



CITY OF CARSON

Legislation Text

File #: 2020-529, Version: 1

Report to Mayor and City Council

Tuesday, August 04, 2020

Discussion

SUBJECT:

CONSIDERATION OF RESOLUTION NO. 20-123 BAN THE SALE AND USE OF “SAFE AND SANE” FIREWORKS AND USE OF ILLEGAL FIREWORKS IN THE CITY OF CARSON, EXCEPT AS OTHERWISE ALLOWED BY THE CARSON MUNICIPAL CODE; AND CONSIDERATION OF RESOLUTION NO. 20-124 SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS REGARDING A MEASURE, WHICH WILL BAN THE SALE AND USE OF “SAFE AND SANE” FIREWORKS AND USE OF ILLEGAL FIREWORKS IN THE CITY OF CARSON, EXCEPT AS OTHERWISE ALLOWED BY THE CARSON MUNICIPAL CODE; AND CONSIDERATION OF RESOLUTION NO. 20-125 PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING A MEASURE, WHICH WILL BAN THE SALE AND USE OF “SAFE AND SANE” FIREWORKS AND USE OF ILLEGAL FIREWORKS IN THE CITY OF CARSON, EXCEPT OTHERWISE ALLOWED BY THE CARSON MUNICIPAL CODE; AND CONSIDERATION OF ORDINANCE NO. 20-2011 AMENDING CHAPTER 1 OF ARTICLE III, CHAPTER 3 OF ARTICLE VI, DIVISION 1 OF ARTICLE IX, DIVISION 6 OF ARTICLE IX, OF THE CARSON MUNICIPAL CODE PROHIBITING THE POSSESSION, STORAGE, OFFERING FOR SALE (INCLUDING WHOLESALE), EXPOSING FOR SALE, SALE OR RESALE, OR USING OR EXPLODING ANY FIREWORKS, SAFE AND SANE FIREWORKS, OR ILLEGAL FIREWORKS WITHIN THE CITY, EXCEPT AS OTHERWISE AUTHORIZED BY CHAPTER 1 OF ARTICLE III OF THE CARSON MUNICIPAL CODE (CITY COUNCIL)

I. SUMMARY

The Carson Municipal Code currently permits the sale and use of “safe and sane” fireworks (such as sparklers, ground-spinning fireworks and others that do not leave the ground). Most other fireworks are already banned (“illegal fireworks”) with certain exceptions such as public displays of fireworks allowed by the Carson Municipal Code (e.g., fireworks shows conducted by Dignity Health Sports Park). The proposed measure, if adopted by voters, would ban the sale and use of “safe and sane” fireworks. It would not change permitting requirements and regulations relating to storage of permitted fireworks and the public display of fireworks.

This item further includes the adoption of resolutions that would place the measure on the ballot for the November 3, 2020, election. If adopted, these resolutions would accomplish the following: (1) submitting the proposed measure to the voters, and requesting consolidation of the same with the November 3, 2020, Statewide General Election; (2) directing the drafting of direct arguments, setting the order in which the direct arguments are chosen if more than one are submitted, and directing the drafting of an impartial analysis; and (3) authorizing rebuttal arguments.

II. RECOMMENDATION

TAKE the following actions:

1. APPROVE Resolution No. 20-123, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 3, 2020, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE, WHICH WILL BAN THE SALE AND USE OF "SAFE AND SANE" FIREWORKS AND USE OF ILLEGAL FIREWORKS IN THE CITY OF CARSON, EXCEPT AS OTHERWISE ALLOWED BY THE CARSON MUNICIPAL CODE"; AND
2. APPROVE Resolution No. 20-124, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS REGARDING A MEASURE, WHICH WILL BAN THE SALE AND USE OF "SAFE AND SANE" FIREWORKS AND USE OF ILLEGAL FIREWORKS IN THE CITY OF CARSON, EXCEPT AS OTHERWISE ALLOWED BY THE CARSON MUNICIPAL CODE"; AND
3. APPROVE Resolution No 20-125, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING A MEASURE, WHICH WILL BAN THE SALE AND USE OF "SAFE AND SANE" FIREWORKS AND USE OF ILLEGAL FIREWORKS IN THE CITY OF CARSON, EXCEPT OTHERWISE ALLOWED BY THE CARSON MUNICIPAL CODE"; AND

IF THE RESOLUTIONS ABOVE ARE ADOPTED,

4. ADOPT Ordinance No. 20-2011, "AN ORDINANCE OF THE PEOPLE OF THE CITY OF CARSON, CALIFORNIA AMENDING CHAPTER 1 OF ARTICLE III, CHAPTER 3 OF ARTICLE VI, DIVISION 1 OF ARTICLE IX, DIVISION 6 OF ARTICLE IX, OF THE CARSON MUNICIPAL CODE PROHIBITING THE POSSESSION, STORAGE,

OFFERING FOR SALE (INCLUDING WHOLESALE), EXPOSING FOR SALE, SALE OR RESALE, OR USING OR EXPLODING ANY FIREWORKS, SAFE AND SANE FIREWORKS, OR ILLEGAL FIREWORKS WITHIN THE CITY, EXCEPT AS OTHERWISE AUTHORIZED BY CHAPTER 1 OF ARTICLE III OF THE CARSON MUNICIPAL CODE”

III. ALTERNATIVES

1. TAKE another action the City Council deems appropriate.

IV. BACKGROUND

Since the City of Carson’s incorporation in 1968, per Ordinance No. 70-122, the City has allowed for the sale and discharge of “safe and sane” fireworks (such as sparklers, ground-spinning fireworks and others that do not leave the ground). In 1970, this ordinance became Section 3101 of Carson Municipal Code. The Carson Municipal Code governs the purchase and usage of fireworks; and regulates the organizations that sell fireworks. In the same vein, other fireworks have always been banned in the City since incorporation. In fact, currently up to \$1,000 administrative fine can be issued to a person discharging illegal fireworks within the community.

At the recent July 7th City Council meeting, a group of residents addressed the City Council on the negative effects of fireworks and their desire for a permanent solution to address the issue of both illegal fireworks and “safe and sane” fireworks. The City Council gave staff direction to put a discussion item on the July 21st Council Agenda to discuss the issue of fireworks and whether to place a measure on the ballot to amend the City’s Municipal Code to ban “safe and sane” fireworks sales and use. Although the City Council could adopt an ordinance that would ban “safe and sane” fireworks sales and use in the City, the City Council may want this determination to be made by the voters.

The use of legal and illegal fireworks around Southern California brought the worst air quality to the region in a decade, the South Coast Air Quality Management District reported on Wednesday July 8th. Air quality reached very unhealthy and hazardous levels in parts of Los Angeles and Orange Counties. Also, the trauma center and burn unit at the Los Angeles County USC Medical Center reported a sharp increase in injuries, mostly among kids, due to fireworks this year.

A majority vote of the City Council is sufficient for the Safe and Sane item to be put before the voters. To be passed by the electorate, the proposed measure must be approved by a majority of the voters (i.e., 50% +1). The deadline for the City Council to take action on whether or not to put the measure on the November 3, 2020 ballot is eighty-eight days before the election (August 7th, 2020), thus the resolutions would have to be adopted by the City Council no later than the August 4th, 2020, meeting.

If the measure is approved, the City’s Fireworks Ordinance cannot be amended again without a voter approval (Election Code 9217). Whether the measure is approved or is not approved, it cannot be resubmitted to the voters at any kind of special election for at least

one year after the measure is voted upon (Election Code 9218).

The City's revenues generated from the Sane and Safe Fireworks program is as follow:

TNT FIREWORKS	2016	2017	2018	2019	2020
LICENSE	\$ 160	\$ 161	\$ 164	\$ 168	\$ 180
PERMIT	\$ 150	\$ 150	\$ 150	\$ 150	\$ 150
PROCESSING FEE	\$ 15	\$ 15	\$ 15	\$ 15	\$ 15
CASP FEE	\$ 1	\$ 1	\$ 1	\$ 4	\$ 4
FIREWORKS WHOLESALE PERMIT	\$ -	\$ 21,420	\$ 21,420	\$ 21,420	\$ 21,420
SEMINAR ROOM RENTAL	\$ -	\$ 488	\$ 86	\$ 92	\$ -
GRAND TOTALS	\$ 326	\$ 22,235	\$ 21,836	\$ 21,849	\$ 21,769
PHANTOM FIREWORKS	2016	2017	2018	2019	2020
LICENSE	\$ 161	\$ 164	\$ 168	\$ 174	\$ 180
PERMIT	\$ 150	\$ 150	\$ 150	\$ 150	\$ 150
PROCESSING FEE	\$ 15	\$ 15	\$ 15	\$ 15	\$ 15
CASP FEE	\$ 1	\$ 1	\$ 4	\$ 4	\$ 4
FIREWORKS WHOLESALE PERMIT	\$ -	\$ 4,590	\$ 4,590	\$ 3,060	\$ 3,060
SEMINAR ROOM RENTAL	\$ -	\$ 37	\$ 19	\$ 13	\$ -
GRAND TOTALS	\$ 327	\$ 4,957	\$ 4,946	\$ 3,416	\$ 3,409

TNT fireworks and Phantom fireworks are the two leading retailer and largest distributors of common fireworks in the U.S.

Revenue started to increase in 2017 as a result of changes to Carson Municipal Code (Ordinance no. 17-1613). A revision was made stating that the wholesalers are to pay \$1,530 per permit for each stand the wholesaler is affiliated to. The wholesale permit fee was adopted to help offset the City inspection costs and the Sheriff's suppression taskforce.

The Safe and Sane Fireworks program help the local non-profit organization generate profit that helps fund some of their internal operations and programs.

2019 FIREWORKS SEASON SUMMARY OF INCOME AND EXPENSES			
<u>ORGANIZATION</u>	<u>GROSS SALES</u>	<u>TOTAL EXPENSES</u>	<u>NET PROFIT</u>
Carson High Booster Club	\$30,877	\$20,674	\$10,203
Knights of Columbus #7116	\$26,507	\$17,085	\$9,422
Kayumanggi Lions Club	\$40,373	\$30,326	\$10,047
Sigma Pi Fraternity, International	\$33,293	\$22,173	\$11,120
American Legion Post #352	\$14,758	\$12,296	\$2,462
Carson Christian Outreach & School	\$21,225	\$16,156	\$5,069
Carriage Crest Park Volunteer Association	\$44,436	\$33,574	\$10,862
Carson Hope Community	\$43,049	\$33,316	\$9,733
Samoan Federation of America Inc.	\$47,707	\$29,884	\$17,823
Mapuifagalele Seniors & Youth	\$27,786	\$22,025	\$5,761
Filipino Community of Carson	\$79,472	\$61,893	\$17,579
Carson Bethel Church	\$34,412	\$25,781	\$8,631
Carson Christian Center	\$18,771	\$13,616	\$5,155
Create Academic Magic for Students	\$31,007	\$27,787	\$3,220
The Most Worshipful Sons of Light	\$28,000	\$19,639	\$8,361
United Samoan Church Youth	\$44,580	\$32,428	\$12,152
TOTAL	\$566,254	\$418,653	\$147,601

1. Proposed Measure.

At the July 21, 2020, meeting, the City Council provided direction to City staff to submit a measure to the City's voters on whether the City should prohibit the sale and use of "safe and sane" fireworks (such as sparklers, ground-spinning fireworks and others that do not leave the ground) except as otherwise allowed by the Carson Municipal Code.

The attached proposed ordinance accomplishes this by making changes to CMC 3101.0 as follows:

"Except as is otherwise expressly allowed in this chapter, it is unlawful for any person to possess, to store, to offer for sale, to expose for sale, sale or resale, or to use or to explode any fireworks, safe and sane fireworks, or illegal fireworks within the city."

Additionally, this proposed ordinance deletes CMC 3101.1 through 3101.7 relating to the permitting for the sale and wholesale of fireworks. It does not delete provisions relating to the storage and public display of fireworks in the City (such as at Dignity Health Sports Park). The proposed ordinance makes further consistent changes and deletions relating to

fireworks stands as temporary uses in the zoning code in addition to changes relating to signage for such fireworks stands.

2. Three Election Resolutions

Three election resolutions concerning the proposed measure are presented for City Council consideration:

The first resolution orders the submission of the proposed measure to the voters at the November 3, 2020, election and requests consolidation with the Statewide General Election to be held on the same date.

The second resolution is concerned with written arguments (both in favor and against) about the proposed measure, as well as directing the City Attorney to prepare an impartial analysis. The second resolution also establishes priorities under state law for choosing among multiple arguments.

The third resolution provides for the filing of rebuttal arguments to the primary written arguments. The rebuttal arguments are prepared by the opposite authors of the primary written arguments.

3. General Information to Consider for the Election Resolutions.

- a. Ballot Label. The first resolution includes a “ballot label” (commonly known as the “ballot question”) which describes the proposed Sales Tax ordinance, and which is the question presented to the voters. Ballot labels are limited to 75 words or less. The Council may revise the language used for the ballot label within the following state law restrictions:
 - i. “If the proposed measure imposes a tax or raises the rate of a tax, the ballot shall include in the statement of the measure to be voted on the amount of money to be raised annually and the rate and duration of the tax to be levied.” (Election Code section 13119(b).)
 - ii. “The statement of the measure shall be a true and impartial synopsis of the purpose of the proposed measure, and shall be in language that is neither argumentative nor likely to create prejudice for or against the measure.” (Election Code section 13119(c).)
- b. Argument Authorization. The second resolution authorizes councilmembers to write arguments concerning the ballot measure and has space for the City Council to fill in the names of council members to write direct arguments. If three or more Councilmembers jointly write a ballot argument, then the Brown Act will require the collaboration to occur at a noticed public meeting.

- c. Rebuttals. Rebuttal arguments are optional under state law and are allowed at the discretion of the City Council. If the City Council does not desire to authorize rebuttal arguments, then Council should not approve this third election resolution.

4. Procedural Requirements.

A majority vote of the City Council is required to submit the measure to the City's voters at the November 3, 2020, General Municipal Election. A majority of voters in favor is required to pass the measure.

V. FISCAL IMPACT

There is minimal revenue lost from the collection of fees related to the regulation of "safe and sane" fireworks. November 3, 2020 anticipated Election costs are included in the adopted Fiscal Year 2020-2021 budget.

VI. EXHIBITS

1. Resolution No. 20-123, A Resolution Of The City Council Of The City Of Carson, California, Calling For The Holding Of A General Municipal Election To Be Held On Tuesday, November 3, 2020, For The Submission of the Proposed Measure To The Qualified Electors Of The City **(pages: 8-11)**
2. Resolution No. 20-124, A Resolution Of The City Council Of The City Of Carson, California, Setting Priorities For Filing Written Argument(s) And Directing The City Attorney To Prepare An Impartial Analysis Regarding The Proposed Measure **(pages: 12-13)**
3. Resolution No 20-125, A Resolution Of The City Council Of The City Of Carson, California, Providing For The Filing Of Rebuttal Arguments Regarding The Proposed Measure **(pages: 14-15)**
4. Proposed Ordinance No. 20-2011 **(pages: 16-21)**

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