

RESOLUTION NO. 2016-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, ADOPTING RULES AND REGULATIONS FOR THE RETAIL SALE, POSSESSION, AND DISCHARGE OF "SAFE AND SANE" FIREWORKS PURSUANT TO FULLERTON MUNICIPAL CODE SECTION 7.26.010

WHEREAS, in the General Municipal Election held on November 6, 2012, the voters of the City of Fullerton approved Ordinance No. 3183 allowing for the use, possession and discharge of "safe and sane" fireworks for private display within the City;

WHEREAS, Ordinance No. 3183 repealed and replaced the then-existing Chapter 7.26 (Fireworks Prohibited) of Title 7 (Public Safety and Morals) of the Fullerton Municipal Code;

WHEREAS, Section 7.26.010 of the Fullerton Municipal Code, as established by Ordinance No. 3183, provides that the sale, possession and discharge of "safe and sane" fireworks for private display shall be permitted within the City, in accordance with rules and regulations adopted by ordinance or resolution of the City Council, relating to the following: who may sell fireworks; the limited dates and times when such fireworks may be sold and discharged; the manner, location and any required permits for the sale, storage, possession, discharge and/or disposal of such fireworks; etc. and

WHEREAS, the City Council desires to adopt this Resolution to establish rules and regulations for the retail sale, possession and discharge of "safe and sane" fireworks pursuant to Section 7.26.010 of the Fullerton Municipal Code, as established by Ordinance No. 3183.

THE CITY COUNCIL OF THE CITY OF FULLERTON HEREBY RESOLVES AS FOLLOWS:

1. Permits to sell fireworks. No person, firm or corporation shall sell at retail or offer for retail sale any fireworks within the city without first obtaining a permit from the city. Each year, the City will issue a maximum of fifteen permits to qualifying applicants as set forth in this resolution. The qualifying applicants to receive permits shall be selected via lottery.
2. Qualifying applicants.
 - A. In order to qualify to receive a permit, an applicant must be one of the following:

1) Organizations. A tax-exempt charity, nonprofit or other organization pursuant to the Internal Revenue Code or the California Revenue and Taxation Code or the local chapter of any such group, that:

- a. Was established at least one year prior to the filing of the application;
- b. Was formed primarily for veteran, patriotic, welfare, civic or business betterment, religious, athletic, youth or charitable purposes specifically to benefit the citizens of the City;
- c. Has had its principal and permanent meeting place, office or service facility in the City for at least one year; and
- d. Provides benefits and/or services to the citizens of the City as its primary operation.

or

2) Schools. A school, as recognized by the State of California, including elementary, junior high, high school, colleges and universities, located within the boundaries of the City or any student group, club, booster group or organization formed to support any program, even if operating under a separate tax identification number, of such a school officially recognized by the school.

B. Only one application for a fireworks sale permit may be submitted by a qualifying organization or school. An application from a student group, club, booster group or other school organization shall be treated as an application from the school to which it belongs and must be accompanied by a letter from the head of the institution (principal, dean, etc.) designating that group as the representative of the school.

C. A qualifying applicant must meet all application requirements in order to be eligible for the lottery to select permit recipients.

3. Lottery application requirements. Application forms for the lottery will be available at the City Clerk's office throughout the month of March. Each applicant shall file a completed lottery application with the City Clerk by the end of the month, at which time the application period for that year will be closed. An application must comply with all instructions on the application form. Lottery application requirements may include, but are not limited to, submittal of proof of qualifying applicant status; a list of names and addresses of organization officers, where applicable and a letter from a school designating a representative school group to be considered a qualifying applicant, where applicable. A nonrefundable application fee in an amount set by resolution must be submitted with a completed application. Applicants may be asked for additional documentation verifying the information submitted in an application. If an

applicant is unable to provide such documentation, the application will be deemed incomplete and ineligible for the lottery.

4. Lottery. The City will hold a lottery to select permit recipients after the close of the application period. Permit recipients shall be randomly selected from a pool of all qualifying applicants who have submitted completed and timely applications with the application fee. The first fifteen applicants to be randomly selected shall be granted a permit pursuant to this resolution upon completion of all permit application requirements. An additional number of applicants shall be randomly selected to be granted a permit in the event that one or more of the initial fifteen applicants drawn fails to obtain a permit. All selected applicants shall be considered for a permit in the order in which they were drawn.
5. Permit application requirements. In order to receive a permit, a selected applicant must submit a completed permit application to the Fire Marshal and pay all necessary fees, which shall be set by resolution. An application must comply with all instructions on the application form. Permit application requirements may include, but are not limited to, an identification of the proposed location for the fireworks stand, a copy of a retail fireworks permit issued by the State Fire Marshal; a copy of a temporary sales tax permit issued by the State Board of Equalization and a copy of a City business license. A permit holder shall be entitled to operate no more than one fireworks stand, in an approved location. Permits are non-transferrable.
6. Fireworks Safety Training Class: Vendors must invite a representative of the Fire Department to attend a fireworks safety training class before issuance of the sales permit.
7. Operation of fireworks stands. All permit holders shall comply with the conditions set forth in the permit. All permit holders shall also comply with the Minimum Requirements for Fireworks Stands, a copy of which shall be distributed to each permit holder upon permit issuance. Fireworks may be sold by permit holders between the hours of 12:00 p.m. and 10:00 p.m. on July 1st, 2nd and 3rd, and between the hours of 10:00 a.m. and 9:00 p.m. on July 4th.
8. Insurance. All permit holders shall pay for and maintain in full force and effect throughout the term of the permit public liability and property damage insurance covering a permit holder's operations in and about its fireworks stand with a minimum one million dollars per occurrence, two million dollars general aggregate and naming the City as an additional insured. Any deductible or self-insured retention must be declared to and approved by the City. A permit holder shall file certificates of such insurance with the Fire Marshal at the time applicant submits the permit application.
9. Noncompliance: Failure to comply with the rules and regulations governing the sale, possession and discharge of Safe and Sane Fireworks will result in the


immediate invalidation of any current permit and forfeiture of eligibility for the lottery drawing in the next sales cycle. Applicants may appeal any dispute with staff determination of noncompliance to the Parks & Recreation Commission.

10. Discharge of fireworks. Individuals who have purchased safe and sane fireworks from an approved fireworks stand may discharge such fireworks on July 4th of every year between the hours of 10:00 a.m. and 10:00 p.m. Any person discharging permitted fireworks shall adhere to the following:

- A. No person under the age of sixteen (16) years shall discharge any fireworks.
- B. No person shall throw, toss, project or position an ignited firework of any kind in such a manner as to cause the firework or contents thereof to come in contact with their own or any other person's body, personal property or real property.
- C. The discharge of fireworks shall not be permitted on private property without the property owner or occupant's permission, whichever is applicable.
- D. The discharge of fireworks shall not be permitted on public property, including, but not limited to, parks, sidewalks, streets and alleys.
- E. The discharge of fireworks shall not be permitted in any area within the Very High and High Fire Hazard Severity Zones as designated in the map issued by the California Department of Forestry and Fire Protection. This map may be viewed at the Fire Department, City Clerk's Office, on the City's website and at fireworks stands.
- F. The discharge of fireworks shall not be permitted in any oil or gas station or on any premises where gasoline or other flammable liquids are stored or dispensed.
- G. The discharge of fireworks shall not be permitted within ten feet of any building or structure.
- H. The discharge of fireworks shall not be permitted underneath any tree or combustible structure.


11. Seizure of Fireworks. The Fire Chief or his or her designee may seize any fireworks pursuant to and in accordance with Health and Safety Code sections 12721 *et seq.*, and any other applicable law, in the event that any person is possessing, selling, or discharging fireworks in an illegal manner and/or in a manner that poses an imminent threat to public health or safety.

ADOPTED BY THE FULLERTON CITY COUNCIL on FEBRUARY 2, 2016.



Jennifer Fitzgerald, Mayor

ATTEST:



Lucinda Williams, City Clerk

Dated: February 10, 2016

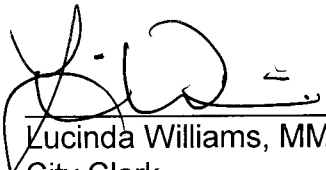
City of Fullerton
RESOLUTION CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF FULLERTON)

RESOLUTION NO. 2016-11

I, Lucinda Williams, City Clerk and ex-officio Clerk of the City Council of the City of Fullerton, California, hereby certify that the whole number of the members of the City Council of the City of Fullerton is five; and that the City Council adopted the above and foregoing Resolution No. 2016-11 at a regular meeting of the City Council held on the February 2, 2016 by the following vote:

COUNCIL MEMBER AYES:	Fitzgerald, Flory, Chaffee, Whitaker
COUNCIL MEMBER NOES:	Sebourn
COUNCIL MEMBER ABSTAINED:	None
COUNCIL MEMBER ABSENT:	None



Lucinda Williams, MMC
City Clerk