

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Allan L. Roeder

From: Kingsley Okereke

Dept: INTERIM City Manager

Dept: Finance

Subject: ADOPTION OF AN ORDINANCE AMENDING
CHAPTER 5.28 OF THE MUNICIPAL CODE
PERTAINING TO FIREWORKS STAND PERMITS

Date: February 24, 2015

OBJECTIVE

That the City Council adopts an ordinance amending Chapter 5.28 of the Municipal Code pertaining to fireworks stand permits.

BACKGROUND

Chapter 5.28 of the Garden Grove Municipal Code regulates the issuance of temporary firework stand permits for the sale of safe and sane fireworks before the Fourth of July holiday. The Chapter allows for tax-exempt organizations located within the city limits and primarily benefitting the Garden Grove community to apply for a permit and requires permittees to comply with various provisions to ensure the protection of the public health, safety, and welfare.

DISCUSSION

The proposed revisions will conform sections of Chapter 5.28 to current City practices. The changes include allowing more time to process applications; requiring additional information to be provided with the permit application, such as the address of each fireworks stand and Federal Tax Identification Numbers; deleting obsolete references regarding electrical permits; and updating indemnification and insurance requirements. In addition, the proposed changes will no longer prohibit stands along Katella Avenue from Dale to Euclid. This restriction is unnecessary as the City of Anaheim recently passed an ordinance permitting the sale of fireworks.

FINANCIAL IMPACT

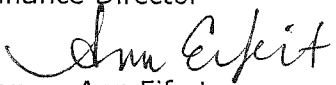
There is no financial impact.

RECOMMENDATION

It is recommended that the City Council:

- Introduce and conduct the first reading of the attached Ordinance amending Chapter 5.28 of the Garden Grove Municipal Code pertaining to fireworks stand permits.


KINGSLEY OKEREKE
Finance Director

By: 
Ann Eifert
Senior Administrative Analyst

Recommended for Approval


Allan L. Roeder
Interim City Manager

Attachment: Proposed Ordinance

1070122.1

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
AMENDING CHAPTER 5.28 OF THE GARDEN GROVE MUNICIPAL CODE PERTAINING
TO TEMPORARY FIREWORK STAND PERMITS

City Attorney Summary

This Ordinance amends certain sections of Chapter 5.28 of the Garden Grove Municipal Code pertaining to temporary fireworks stand permits to allow more time to process applications, require additional information be provided in conjunction with permit applications, delete obsolete references, update indemnification and insurance requirements, and eliminate the current prohibition of stands along Katella Avenue from Dale Street to Euclid Street.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Subsection A. of Section 5.28.030 of Chapter 28 of Title 5 of the Garden Grove Municipal Code is hereby amended as follows (deletions shown in ~~strikethrough~~; additions shown in ***bold-italics***):

"A. An application for a temporary stand permit shall be made in writing on forms prescribed by the Finance Director, and filed therewith not later than ~~May 24th~~ ***the third Monday of May*** of the year for which the permit is requested."

SECTION 2. Subsection D.5. of Section 5.28.030 of Chapter 28 of Title 5 of the Garden Grove Municipal Code is hereby amended as follows (deletions shown in ~~strikethrough~~; additions shown in ***bold-italics***):

"5. A copy of the sales tax permit from the Board of Equalization ***with the address of the fireworks stand,*** with proof of the filing of such permit application;"

SECTION 3. Subsection D.7. of Section 5.28.030 of Chapter 28 of Title 5 of the Garden Grove Municipal Code is hereby amended as follows (deletions shown in ~~strikethrough~~; additions shown in ***bold-italics***):

"7. A completed City business tax application ***with the organization's Federal Tax Identification Number (FEIN);*** and"

SECTION 4. A new Subsection D.9. is hereby added to section 5.28.030 of Chapter 28 of Title 5 of the Garden Grove Municipal Code to read as follows:

"9. A completed liability release and indemnity form pursuant to Section 5.28.130 executed by the individual(s) authorized to bind the organization applying for the permit."

SECTION 5. Section 5.28.040 of Chapter 28 of Title 5 of the Garden Grove Municipal Code is hereby amended as follows (deletions shown in ~~strikethrough~~; additions shown in ***bold-italics***):

"Each qualified permittee shall pay a five hundred dollar (\$500) permit fee. The permit fee is intended to cover all costs associated with issuance of the permit for temporary stands, ~~including the electrical permit fee,~~ inspection, enforcement, and cleanup costs. Following the fourth of July, the Fire Department shall conduct an accounting of all such costs. If excess funds remain after the pro-rata cost assessment, then those excess funds shall be returned to each permittee on an equal pro-rata basis.

SECTION 6. Section 5.28.130 of Chapter 28 of Title 5 of the Garden Grove Municipal Code is hereby amended in its entirety to read as follows:

"SECTION 5.28.130: Indemnification and Liability Insurance

(A) Indemnification: As a condition to issuance of a permit under this chapter, each permittee shall execute a liability release and indemnity form approved by the City Attorney providing that such permittee will release, indemnify, hold harmless, and defend the City of Garden Grove, its officers, officials, agents, employees, and volunteers from and against any and all actions, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities of any nature, that may be asserted by any person or entity from any cause whatsoever arising from the activities of permittee, its subcontractors, employees, volunteers, and/or agents in connection with operation of the stand.

(B) As a condition to issuance of a permit under this chapter, prior to the erection of any stand, each permittee shall procure and maintain in full force and effect during the term of the permit a policy of commercial general liability insurance acceptable to the City, which provides coverage against claims for injuries to persons or damages to property which may arise from or in connection with the operations in and about the stand and premises. Such policy shall provide coverage on a per occurrence basis and be in such amount determined by the City Manager or his or her designee to be necessary under the circumstances, which amount shall not be less than \$1,000,000 per occurrence, and shall be endorsed to name the City, its officers, officials, agents, employees and volunteers as additional insureds. No permit issued hereunder shall be

effective until proof of the required insurance is submitted to the City. The City Manager or his or her designee is authorized to promulgate rules or requirements regarding acceptable insurance carriers, provisions, endorsements, and/or forms acceptable to the City."

SECTION 7. Subsection B. of Section 5.28.140 of Chapter 28 of Title 5 of the Garden Grove Municipal Code is hereby amended as follows (deletions shown in ~~strikethrough~~; additions shown in ***bold-italics***):

"B. No stands shall be permitted within one thousand (1,000) feet of the following locations: Garden Grove Park, Twin Lakes Park, ***and*** Village Green Park, ~~and Katella Avenue from Dale Street to Euclid Street.~~

SECTION 8. Section 5.28.170 (Electrical Permit Required) of Chapter 28 of Title 5 of the Garden Grove Municipal Code is hereby deleted in its entirety.

SECTION 9. The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment.

SECTION 10. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 11. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.