



Memorandum

TO: PUBLIC, SAFETY, FINANCE, AND
STRATEGIC SUPPORT COMMITTEE

FROM: Robert Sapien, Jr.

**SUBJECT: FIREWORKS ORDINANCE
WORKPLAN STATUS REPORT**

DATE: August 6, 2018

Approved

Date

8-9-18

RECOMMENDATION

Accept the status report on the implementation of the Fireworks Ordinance Workplan Post-Fourth of July 2018.

BACKGROUND

In 1984, to protect the health, safety and welfare of its residents, the City Council voted to amend the Municipal Code banning all fireworks, including "safe and sane" fireworks with the exception for controlled public fireworks displays operated by a licensed pyrotechnician pursuant to a permit by the Fire Department.

In August 2014, the City Council directed the City Manager to make changes to fireworks enforcement after several years of increasing noise and safety complaints from residents. Both the Fire and Police Departments were directed to look for options that might slow and eventually contain the illegal sale, use, possession and storage of fireworks. In June 2015, the Council directed staff to establish a framework to cite, fine, and adjudicate the use, possess, sale, advertisement for sale, transportation, and/or manufacturing of fireworks. The Council also directed staff to explore the use of Administrative Citations in addition to criminal charges. On April 12, 2016, the Council adopted an ordinance amending the Municipal Code 10.17 to prohibit the sale, use, possession, and storage of fireworks and to provide for civil liability under certain circumstances for persons responsible for minors who violate the ordinance. The Council also adopted a resolution amending the Administrative Citation Schedule of Fines to establish administrative fines for fireworks-related violations.

In the ensuing years, the City implemented numerous activities and a reporting pilot program to combat the illegal sale, use, possession, and storage of fireworks. In May through July of 2016, under the amended Municipal Code ordinance, the City instituted a comprehensive marketing and outreach campaign, implemented a new online fireworks reporting platform, and deployed “in the field” enforcement personnel. In 2017, Fourth of July efforts focused on improving and publicizing the reporting tool, development of a new and focused “respect your neighbors, veterans, and pets” messaging campaign, education and outreach utilizing multicultural media outlets, and additional deployment of “in the field” enforcement personnel. While data showed a dramatic increase in the number of online reports received by the City in 2016, 45 online citations were rescinded and changed to warnings to allow time to better prepare the community for enforcement actions.

For 2018, staff carried forward lessons learned from the 2017 Fourth of July reporting period and brought forward significant changes at the November 28, 2017 City Council meeting. Council accepted the 2017 Fireworks Ordinance Work Plan status report, which included several administrative changes to the program; a new messaging campaign (“Save Lives, Including Your Own”); a dedicated phone line for reporting illegal fireworks activity; updates to the Fireworks Online Reporting Form; and new advance deposit hardship waiver qualification criteria for all administrative citations. These changes were put in place for the 2018 New Year’s Eve fireworks and Tet/Lunar New Year reporting periods.

At the April 19, 2018 Public Safety, Finance, and Strategic Support Committee (PSFSS) meeting, the Fire Department updated the Committee about fireworks use on New Year’s Eve and Tet/Lunar New Year. The Department also reported the establishment of Education and Awareness, Reporting, and Enforcement as major program components for 2018. Goals were to lower the number of fireworks-related injuries and fires; increase the number of actionable reports; and decrease the number of illegal fireworks hotspots (See Attachment A for a timeline of illegal fireworks activities).

The team continues to develop methods to define, gather, normalize and track data that can be used to make program adjustments and/or develop policy changes. Staff meet routinely with stakeholders and have increased engagement with the Neighborhoods Commission and the grassroots Stop Illegal Fireworks Committee.

This memorandum summarizes illegal fireworks mitigation activities related to the Fourth of July reporting period covering June 1, 2018 through July 8, 2018.

ANALYSIS

City Manager’s Office - Office of Communications

This year the City Manager's Office of Communications established a campaign committee made up of representatives from the Mayor’s Office, Councilmember Peralez’s Office, City Manager’s Office, Fire, Parks, Recreation & Neighborhood Services (PRNS), Planning, Building and Code

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Enforcement (PBCE), Police, and Santa Clara County Fire Department to overhaul and create the 2018 Fourth of July messaging campaign. The result of this collaboration was a public education and outreach campaign with messaging intended to: reduce injuries and fires; increase the number of actionable reports; decrease the number of hotspots; and, educate residents of the fines associated with fireworks use campaigns, “. Refer to Attachment B.

The Communications team, in collaboration with Articulate Solutions, developed a print and digital marketing campaign, which included a social media press kit and digital advertising. The campaign, which used a wide array of distribution channels, ran until July 8 and featured billboards (35), VTA bus advertisements (26), search engine display and Mercury News advertisements, library digital signage, and Facebook ads – all available in English, Spanish and Vietnamese. New building facility banners in three languages also were created and displayed. The City’s Animal Care Center, community centers and libraries, Regional Wastewater Facility and San José Municipal Water displayed new building facility banners at their locations. Additional public relations efforts used were: sample e-newsletter briefs for City Councilmembers to send to their constituents; 4x6 postcards for Councilmembers, Fire, and Police to distribute to the community; a press release distributed to media; and a series of social media messages on Facebook, Twitter and NextDoor throughout the reporting period. In coordination with the San José Unified School District, an email broadcast was distributed through their centralized messaging system to 51,063 email addresses in the San José Unified School District Community, which has more than 3,000 full-time employees and enrollment of 13,713 students in 41 schools from downtown San José to the Almaden Valley.

See Attachment B for campaign messaging images and measurement.

Fire Department

For the second year in a row, the Fire Department continued to increase staff efforts to gather fireworks-related data by making it mandatory for department personnel to report fireworks-related incidents.

Fire Department responded to 34 Calls for Service during the Fourth of July reporting period related to fireworks use with 14 being active fires. Additionally, the Bureau of Fire Prevention issued four fireworks permits and one citation in the field.

All 33 fire stations displayed “Fed Up With Fireworks” banners from June 1, 2018 through July 8, 2018.

The Fire Department and Mayor’s Office also engaged the Behavioral Insights Team to initiate a direct mail project aimed to change behavior in designated illegal fireworks hotspot areas. The project targeted 24,758 households utilizing the two campaign messages and sent postcards to more than 16,506 households in 14 identified hotspot areas. A sample of the postcard can be seen in Attachment C. The project included a control group to compare results. Preliminary project summary findings concluded that recipients of a postcard were almost twice as likely to report a violation compared to the control group (0.32 percent compared to 0.17 percent).

Police Department

Deployment of resources to fireworks-related incidents continues to be a challenge for the Police Department given the competing and more urgent Priority 1 and 2 Calls for Service. Staff has investigated alternatives for proactive hotspot enforcement, however being proactive is challenging the holiday is extremely busy and major special events are taking place throughout the City. All available patrol resources are committed to Priority 1 and 2 calls throughout the City, while all on-duty specialized units are deployed to ensure traffic control and public safety related to the Almaden Lake Park fireworks, Downtown fireworks, and other special events. While some events hire off-duty officers on overtime, this secondary employment staffing is not sufficient to cover the public safety needs related to these events.

Police Communications reported receiving 596 Calls for Service related to fireworks during the entire Fourth of July reporting period. From June 1, 2018 to July 8, 2018, 127 of the 596 calls had a final disposition of "NR" (No Resources), indicating that the Police Department did not have resources available to respond to the call.

Additionally, the Police Department issued 37 block party permits and waived the fee. Residents holding permitted block parties committed to not using fireworks at their event.

Online Reports

A total of 1,109 valid reports were submitted online, a similar number from the 2017 Fourth of July reporting period.

As outlined in Attachment D, of the 1,109 valid online reports reviewed by the Code Enforcement Division of PBCE, 1,017 were found to have insufficient information. Reports with insufficient information contained no address, no named party, and no photographic or video evidence. There were 88 submissions that provided sufficient information (such as an address) for the City to issue a warning notice, but did not contain additional evidence that would allow for the issuance of a citation. In such cases, the warnings were issued to the Property Owner of record.

Similar to 2018 New Year's Eve/Tet Lunar New Year reporting period, a high percentage of the online reports were non-actionable. Specifically, 92 percent of the total submitted online reports did not contain enough information for the City to issue a warning or citation. However, the Code Enforcement Division was able to issue four \$500 citations totaling \$2000 in fines and 88 warnings.

Phone Reports

The dedicated Fireworks Hotline (408-535-5600) was activated and received a total of 611 calls during the Fourth of July reporting period.

Of the 611 calls received during the Fourth of July reporting period, 27 were answered during normal business hours by the Customer Contact Center with seven additional calls hanging up before staff had the ability to answer. Another 577 calls came in after hours and were redirected to the City's contracted after-hours answering service with 411 being transferred and 166 calls hanging up before the actual transfer could take place. It is unknown as to why approximately 40 percent of the callers hung up. After-hours staff directed callers to the online form, but if the caller didn't have access or was unable to fill out the online form, staff was able to fill out the form for them. The Customer Contact Center reported the revised form was much easier to navigate than previous versions had been.

Lessons Learned

While there were several anecdotal reports that illegal fireworks activity usage was lower in the days leading up to this year's Fourth of July than in prior years, there continued to be blatant illegal use of fireworks within the City limits. Based on staff's experience with the 2018 Fourth of July reporting period, staff has determined the following:

1. **Public Education and Outreach Campaign** – Education and awareness are important components to change behavior of a community. An effective message that captures the attention of a target audience, is easy to understand and remember, is available in multiple languages, does not require any further explanation, and calls for target audiences to do something in order to effect or support a proposed change appears to produce positive results. Additional analysis is necessary to determine how best to utilize campaign messaging to achieve actual program goals.
2. **Online Reporting Tool** – An extremely high percentage of submitted reports contain insufficient information or were incomplete. It is unclear as to the cause of 92 percent of the submitted reports being non-actionable. Staff will determine a method to follow-up with some of the reporting parties to find out if it is a lack of having the required information or if the online tool is confusing or cumbersome.
3. **Public Safety Presence** – Community members continue to voice concerns regarding the lack of police presence at known problem areas. For example, a major illegal firework display occurred in the Alviso community, however, there were not enough City staff resources to respond to Calls for Service due to higher priority emergencies during these same periods of high fireworks use.

Next Steps

Staff will perform additional analysis on the 2018 Fourth of July reporting period data to update the work plan and provide recommendations on modifying the program or potential policy changes. An update to the hot spot locations, detailed analysis by the Behavior Insights Team on the outcome of the mass postcard direct mail project, and brainstorming sessions with stakeholders will be done as additional inputs into revising the workplan for the upcoming year.

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The Fire Department also anticipates receiving notification in September 2018 from the Federal Emergency Management Agency regarding the Department of Homeland Security Fire Prevention & Safety (FP&S) Grant application that was submitted in March 2018. If awarded, the grant will provide additional funding for illegal fireworks education and awareness activities from October 2018 through September 2020.

Staff will initiate more formal collaboration with the Neighborhoods Commission to organize communication to the community and to expand public education and awareness activities.

COORDINATION

This memorandum was coordinated with the City Attorney's Office; City Manager's Communications Office; Information Technology Department; Planning, Building, and Code Enforcement Department; and Police Department.

/s/

ROBERT SAPIEN, JR.

Acting Fire Chief

Fire Department

Attachment A: Illegal Fireworks Activities Timeline

Attachment B: Messaging Campaign

Attachment C: Mass Postcard Direct Mail Project

Attachment D: Illegal Fireworks Reporting Summary

For questions, please contact Ryan Dulin, Deputy Director, at (408) 794-6984.

ATTACHMENT A: Illegal Fireworks Activities Timeline

Date	Activity
1977-1984	State approved fireworks were allowed in San José.
1984	City Council amended the Municipal Code banning all fireworks, including “safe and sane” fireworks.
2014	Fire and Police Departments were directed to look for options that might slow and eventually contain the illegal use, sale, possession, and storage of fireworks.
August 20, 2014	Rules and Open Government Committee directed the City Manager to draft and bring forward to City Council an ordinance which would authorize the issuance of Administrative Citations and fines for the use, possession, sale, and storage of Fireworks.
June 23, 2015	Council directed staff to establish a new framework to cite, fine, and adjudicate the use, possession, sale, advertisement for sale, transportation, and/or manufacturing of fireworks and to explore the use of Administrative Citations in addition to criminal charges.
April 12, 2016	Council adopted an ordinance amending the Municipal Code to prohibit the sale, use, possession, and storage of all types of fireworks. A resolution was also adopted amending the Administration Citation Schedule of Fines to establish administrative fines for fireworks-related violations.
July 1, 2016 - July 5, 2016	Illegal Fireworks Pilot Program entailing publicity and enforcement. Illegal Fireworks Online Reporting System was created as a technology solution to allow the public to inform the City of illegal fireworks activity (up to 6 PBCE Code Enforcement Inspectors and 4-6 BFP Fire Prevention Inspectors will review online reports)
April 2017	Police Department created a list from 2016 Fourth of July data identifying 62 “hot spots” citywide.
May - June - July 2017	City instituted a comprehensive marketing and outreach campaign, implemented a new online fireworks reporting platform, and deployed “in the field” enforcement personnel for the 2017 Fourth of July.
September 2017	City Manager designated the Fire Department as the lead department for coordination and project implementation. Council provided direction on Fines and Appeals, Use of Volunteers, and Outreach and Marketing Campaign.
November 28, 2017	High level Illegal Fireworks Plan developed and presented to Council; Expanded illegal fireworks messaging campaign and online reporting to New Year’s Eve and Tet/Lunar New Year; Created a “Save Lives, Including Your Own” New Year’s Eve fireworks and Tet/Lunar New Year campaign; Established a dedicated phone line for reporting illegal fireworks activity; Updated and improved Illegal Fireworks Online Reporting Form
January 1, 2018	Established new advance deposit hardship waiver qualification criteria for all administrative citations.
March 16, 2018	Applied for Federal Emergency Management Agency, Department of Homeland Security Fire Prevention & Safety (FP&S) Grant, to provide education and awareness funding to assist the City in accomplishing our goals.
March 20, 2018	City Council approved the Mayor’s March Budget Message for 2018-2019, which recommended one-time funding to support the Rotary International 2018 Fourth of July Fireworks event.
April 2018	Established Education and Awareness, Reporting, and Enforcement as major program components along with the lowering injuries and fires, increasing the number of actionable reports, and decreasing the number of illegal fireworks hotspots as program goals.

**ATTACHMENT B: Public Education and Outreach Campaign
Billboards and Banners**



ATTACHMENT B: Messaging Campaign (Cont.) VTA Bus Wraps

IT'S NOT WORTH IT.
You will be reported.

SNAP. CLICK. REPORT.
sanjoseca.gov/fireworks
Hotline: 408-535-5600



ĐỐT PHÁO BÔNG CỎ ĐÁNG KHÔNG?
Bạn sẽ bị báo cáo.

▶ **HÃY CHỤP HÌNH VÀ BÁO CÁO.**
sanjoseca.gov/fireworks
Đường dây nóng:
408-535-5600



NO VALE LA PENNA.
Usted será reportado.

TOME FOTOS. HAGA CLIC. REPORTELO.
sanjoseca.gov/fireworks
Línea directa: 408-535-5600



FED UP WITH FIREWORKS?
Report violators online.

SNAP. CLICK. REPORT.
sanjoseca.gov/fireworks
Hotline: 408-535-5600



PHÁO BÔNG LÀM BẠN BẤT AN?
Nhẹ tay báo cáo xóa tan tiếng ồn.

▶ **CHỤP HÌNH VÀ BÁO CÁO.**
sanjoseca.gov/fireworks
Đường dây nóng:
408-535-5600



CANSADO DE LOS FUEGOS ARTIFICIALES?
Reporte a violadores en línea.

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ATTACHMENT B (Cont.)

Measurement

Website Traffic

/Fireworks

- 9,528 Page Views
- 7,204 Unique Visitors
- 1,638 Returning Visitors
- 2,914 clicked on the reporting form link from home page
- Majority of visitors viewed the page from mobile or tablet device

Search Engine Display Banner Advertisements

- 721,260 impressions
- 500 clicks
- 0.07 percent click-through rate (Click-through rate is the ratio of users who click on a specific link to the number of total users who view an advertisement.)

Mercury News Display Advertisements

- 84,767 impressions
- 7 clicks
- 0.01% click-through rate

Facebook Standard Single Image Advertisements

- 193,055 impressions
- 3,563 clicks
- 3.89% click-through rate

ATTACHMENT C: Direct Mail Postcard (Behavioral Insights Team)



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PHÁO BÔNG LÀM BẠN BẤT AN?
Nhanh tay báo cáo xóa tan tiếng ồn.
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ĐỐT PHÁO BÔNG CÓ ĐÁNG KHÔNG?
Bạn sẽ bị báo cáo.
HÃY CHỤP HÌNH VÀ BÁO CÁO.
sanjoseca.gov/fireworks
Đường dây nóng: 408-535-5600

ATTACHEMENT D: Illegal Fireworks Reporting Summary

	4 th of July 2016	4 th of July 2017	New Year's Eve	Tet/Lunar New Year	4 th of July 2018
Hot Spots	62	62			TBD
Fire Permits			0	1	4
Police Block Party Permits	33	40			37
Online Reports	694	1,075	78 reports filed (72 insufficient info.)	85 reports filed (52 insufficient info.)	1,109 reports filed (1,017 insufficient info.)
Citations Issued	16 *13 criminal (PD)	14 *9 criminal (PD)	0	6 *2 online (PBCE)	6 *1 criminal (PD) 4 online (PBCE)
PD Criminal Citation	13	9	0	1 - District L (Western Division)	
Warnings Issued	197 (online) 26 (PRNS) Total - 223	161	6	31	88
Field Citations	3 Admin (Fire)	5 Admin (Fire)	0	4 Admin (Fire)	1 Admin (Fire)
Fire/PD Confiscations	32 lbs. (PD) 11 Sets (PRNS) Total - 853 lbs.	40 lbs. (Fire) 2,760+ lbs. (PD) *50 lbs. (Fire) voluntary disposal	0 lbs.	0 lbs.	0 lbs.
Fire Calls for Service	80 (PD) 29 (PD&Fire) Total - 109	17	3	10	34
Fires and Medical Incidents		8 fires none related to med emergency	2 fires none related to med emergency	1 fire none related to med emergency	14 fires none related to med emergency
PD Calls for Service	392 *TBD	378 *84 after canceled and duplicate calls removed	104 *36 after canceled and duplicate calls removed	137 *75 after canceled and duplicate calls removed	596 *265 after canceled and duplicate calls removed
Hotline Calls	Hotline was not implemented	Hotline was not implemented	54 *1 by Call Center and 51 afterhours	264 *75 by Call Center and 50 afterhours	611 *27 by Call Center and 411 afterhours

Note: Insufficient info. is defined as reports lacking an address, name, or sufficient evidence to warrant a warning or citation.