworks destruction units to collect and destroy seized dangerous fireworks from local and state agencies.

(c) If dangerous fireworks are seized pursuant to a local ordinance that provides for administrative fines or penalties and these fines or penalties are collected, the local government entity collecting the fines or penalties shall forward 65 percent of the collected moneys to the Controller for deposit in the State Fire Marshal Fireworks Enforcement and Disposal Fund, as described in Section 12728.

SEC. 11. Section 12727 is added to the Health and Safety Code, to read:

12727. (a) The State Fire Marshal shall establish regulations pursuant to the requirements and procedures established with the Office of Administrative Law to assess fees on all import and export, wholesale, and retail fireworks licensees in California to be deposited in the State Fire Marshal Fireworks Enforcement and Disposal Fund.

(b) In determining the appropriate amount of the fees described in subdivision (a), the State Fire Marshal shall consult with the fireworks industry and import and export, wholesale, and retail fireworks licensees.

(c) The total amount of the fees collected shall not exceed the reasonable costs of the statewide programs described in subdivision (c) of Section 12728.

SEC. 12. Section 12728 is added to the Health and Safety Code, to read:

12728. (a) The State Fire Marshal Fireworks Enforcement and Disposal Fund is hereby established in the State Treasury.

(b) All of the moneys collected pursuant to Section 12706 shall be deposited in the fund and shall be available, upon appropriation by the Legislature, to the State Fire Marshal for the exclusive use in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks, and for the education of public safety agencies in the proper handling and management of dangerous fireworks.

(c) All of the moneys collected pursuant to Section 12727 shall be deposited in the fund and shall be available, upon appropriation by the Legislature, to the State Fire Marshal for the exclusive use in statewide programs for all of the following:

(1) To further assist in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks.

(2) The education of public safety agencies in the proper handling and management of dangerous fireworks as well as safety issues involving all fireworks and explosives.

(3) Assist the State Fire Marshal in identifying and evaluating methods to capture more detailed data relating to fires, damages, and injuries caused by both dangerous and safe and sane fireworks, and to assist with funding the eventual development and implementation of those methods.

(4) To further assist in public safety and education efforts within the general public as well as public safety agencies on the proper and responsible use of safe and sane fireworks.

SEC. 13. Section 15301 is added to the Vehicle Code, to read:

15301. The Department of Motor Vehicles, in conjunction with the State Fire Marshal, shall develop regulations and procedures to temporarily suspend the commercial motor vehicle license of a person who is operating a commercial motor vehicle while transporting dangerous fireworks having a gross weight of 10,000 pounds or more. A

driver of a commercial motor vehicle shall not operate a commercial motor vehicle for three years if the driver is convicted of transporting dangerous fireworks having a gross weight of 10,000 pounds or more.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**PUBLIC HEARINGS
AGENDA ITEM # 4**

**CITY OF VILLA PARK
CITY COUNCIL
MARCH 26, 2013**

To: Honorable City Council
From: Jarad Hildenbrand, City Manager

SUBJECT: FINAL CONSIDERSATION OF SAFE AND SANE FIREWORKS

BACKGROUND

At the February 26, 2013 meeting, the City Council conducted a public hearing and approved the first reading of Ordinance No. 2013-574 (attachment 1) that would allow for the sale and use of state-approved safe and sane fireworks on a trial basis for the Fourth of July holiday this year, 2013. The Ordinance is before the City Council again for its second reading and adoption, and it incorporates the amendments made on the floor during its first reading.

Upon adoption of Ordinance No. 2013-574 and in order to provide consistency and clarity, the City's Fire Code should also be amended to allow for the sale and use of state-approved safe and sane fireworks in the City of Villa Park. Accordingly, Ordinance No. 2013-575 (attachment 2) is before you tonight for its first reading. This Ordinance repeals Section 11-1.3.59 of the Villa Park Municipal Code, pertaining to Section 3301.2 (Retail Fireworks) of the California Fire Code and the prohibition of safe and sane fireworks. It should be noted the restrictions are only being removed as to safe and sane fireworks.

The final item with regard to safe and sane fireworks is the consideration of Resolution No. 2013-3232 which assesses a \$1,000 regulatory fee on all permit holders. The purpose of the fee is to defray the cost of administration, inspection and supervision of safe and sane fireworks licenses as well as to offset the cost of the City clean up in areas where fireworks are used.

FISCAL IMPACT

The costs for this program are difficult to estimate. For each permit issued, the following staff time is anticipated:

Planning Manager:	2 hours (Site Plan Review, Temp. Sign Review)
Building Official:	2 Hours (Stand construction and location)
City Manager:	2 Hours (Permit administration)
City Attorney:	1 Hour (Document review)
Finance Manager:	1 Hour (Financial review)
Street Sweeping:	8 Hours
Total permit issuance:	\$1,130

RECOMMENDATION

That the City Council:

1. Approve a second reading and adopt Ordinance No. 2013-574, adding Article 11-2 to Chapter XI of the Villa Park Municipal Code relating to Safe and Sane Fireworks;
2. Hold a Public Hearing, introduce and approve a first reading of Ordinance No. 2013-575, repealing Section 11-1.3.59 of the Villa Park Municipal Code relating to Safe and Sane Fireworks, and schedule a second reading and adoption at the April 23, 2013, City Council meeting; and
3. Adopt Resolution No. 2013-3232

ATTACHMENTS

1. Ordinance No. 2013-574
2. Ordinance No. 2013-575
3. Resolution No. 2013-3232

ORDINANCE NO. 2013-574

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VILLA PARK, CALIFORNIA, ADDING ARTICLE 11-2 TO CHAPTER XI OF THE VILLA PARK MUNICIPAL CODE RELATING TO SAFE AND SANE FIREWORKS

The City Council of the City of Villa Park does hereby ordain as follows:

SECTION 1. Article 11-2 of the Villa Park Municipal Code is hereby added to read as follows:

Chapter XI - FIRE PREVENTION

Article 11-2. – Safe and Sane Fireworks

Sec. 11-2.1 Purpose.

The purpose of this Article is to bring the City's regulation of the use of fireworks into compliance with the California State Fire Marshal's Department regulations and to protect and secure the public health, safety and general welfare.

Sec. 11-2.2 Definition – “Safe and Sane Fireworks”.

“Safe and Sane Fireworks” shall be as defined in Section 12500 of the California Health and Safety Code, as that section may in the future be amended.

Sec. 11-2.3 Sale and Discharge of “Safe and Sane Fireworks”.

- A. Only Safe and Sane Fireworks may be discharged within the City only on July 4th of each year between the hours of 12:00 noon and 10:00 p.m. Individuals participating in the discharge of the Safe and Sane Fireworks are also responsible for removing and properly disposing of any debris resulting from the discharge of the fireworks.
- B. Safe and Sane Fireworks may only be sold within the City by temporary stand permit holders on the dates and during the times in this section. Sales shall be between the hours of 10:00 a.m. and 10:00 p.m. during the days of June 28th, June 29th, June 30th, July 1st, July 2nd and July 3rd, and between the hours of 10:00 a.m. and 8:00 p.m. on July 4th of that same year. All sales of Safe and Sane Fireworks shall cease at 8:00 p.m. on July 4th, until the next calendar year.

- C. No person under the age of eighteen (18) shall be allowed to purchase Safe and Sane Fireworks.
- D. No person under the age of eighteen (18) shall use or discharge any Safe and Sane Fireworks within the City except when under the direct supervision and in the presence of an adult over the age of twenty-five (25), or a parent or legal guardian.
- E. The discharge of Safe and Sane Fireworks shall not be permitted in the "C-N Zone", on schools' grounds, or on any public property with the exception of residential public rights-of-way located immediately adjacent to a dwelling of individuals participating in the discharge of the Safe and Sane Fireworks and only if the discharge is conducted in a safe manner to ensure public safety and traffic flow.
- F. No person shall allow the use or discharge of any Safe and Sane Fireworks within thirty (30) feet of any residence, dwelling or other structure.

Sec. 11-2.4 Permit Required; Application for Permit to Sell Safe and Sane Fireworks.

- A. Except as otherwise provided herein, no person shall offer for sale or sell fireworks of any kind in the City, without having first applied for and received a temporary stand permit.
- B. All applications for permits to sell Safe and Sane Fireworks shall:
 - 1. Be made in writing, accompanied by a filing fee made payable to the City, in the amount established by resolution of the City Council, which will be used to defray the cost of administration, inspection and supervision of Safe and Sane Fireworks licensees as well as to offset the cost of the City clean up in areas in the City where Safe and Sane Fireworks are used.
 - 2. Be submitted between the first and the last day of April each year, except when the last day falls on a day when City Hall is closed, then the following business day shall be the last day.
 - 3. Set forth the proposed location of the temporary stand applied for in a drawing or sketch of stand's location on property showing all distances to comply with this Article. Each stand must be on private property located in the "C-N Zone", or on public land at the sole discretion of the City, or on school grounds at the discretion of the School District. A signed statement from the owner of record or designee of the property must accompany the application.

4. Be accompanied by an agreement from the manufacturer and/or wholesaler of the Safe and Sane Fireworks to defend, indemnify and hold the City harmless from any claims, liability, litigation, damages or other injuries resulting from defective Safe and Sane Fireworks.
 5. Include a statement that the applicant agrees to comply strictly with the terms of any temporary stand permit granted to it and furnish any additional information upon request of the City Manager, the City Council or their authorized employees and/or representatives.
- C. At the time of issuance of the temporary stand permit, the applicant must deliver to City evidence of public liability insurance in an amount not less than one hundred thousand dollars (per occurrence) / three hundred thousand dollars (aggregate) (\$100,000.00/\$300,000.00) and not less than fifty thousand dollars (\$50,000.00) property damage insurance in the form and content required by the City, certificated, and a copy of the requisite permit from the State Fire Marshal.
- D. The applicant shall comply with any and all state or county requirements applicable to Safe and Sane Fireworks, including but not limited to payment of the State Fire Marshal Fee or other applicable requirements.

11-2.5 General Requirements for Safe and Sane Fireworks Permits.

The following qualifications must be met by each applicant for a temporary stand permit issued hereunder:

- A. No permit shall be issued to any person, firm or corporation except non-profit associations or corporations organized primarily for civic betterment or youth activities. Such organizations, groups or individuals shall be limited to one (1) temporary stand permit per year.
- B. Each such organization must have its principal and permanent meeting place within the corporate limits of the City, must maintain a bona fide membership of at least twenty (20) Villa Park resident members, and must have been organized and established in the City's corporate limits for a minimum of one (1) year continuously preceding the filing of the application for the temporary stand permit.
- C. No organization shall receive more than one (1) temporary stand permit for Safe and Sane Fireworks sale during any one (1) calendar year. One (1) temporary stand permit may be issued to two (2) or more qualifying applicants as a joint venture, but such joint venture may only operate one (1) stand. The maximum number of temporary stand permits which may

be issued pursuant to this Article during any one (1) calendar year shall not exceed three (3).

- D. The Villa Park Community Services Foundation, Friends of the Villa Park Library, Villa Park Rotary and Villa Park Women’s League shall be issued one (1) temporary stand permit each year, to be shared as a joint venture, so long as those organizations continue to meet all of the terms and conditions of this Article. If these conditions are not met, the temporary stand permit will be forfeited for that year and issued according to the requirements and procedures set forth elsewhere in this Article.
- E. The schools (SE, VPE, CVMS, VPHS) Parent Faculty Student Organizations shall be issued one (1) temporary stand permit each year, to be shared as a joint venture, so long as it continues to meet all of the terms and conditions of this Article. If these conditions are not met, the temporary stand permit will be forfeited for that year and issued according to the requirements and procedures set forth elsewhere in this Article.
- F. The balance of the available temporary stand permits shall be issued by lottery to the remaining non-profit or not-for-profit organizations that qualified under the terms of this Article. The lottery, if necessary, shall take place at a City Council meeting.

11-2.6 Sales Stands – Operation and Employees.

- A. No person other than the permitted organization(s) shall operate the stand for which the temporary stand permit is issued or share or otherwise participate in the profits of the operation of such stand.
- B. No person other than the individuals who are members of the permitted organization(s), or the spouses or adult children of such members, shall sell or otherwise participate in the sale of Safe and Sane Fireworks at such stand(s) except that in no instance shall a person under the age of eighteen (18) years be permitted to sell or otherwise participate in the operation of the stand.
- C. No person shall be paid any consideration by a fireworks company or the non-profit organization for selling or otherwise participating in the sale of Safe and Sane Fireworks at a stand.
- D. All Safe and Sane Fireworks sales must be made from within a temporary stand, and sales from any other building or structure are prohibited.
- E. No person shall light, cause or permit to be lighted any “Safe and Sane Fireworks”, matches, or any other material within 100 feet of such temporary stand.

- F. Each temporary stand must have an adult, over the age of twenty-five (25), in attendance and in charge thereof while fireworks are stored therein. Sleeping or remaining in the temporary stand after close of business each day is forbidden. No person under the age of eighteen (18) shall be permitted within any temporary stand.
- G. All unsold stock and accompanying litter shall be removed from the temporary stand location by 5:00 p.m. on July 6th.
- H. Each temporary stand must have one or more designated persons over the age of twenty-five (25), who will act and serve as a watchperson for the temporary stand during all hours when the temporary stand is not in operation selling "Safe and Sane Fireworks". The designated person must be pre-approved by the City Manager or designee, prior to the installation of the temporary stand at the designated location. The designated person will remain outside but within eyesight of the temporary stand.
- I. Each organization operating or participating in a temporary stand shall submit to the City a financial statement of actual sales and profit by 5:00 p.m. on August 31 of the same calendar year following the sale, unless that day falls on a day when City Hall is closed, then the following business day shall be the last day. Failure to comply with this requirement may result in revocation of future permit eligibility for such organization.

11-2.7 Sales Stands – Construction Specifications.

- A. Each temporary stand shall obtain a safety inspection and clearance from the City and Orange County Fire Authority (OCFA) prior to opening.
- B. No change of stand locations will be permitted without prior approval from City and OCFA.
- C. Temporary stands need not comply with the provisions of the Building Code, provided, however, all stands shall be erected under the supervision of the Building Official, and must be constructed in a manner that will reasonably ensure the safety of attendants and patrons.
- D. No temporary stand shall be located within twenty-five (25) feet of any other building or within one hundred (100) feet of any gasoline pump.
- E. No temporary stand shall be located closer than twenty (20) feet from the shoulder of any public road or highway.
- F. No temporary stand shall have a floor area in excess of three hundred (300) square feet.

- G. Each temporary stand must have at least two (2) unobstructed exits; and each stand in excess of forty (40) feet in length must have at least three (3) unobstructed exits spaced approximately equidistant apart, provided, however, that in no case shall the distance between the exits exceed twenty-four (24) feet.
- H. Each temporary stand shall maintain two (2), two and one-half (2-1/2) gallon "water pressure" type or 2A10BC dry chemical type fire extinguishers, underwriter approved, in good working order, with up-to-date inspection tag, and easily accessible for use in case of fire.
- I. All weeds and combustible materials shall be cleared from the location of the temporary stand and for a distance of at least fifty (50) feet from any point of the temporary stand.
- J. "No Smoking Within 100 Feet" signs must be prominently displayed on the temporary stand.
- K. If stands are operated at night, only electric lights may be used and the wiring shall meet the requirements of the California Building Code. Minimum separation between generators and temporary stand is 20 feet.
- L. Each temporary stand shall display on the interior and exterior a sign of at least ten (10) square feet stating that 1) discharge of fireworks is only legal within the City limits between the hours of 12:00 noon and ten (10) p.m. on July 4th, and 2) stating that the minimum age to purchase Safe and Sane Fireworks is eighteen (18) years of age.
- M. Each person making a purchase at a temporary stand shall be given a City-approved flyer designating rules and safety guidelines for discharge of "Safe and Sane Fireworks".
- N. There shall be no drinking or storage of alcoholic beverages in or around a temporary stand at any time.
- O. No temporary stand may be erected or constructed on any premises prior to June 15th. The temporary stand shall be removed, and the site cleared by 12:00 noon on July 7th.
- P. City approved barricades sufficient to prevent the parking of motor vehicles within twenty (20) feet of any temporary stand shall be provided and maintained.
- Q. A City approved sign stating that the use of Safe and Sane Fireworks is not legal in many counties and cities shall be prominently displayed on the temporary stand.

11-2.8 Temporary Sales Tax Permit Required; Display of License and Permit.

- A. Organizations permitted by the City for Safe and Sane Firework sales are required to obtain a temporary sales tax permit from the State Board of Equalization. The organization shall comply with all sales tax requirements and remit to the proper authorities required sales tax payments.
- B. The temporary sales tax permit and the City permit to sell Safe and Sane Fireworks must be displayed in a prominent place in the stand.

11-2.9 Suspension and Revocation.

- A. The City Manager or designee, or any public safety officer, may immediately suspend a permit and close a temporary stand, upon determining that the operation of the stand creates an imminent or substantial danger to the public health, safety or welfare.
- B. The City Manager or designee may revoke any temporary stand permit when it is determined that the permittee has: (i) failed to comply with any provisions of this article; (ii) violated any condition of its temporary stand permit; (iii) operated or is operating a temporary stand in a manner which causes or threatens to cause a danger to public health, safety or welfare.
- C. Upon revocation of any temporary stand permit, the City Manager or designee at his or her discretion, may grant another temporary stand permit to another eligible organization that had previously submitted a completed application for that permitting year, provided the total number of valid permits granted for that permitting year shall not exceed the number authorized by this article.

11-2.10 Penalties.

Any person violating any provision of this Article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of five hundred dollars (\$500.00), or imprisonment not to exceed one hundred eighty (180) days, or both fine and imprisonment. Further, the temporary stand permit of any permittee who violates or permits any provision of this Article to be violated shall be revoked and the permittee shall not be entitled to receive a temporary stand permit for a period of three (3) years thereafter.

11-2.11 Expiration of Ordinance.

This ordinance will expire October 23, 2013, unless otherwise extended by the City Council.

SECTION 2. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty (30) days after its final passage.

PASSED, APPROVED AND ADOPTED THIS 26th DAY OF MARCH, 2013.

Brad E. Reese
Mayor of the City of Villa Park

Jarad L. Hildenbrand
City Clerk

I, Jarad L. Hildenbrand, City Clerk of the City of Villa Park, California, do hereby certify that the foregoing Ordinance No. 2013-574 was duly introduced for the first reading on the 26th day of February, 2013 and regularly adopted at a regular meeting of the City Council of the City of Villa Park on this 26th day of March, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I hereunto set my hand and affix the official seal of the City of Villa Park on this 26th day of March, 2013.

Jarad L. Hildenbrand
City Clerk

ORDINANCE NO. 2013-575

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VILLA PARK, CALIFORNIA, REPEALING SECTION 11-1.3.59 OF THE VILLA PARK MUNICIPAL CODE REGARDING SAFE AND SANE FIREWORKS.

WHEREAS, in 1987, the City Council adopted Ordinance No. 87-367 prohibiting the sale and use of safe and sane fireworks in the City of Villa Park; and

WHEREAS, on January 22, 2013, the City Council directed staff to prepare an ordinance permitting the sale and use of state-approved safe and sane fireworks in the City of Villa Park; and

WHEREAS, on February 26, 2013, the City Council introduced and approved the first reading of Ordinance No. 2013-574 permitting the sale and use of state-approved safe and sane fireworks in the City of Villa Park; and

WHEREAS, the City Council will consider the second reading and adoption of Ordinance No. 2013-574 at its meeting on March 26, 2013; and

WHEREAS, in order to provide consistency and clarity, the City's Fire Code should also be amended to allow for the sale and use of state-approved safe and sane fireworks in the City of Villa Park.

NOW, THEREFORE, the City Council of the City of Villa Park does hereby ordain as follows:

SECTION 1. The portion of Ordinance No. 2010-554, codified at Villa Park Municipal Code Section 11-1.3.59, pertaining to Section 3301.2 (Retail Fireworks) of the California Fire Code and the prohibition of Safe & Sane fireworks, is hereby repealed to the extent inconsistent with Ordinance No. 2013-574 and any extensions thereof.

SECTION 2. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty (30) days after its final passage.

PASSED, APPROVED AND ADOPTED THIS 23rd DAY OF APRIL, 2013.

Brad E. Reese
Mayor of the City of Villa Park

ATTEST:

Jarad L. Hildenbrand
City Clerk

I, Jarad L. Hildenbrand, City Clerk of the City of Villa Park, California, do hereby certify that the foregoing Ordinance No. 2013-575 was duly introduced for the first reading on the 26th day of March, 2013 and regularly adopted at a regular meeting of the City Council of the City of Villa Park on this 23rd day of April, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I hereunto set my hand and affix the official seal of the City of Villa Park on this 23rd day of April, 2013.

Jarad L. Hildenbrand
City Clerk

RESOLUTION NO. 2013-3232

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VILLA PARK AMENDING THE MASTER FEE SCHEDULE FOR THE SERVICES RENDERED BY CITY DEPARTMENTS AND ADDING A FEE FOR TEMPORARY FIREWORKS SALES STAND PERMITS.

THE CITY COUNCIL OF THE CITY OF VILLA PARK DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, the California Constitution authorizes local government to recover the reasonable costs of providing services; and

WHEREAS, the City Council approved Ordinance No. 2013-574 allowing the sale of safe and sane fireworks within the City; and

WHEREAS, the Ordinance requires applications for permits to be accompanied by a filing fee which will be used to defray the cost of administration, inspection and supervision of Safe and Sane Fireworks licensees as well as to offset the cost of the City clean up in areas in the City where Safe and Sane Fireworks are used; and

WHEREAS, City staff has conducted a study to determine the appropriate costs for such fee; and

WHEREAS, the City Council has reviewed the proposed fee and found it adequate to recover actual costs plus overhead related to the provision of the specific service.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Villa Park that the following Section is added to the Master Fee Resolution.

Section 12: Pursuant to Chapter XI of the City of Villa Park Municipal Code, the fee relating to temporary Fireworks as follows:

<u>Application Filing Fee</u>	<u>\$1000.00</u>
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PASSED AND ADOPTED by the City Council of the City of Villa Park at a regular meeting of the City Council held on the 26th day of March, 2013.

Brad Reese, Mayor
City of Villa Park

ATTEST:

Jarad L. Hildenbrand, City Clerk
City of Villa Park

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS
CITY OF VILLA PARK }

I, **JARAD L. HILDENBRAND**, City Clerk of the City of Villa Park **DO HEREBY CERTIFY** that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Villa Park held on the 26th day of March, 2013, and was carried by the following roll call vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Jarad L. Hildenbrand, City Clerk
City of Villa Park

MAYOR AND COUNCILMEMBER MATTERS
AGENDA ITEM # 15

CITY OF VILLA PARK
CITY COUNCIL
APRIL 23, 2013

To: Honorable City Council

From: Jarad Hildenbrand, City Manager 

SUBJECT: COUNCILMEMBER REQUESTED MATTER (PAULY AND BARNETT): DISCUSSION REGARDING SAFE AND SANE FIREWORKS

STATEMENT OF REQUEST

Councilwoman Pauly has requested to agendize a discussion to rescind the Safe and Sane Fireworks ordinances.

Mayor Pro Tem Barnett has requested to agendize an item to allow community members to address fireworks issues.

Also, attached are several emails that I have received since the March City Council meeting in opposition to or in favor of safe and sane fireworks.

RECOMMENDATION

That the City Council discuss and take action as it so desires.

Emails received by City Manager Jarad Hildenbrand since the March 26th City Council meeting.

In opposition to safe and sane fireworks

Jarad Hildenbrand

From: Elsie Everett []
Sent: Thursday, April 18, 2013 3:51 PM
To: Jarad Hildenbrand
Subject: Fireworks Ordinance

Hi Jarad,
Would you please forward this email to all of the City Council members. Thank you,
Elsie

Dear City Council Members:

First of all I want to say that both John and I are totally surprised that the use and sale of "safe and sane" fireworks in Villa Park was made lawful by you by the vote of 3 to 2. I must say that we are so proud of Greg Mills for understanding that I believe that the majority of the residents do not approve of this and voting against this new ordinance. Thank you Greg for doing that.

We have had terrible fires go through Villa Park in years past and we would be very saddened to see that happen again especially in this very dry year.

It has been wonderful living where we do not have the firing off of fireworks for weeks before and after the 4th of July. We walk through the city every weekday and we will have to encounter many piles of trash left over from the use of these messy and noisy things. Who will be responsible for picking this up? How will the safe use of them be monitored? Answering these questions could be very costly. It just isn't the right thing to do.

We hope that you will reconsider what you have done and rescind the approval of this ordinance.

John and Elsie Everett

Jarad Hildenbrand

From: Ryan Smoot
Sent: Wednesday, April 10, 2013 8:25 PM
To: Jarad Hildenbrand
Subject: FW: Fireworks Legislation

FYI

Ryan Smoot - Assistant to the City Manager City of Villa Park
(714) 998 1500
RSmoot@Villapark.org

-----Original Message-----

From: Mike Mansolino [<mailto:>]
Sent: Wednesday, April 10, 2013 7:31 PM
To: Ryan Smoot
Subject: Fireworks Legislation

Dear City Council Members,

As longtime residents of Villa Park, we would like to inform you that we are against the passage of any legislation allowing the sale of fireworks in Villa Park. We consider "The Hidden Jewel of Orange County" to be a forward looking city, not one that steps backward into unwise policies. Fireworks have been proven to be dangerous to both people and property which is why most cities no longer allow their sale.

Any council people who vote for fireworks in Villa Park will not receive our votes in future elections and will receive our votes in a recall election. Let's make this a safe and sane city!

Sincerely,
Mike and Linda Mansolino

Emails received by City Manager Jarad Hildenbrand since the March 26th City Council meeting.

In favor of safe and sane fireworks

Jarad Hildenbrand

From: Helen Harper [mailto:]
Sent: Thursday, April 18, 2013 4:04 PM
To: Jarad Hildenbrand
Subject: Please let the Fireworks begin!

Dear Jared,

I would like to express my support of the council in trying the fireworks this year. I live on El Rito and EVERY year I hear people letting off one kind or another and I have never let my children participate. It would be really nice to be able to join in without breaking the law and supporting local causes at the same time.

Thanks for listening!!

Sincerely,

Helen and Evan Harper

Jarad Hildenbrand

From: laura daley
Sent: Thursday, April 18, 2013 12:26 PM
To: Jarad Hildenbrand
Subject: Fireworks.

I am for having Fireworks and love the fun they create while celebrating the 4th !!!

Laura Daley

Laura Daley from iPhone

Jarad Hildenbrand

From: lorrie tack |
Sent: Thursday, April 18, 2013 12:14 PM
To: Jarad Hildenbrand
Subject: VP Fireworks - Please pass on to council members

Dear Jarad and members of Villa Park City Council,

My family was pleased to hear that City Council approved the fireworks ordinance at the recent council meeting. Residents no longer have to leave our city to enjoy fireworks - the American celebratory tradition of Independence Day. We can now celebrate in the safety of our own neighborhood parties.

I am aware that a small outspoken group of VP residents is circulating petitions against the fireworks. Please note that they do not speak on behalf of all residents of Villa Park. Our residents are well aware of the potential risks involved, just as there are risks with the Holiday Boat Parade, the VP Family Picnic, and the Halloweenfest, etc. However, a one year trial seems like a reasonable test to allow our citizens to prove they can behave responsibly. Regarding any concerns about traffic issues, it seems the fireworks stand traffic will likely be less invasive than a typical weekend of soccer or baseball tournaments for those of us near the high school.

We're looking forward to a Safe and Sane 4th of July.

Thank you,

Lorrie Tack

Jarad Hildenbrand

From: Tami Mundia |
Sent: Thursday, April 18, 2013 5:50 AM
To: Jarad Hildenbrand
Subject: Fireworks

Message sent to: info@villapark.org
From: Tami Mundia
Subject: Fireworks

Message Body:

We are so excited to be able to use safe and sane fireworks this year. On our little street we have eight children all under the age of six. We plan on having a block party with everyone, food, games, good times and of course safe and sane fireworks. Thank you!

Your neighbors on Beardsley Circle

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This mail was sent via the General Contact Form at villapark.org/contact

Jarad Hildenbrand

From: Diana Fascenelli
Sent: Thursday, April 11, 2013 8:55 PM
To: Jarad Hildenbrand
Subject: FW: Fireworks ordinance

From: Nicol Jones
Sent: Tuesday, March 26, 2013 6:56 PM
To: Diana Fascenelli
Subject: Fireworks ordinance

Dear Mrs. Fascenelli,

Myself and my husband enthusiastically support bringing fireworks back to Villa Park. I have very fond memories of buying them down at the high school when I was young. Our family now travels to our vacation home to enjoy fireworks since they have not been available here.

Thank you,
Nicol Jones

sent from my iPhone

Jarad Hildenbrand

From: Damon Butler
Sent: Thursday, April 11, 2013 10:30 AM
To: Jarad Hildenbrand; Diana Fascenelli
Subject: Fire works

Dear City Council Members,

We live at _____ and we are a family of 4. I have 2 girls at Villa Park Elem. and we all are so excited that we can finally stay home this 4Th of July and enjoy fireworks as a family.

We are new residents in Villa Park. Just moved from Orange and are really looking forward to having our first fireworks at our new home.

Thank You

Jody Arnold

