



# ***Agenda Report***

## ***Fullerton City Council***

**MEETING DATE:** SEPTEMBER 17, 2019

**TO:** CITY COUNCIL

**SUBMITTED BY:** KENNETH A. DOMER, CITY MANAGER

**PREPARED BY:** LUCINDA WILLIAMS, CITY CLERK

**SUBJECT:** 2019 FIREWORKS SAFETY REPORT AND BALLOT MEASURE DISCUSSION

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### SUMMARY

Presentation of 2019 Safe and Sane Fireworks Sales Annual Report, including complaints and enforcement, and preliminary information regarding a possible ballot measure to repeal the sale of safe and sane fireworks.

### RECOMMENDATION

Receive and file the 2019 Annual Report and provide further direction regarding permit fees and / or placing a measure to repeal the sale of safe and sane fireworks on the ballot in 2020.

### PRIORITY POLICY STATEMENTS

This item matches the following Priority Policy Statements:

- Fiscal and Organizational Stability
- Public Safety.

### FISCAL IMPACT

No fiscal impact to receive and file this report. Should City Council chose to proceed with the ballot measure, the estimated cost to place one measure on the March 2020 ballot is between \$209,903 and \$247,750. The cost to place a measure on the November 2020 ballot is \$8,500 in addition to the costs of the November 2020 General Municipal Election. Should the measure pass, the City would lose the cost-recovery revenue generated from the lottery application and permit process, which includes additional funding for public safety enforcement on the Fourth of July.

## DISCUSSION

During the July 16, 2019 City Council meeting, Council Member Flory requested, supported by Mayor Silva, to receive a report from public safety regarding fireworks complaints and activity around the Fourth of July holiday and discuss a potential ballot measure to make sales and discharge of safe and sane fireworks illegal in Fullerton.

### Background

On July 17, 2012, City Council placed Measure X on the November 6, 2012 General Municipal Election ballot to consider amending the Fullerton Municipal Code to allow the use of "safe and sane" fireworks within City Limits. Fullerton voters approved the measure with 53% voting in favor.

On February 5, 2013, City Council adopted Resolution No. 2013-09 which outlines the rules and regulations for sale, possession and discharge of safe and sane fireworks. Staff then developed the Safe and Sane Fireworks Sales Program based on the regulations set forth in Resolution No. 2013-09. City Council has updated the regulations governing the sale of safe and sane fireworks and permit fees since that time in Resolution Numbers 2014-08, 2014-15 and 2016-11. The City most recently updated fees for fireworks lottery and sales permit applications in the Fiscal Year 2017-18 Budget.

Under the current resolution, the City Clerk's Office accepts lottery applications annually during the month of March. The Mayor and City Clerk select fifteen applicants and five alternates to apply for a sales permit by lottery drawing at the beginning of public portion of the second City Council Closed Session meeting in April. The groups selected in the lottery may then apply for a fireworks sales permit through the Fire Department.

Public Safety receives a significant increase in calls complaining about illegal fireworks activity in the weeks leading up to and on the Fourth of July and City Council often receives citizen requests to make fireworks sales in Fullerton illegal, believing that this will reduce the amount of illegal fireworks activity.

### Annual Report

Staff prepares a Safe and Sane Fireworks Sales Annual Report following each sales cycle. The attached Annual Report details the 2019 fireworks sales and captures a historical look at the past seven years of sales. In 2019, 37 groups submitted lottery applications (one group did not qualify for the lottery). The City Clerk's Office collected \$1,036 in lottery application fees and the Fire Department collected \$25,290 in permit application fees. Community Groups reported 2019 net profits ranging from \$2,337 to \$22,246 per group. The full Annual Report is attached to this report.

### 2019 Public Safety Report

The Fullerton Fire Department reported two incidents related to fireworks on July 4, 2019. One event involved a fire in a palm tree started by fireworks and the second situation involved smoldering fireworks on a curbside. The Fire Department extinguished both fires without further incident. The Fire Department also reported collecting approximately 40 pounds of illegal fireworks over the Fourth of July holiday period. The Fire Department initiated an informational campaign with signage and flyers throughout the City reminding

residents to use safe and sane fireworks only. The full report from the Fire Department is attached for reference.

The Fullerton Police Department reported receiving 265 fireworks related calls between 12:00 a.m. July 1, 2019 through 3:00 a.m. on July 5, 2019. This is the lowest number of calls received since 2013.

<b>Total fireworks related calls between 12:00 a.m. July 1, 2019 and 3:00 a.m. July 5, 2019</b>	
<b>2019</b>	<b>265 calls</b>
2018	301 calls
2017	348 calls
2016	447 calls
2015	290 calls
2014	294 calls
2013	191 calls
2012	182 calls
2011	145 calls

The Police Department received 200 of those 265 calls between 12:00 am on July 4, 2019 and 3:00 a.m. July 5, 2019.

<b>Total fireworks related calls between 12:00 a.m. July 4, 2019 and 3:00 a.m. July 5, 2019</b>	
<b>2019</b>	<b>200 calls</b>
2018	195 calls
2017	223 calls
2016	242 calls
2015	217 calls
2014	203 calls
2013	145 calls
2012	137 calls
2011	86 calls

During the month of June 2019, the Police Department received 128 fireworks calls. This is the lowest number of calls since 2016.

<b>Fireworks related calls received during the month of June</b>	
<b>2019</b>	<b>128 calls</b>
2018	193 calls
2017	203 calls
2016	250 calls

The following table shows the fireworks related calls received each week in June 2019:

Weekly related calls received in June 2019	
June 1-8	17 calls
June 9-15	16 calls
June 16-22	15 calls
June 23-30	80 calls

The Police Department reported confiscating several hundred pounds of illegal fireworks in 2019. The Police Department continued its social media campaign to remind residents to only use safe and sane fireworks.

### Permit Fees

The City last updated fees for the fireworks lottery application and sales permit application in the FY 2017-18 Budget. The fee to apply for the fireworks lottery is \$28. The City historically receives between 30 to 42 lottery applications each year, generating between \$840 and \$1,176 per year in cost-recovery revenue for the City Clerk's Office.

The fee for the sales permit application is \$1,686, generating \$25,290 per year in cost-recovery revenue divided among the Fire Department, Police Department, Public Works Department, Community Development Department and City Clerk's Office. The permit fees recover the costs for permit processing and additional staffing including police and fire teams on the Fourth of July and Public Works cleanup after July 4th. The fees do not generate additional revenue for the City. The following table shows the permit fee calculation:

<b><u>Fireworks Lottery &amp; Permit Fees</u></b> (Last Updated FY 2017-18 Budget)		
<b>Lottery application fee</b>	<b>\$ 28.00</b>	
<b><u>Permit Application Fee</u></b>		
Fire Suppression Team	\$ 5,057	<i>(1 unit of 4 firefighters x 24 hours on July 4) (6 officers and 1 dispatcher; Two 2-person cars &amp; one 2-person car teamed with Fire Department Staff on July 4)</i>
Fireworks Safety Team	\$ 5,971	
Street Sweeping / Maintenance	\$ 8,222	
	\$ 19,250	
Daily Booth Safety Inspections (July 1 - 4th)	\$ 1,414	<i>(2 hours / stand x \$100 / hr x 15)</i>
	\$ 20,664	
divided by 15 permits	\$ 1,378	
FD Permit Costs / Inspections	\$ 145	<i>Initial paperwork processing, plan check and stand installation and product inspection</i>
City Clerk Permit Processing	\$ 28	
Electrical Permit	\$ 135	
	<b>\$ 1,686</b>	<b>per permit</b>

The Fire Department reports that they have adequate staffing on and leading up to the Fourth of July. The Police Department recommends increasing staffing during the week

before the Fourth of July with two additional investigators and one additional sergeant. These additional personnel would assist with the increased call volume generated by fireworks complaints and proactively work to seize illegal fireworks before detonation, which will also help reduce complaints. Should City Council wish to increase public safety staffing and include the cost in the fireworks permit fees, Staff will calculate the additional permit fee costs and draft a resolution to adopt the new fees for City Council consideration.

### Ballot Measure Information

Fullerton voters legalized the sale and use of safe and sane fireworks with the passage of Measure X in 2012. Any changes to Measure X, including making the sale and use of safe and sane fireworks in Fullerton illegal, would require a new ballot measure passed by Fullerton voters. Placing a measure on the ballot requires either City Council action to call an election for the measure or a qualified citizen initiative that places the measure on the ballot.

The Orange County Registrar of Voters estimates the cost to place a measure on the March 3, 2020 ballot ranges between \$209,903 and \$247,750. The estimated cost to add a measure to the November 3, 2020 ballot totals \$8,500 in addition to the costs to hold the General Municipal Election on that date. The Registrar of Voters must receive the resolution calling the election for a ballot measure and full text of the measure (when applicable) no later than December 6, 2019 for the March 2020 election and no later than August 7, 2020 for the November 2020 election.

The certification of either election in 2020 (and effective date of the new fireworks measure, if passed) occurs after the traditional start of the fireworks lottery application period. If City Council placed the measure on the March 2020 ballot, it could delay the start of the 2020 lottery application period until certification of the election. If City Council placed the measure on the November 2020 ballot, it would not take effect until after the 2020 fireworks sales cycle.

### Next Steps

Staff requests that City Council receive and file the 2019 Annual Report and provide further direction regarding permit fees and / or placing a measure on the ballot in 2020. Unless otherwise directed, Staff will continue preparations for the 2020 fireworks sales cycle and return to City Council in February 2020 with the timeline and recommendations for the 2020 fireworks sales process.

If City Council provides direction to place a measure on either 2020 election date, Staff will prepare the necessary resolutions to call the election and add the measure to the ballot for City Council consideration.

### Attachments:

- Attachment 1 – PowerPoint Presentation
- Attachment 2 – Ordinance No. 3183 (Measure X)
- Attachment 3 – Resolution No. 2016-11

- Attachment 4 – 2019 Safe and Sane Fireworks Sales Annual Report
- Attachment 5 – 2019 Fireworks Report – Fire
- Attachment 6 – 2019 Fireworks Report – Police