

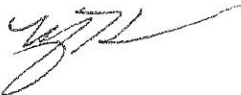


M E M O R A N D U M

CITY ATTORNEY'S OFFICE

DATE: January 9, 2014

TO: Charter Review Committee Members

FROM: Michael Houston, City Attorney 

RE: Proposed Charter Amendment – New Section 1214
Fireworks Permitted Subject to City Council Regulation

CC: Paul Emery

At the December 3, 2013 meeting, the Committee instructed the City Attorney to prepare draft language for consideration that would permit the use of fireworks within the City, subject to regulations and restrictions promulgated by the City Council. Voter approval of this amendment would repeal Municipal Code Section 6.40.030 (entitled "Safe and Sane Fireworks Prohibited"), which was approved by the voters in 1986 (*see* Ord. No. 4779).

The attached draft language is submitted for Committee review and consideration. In summary, this Charter amendment:

- Repeals Section 6.40.030 of the Municipal Code but leave the other voter-approved provisions of Ordinance Nos. 4779 and 5239 intact. Only section 6.40.030 requires amendment because only Safe and Sane Fireworks are subject to permissible use by residents.
- Permits the manufacture, sale, possession, storage, display, stocking and discharging of "Safe and Sane Fireworks" (as defined by state law) in the City, but only if such activities comply with restrictions and regulations adopted by the City Council.
- Authorizes the City Council to enact restrictions and regulations for the manufacture, sale, possession, storage, display, stocking and discharge of safe and sane fireworks.

- States that the development of such regulations and restrictions relates to the health, safety and welfare of the City and, therefore, the City Council is given discretion to determine what is in the best interest of the community in developing such regulations that may include, without limitation, permitting processes and prohibitions on use in certain areas of the City.

This amendment also includes "savings" language stating that adoption of this section would not affect prior unlawful conduct or prosecution of that conduct.

City Charter Section 1214
Recommended Amendment

Amendment requested to be drafted by CRC motion on 12/3/13.

[If applicable after action: Amendment recommended by Charter Review Committee motion action on 1/ __/14.]

Section 1214. SAFE AND SANE FIREWORKS PERMITTED IN CITY SUBJECT TO RESTRICTIONS ADOPTED BY THE CITY COUNCIL.

By enactment of this Charter Section 1214 the voters hereby repeal Municipal Code Section 6.40.030 (entitled "Safe and Sane Fireworks Prohibited"), which code section was adopted by the voters of Anaheim in 1986 pursuant to Ordinance No. 4779 (part); no other provision of Ordinance No. 4779 and Ordinance No. 5239 (as currently codified in Municipal Code Chapter 6.40) is repealed by this Charter section. The manufacture, possession, sale, offer for sale, storage, display, disposal, giving away, keeping in stock, discharge, firing or setting off of any "safe and sane fireworks" (as that term is defined in California Health and Safety Code Section 12529 or any successor provision thereto) shall be permitted, but only to the extent such activities comply with restrictions and regulations adopted by ordinance of the City Council. The City Council may by ordinance enact restrictions and regulations for the manufacture, possession, sale, offering for sale, storage, display, disposal, giving away, keeping in stock, discharge, firing or setting off of safe and sane fireworks within the City. The use and sale of safe and sane fireworks involve public safety, health, welfare and fire protection concerns; therefore, the voters of this City declare their intention that the City Council shall be afforded the maximum discretion afforded by law with respect to enacting regulations and restrictions in connection with the matters relating to safe and sane fireworks described in this Charter section. Without limiting the scope of the City Council's legislative discretion to enact restrictions and regulations, the City Council may enact a permitting process to determine who may sell, store, display, stock and give away safe and sane fireworks in the City and, further, may identify geographic areas or locations in the City where the use and sale of safe and sane fireworks may be prohibited (for example, city owned property such as parks and areas of the City where there is significant threat of fire hazard). Neither adoption of this Charter Section 1214 nor the repeal of Municipal Code section 6.40.030 shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of this Charter section, nor shall be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof.

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