

Agenda Memo City Manager's Office

To: Mayor and Members of the Duarte City Council
From: Darrell J. George, City Manager
Date: August 1, 2016
Re: Proposed Fireworks Ballot Measure

Recommendation: That the Duarte City Council provide City staff direction on whether to place a proposed measure on the ballot for the November 8, 2016 election that, if approved by the voters, would adopt an ordinance amending Chapter 15.05 of the Duarte Municipal Code to prohibit the sale and discharge of fireworks in the City of Duarte unless they are part of a public display permitted by the Code. (Attachment 1.)

Placing the proposed measure on the ballot for the November 2016 election would require the City Council to adopt (by majority vote) a series of resolutions. (Attachments 2-3.)

If the City Council is inclined to place the proposed measure on the ballot, Staff is also seeking direction on which Councilmembers (if any) are authorized to draft arguments for and/or against the measure (Attachment 4) as well as the deadlines, procedures, and substantive guidelines for the City Attorney's impartial analysis, primary arguments, and rebuttal arguments. (Attachments 4-5).

Background: Since the San Gabriel Complex fire in June, the City Council has been receiving input from both residents and community members at large concerning the sale and discharge of legal safe and sane fireworks in the City. As a result of this concern, at its July 12th City Council meeting, the Council conducted a discussion about the current fireworks ordinance. Councilmember Fasana led the discussion, and stated that he would prefer putting a ban on fireworks to a vote in November. Councilmember Finlay stated that she felt the fine should be increased. At this meeting, staff presented a report about the recent July 4th suppression efforts, the time fireworks were allowed to be discharged, and the fine for violation, in addition to providing a chart of San Gabriel Valley cities that allow and do not allow fireworks. There was further discussion about park dryness, wind speed, use of fireworks in parks, spike in unhealthful air quality emissions, and a \$23,000 estimated cost for a ballot measure (assuming the special election on the City's measure is consolidated with the general statewide election). A motion was made to place a measure on the November ballot prohibiting the purchase and discharge of safe and sane fireworks, whereupon the motion died for lack of a second.

At the July 26th City Council meeting, Councilmember Paras-Caracci expressed a desire to resume discussion about placing a potential fireworks measure on the ballot for the November 2016 election. The City Council voted (4-1, Councilmember Reilly dissenting) to agendize the item for a future meeting. In order to ensure the City has adequate time to meet the deadlines for election-related submittals imposed by State law and the County Registrar Recorder/County Clerk's Office, this item was agendized for a special meeting.

Fireworks/Municipal Code Amendments History: Duarte has a long history with fireworks dating back to the City's incorporation. Since the City of Duarte's incorporation in 1957, per Ordinance 234, the City has allowed for the sale and discharge of safe and sane fireworks. In 1968, this ordinance became Section 15.05 of Duarte Municipal Code. In the same vein, illegal fireworks have always been banned in the City since incorporation.

Roundtable discussions on the topic were conducted in 2006 and 2007 to both refine the process and create a program that financially benefitted as many youth programs as possible. The new ordinance adopted in September of 2008 added the following new additions to the application process:

- Contract from Fireworks Distributor
- Authorization paperwork from property owner allowing the Fireworks sales booth location including a site map;
- Copy of organization's formation documents;
- Liability Insurance at a minimum of \$1 million dollars from Fireworks Distributor naming the City and its officers as additionally insured;
- Staffing plan/schedule for fireworks booth;
- Operational plan detailing storage of fireworks, security, etc.
- Compliance Plan detailing how the organization plans to comply with the requirements of the Health and Safety Code;
- Profit Plan detailing the youth activities for which the applicant proposes to use net profits. If the applicant received a permit the year before, include a certification that all net receipts from the prior year have been expended;
- Indemnification clause;
- Waiver discharging any claims against the City due to issuance of the permit;
- Demonstrated familiarity with applicable Health and Safety code sections;
- Recognition that that submission of an application does not guarantee a license permit.
- Increased to 5 licenses

In August of 2014, following the July 4th holiday, City Council again re-examined fireworks and in November 2014, adopted an amendment to Chapter 15.05. Specifically, the amendment changed Section 15.05.012 restricting the discharge of safe and sane fireworks to the 4th of July, only from noon until eleven PM. The amendment also changed Section 15.05.100 (penalties for violation), to add administrative fines up to \$1,000 per violation.

Annually, the City issues five licenses to qualified non-profits who have followed the procedure outlined in Chapter 15.05. The 2015 non-profit license holder profit breakdown was as follows:

Name of Organization	2015 Net Profit
LULAC	\$10,627
Duarte High ASB	\$10,144
Duarte Kiwanis	\$8,720
Duarte Education Foundation	\$14,803
Duarte Falcon Boosters	\$6,170
TOTAL	\$50,464

Proposed Ballot Measure: As noted above, if adopted, the proposed ballot measure would amend Chapter 15.05 of the Duarte Municipal Code (the “Fireworks Ordinance”) to prohibit the sale and discharge of all fireworks everywhere in the City at all times unless the fireworks are part of a public display permitted pursuant to Section 15.05.090 of the Duarte Municipal Code. The proposed ballot measure would retain the \$1,000 administrative fine for the unpermitted sale or discharge of fireworks (§ 15.05.100(c)(1)), but it would eliminate smaller fines for violations of other parts of the Fireworks Ordinance that would become obsolete if the measure is adopted (§ 15.05.100(c)(2)). A copy of the proposed ordinance amending the City’s Fireworks Ordinance is included with this report as Attachment 1.

The proposed ballot question would be worded as follows:

Shall the City of Duarte’s Fireworks Ordinance (set forth in Chapter 15.05 of the Duarte Municipal Code) be amended to prohibit the sale and discharge of all fireworks everywhere in the City at all times unless the fireworks are part of a public display permitted pursuant to Section 15.05.090 of the Duarte Municipal Code?

Placing the proposed measure on the ballot requires an affirmative vote of the majority of the City Councilmembers who are present at the meeting. To pass, the proposed measure must be approved by a majority of the voters (*i.e.*, 50% +1).

If the measure is approved, the City’s Fireworks Ordinance cannot be amended without a voter approval. (Elec. Code § 9217.) The Fireworks Ordinance cannot be resubmitted to the voters for one year after the measure is approved. (Elec. Code § 9218.)

Discussion: In order to place the proposed measure on the ballot for the November 2016 election, the City Council would need to adopt a resolution calling a special election. (Attachment 2.) If this is the Council’s desire, staff recommends the Council concurrently adopt a resolution requesting the County consolidate the special election with the general statewide election (Attachment 3) and resolutions providing direction for the deadlines, procedures, and substantive guidelines for the City Attorney’s impartial analysis, primary arguments, and rebuttal arguments (Attachments 4-5).

State law allows the Council to authorize one or more of its members to author arguments for or against the proposed measure. (Elec. Code § 9287.) The resolution included with this report as Attachment 4 provides an opportunity for the City Council to do this. (See Section 1 on page 1 of Attachment 4.) If the Council does not wish to authorize any of its members to author arguments for or against the proposed measure, staff requests the Council write “none” on the blank lines provided in Section 1 of that resolution, and per Section 9287(b)-(d) of the California Elections Code, the City’s election official (*i.e.*, the City Clerk) will give “preference and priority” to the following tiers of authors:

1. The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure [*not applicable here because the measure is initiated by City Council, not citizen sponsors*];
2. Bona fide associations of citizens; and
3. Individual voters who are eligible to vote on the measure.

The table below summarizes the County's deadlines for election-related submittals and proposed corresponding deadlines for submittals to the City.

	Submission	County Registrar Deadline	City-Proposed Due Date
1.	a) Resolution Calling for Election (Attachment 1) (Elec. Code § 10403(a))	08/12/2016 (Mun. Info. Booklet, p. 2*)	08/11/2016 (City Hall Closed 08/12/2016)
	b) Resolution Requesting Consolidation (Attachment 2) (Elec. Code §§ 10400; 10403(b))	08/12/2016 (Mun. Info. Booklet, p. 2)	08/11/2016 (City Hall Closed 08/12/2016)
2.	a) Primary Ballot Arguments (Elec. Code § 9282)	08/22/2016 (Mun. Info. Booklet, pp. iii, 4)	08/18/2016** (City Hall Closed 08/19/2016)
	b) City Attorney Impartial Analysis (Elec. Code § 9280)	08/22/2016 (Mun. Info. Booklet, pp. iii, 4)	08/18/2016 (City Hall Closed 08/19/2016)
3.	Rebuttal Arguments (Elec. Code § 9285)	08/30/2016 (Mun. Info. Booklet, pp. iii, 5)	08/29/2016***
NOTES: * The County's Municipal Information Booklet is available online at http://www.lavote.net/Documents/Election_Info/11082016_Municipal-Info-Booklet.pdf. ** 14 day time deadline of Elections Code § 9286 for submission of arguments after call of election not applicable to consolidated election, such as this one. If we want to allow such 14 days as a matter of best practice, election must be called by 08/04/2016. *** Elections Code § 9285(a)(4) requires rebuttal arguments to be filed no later than 10 days after the final filing date for primary arguments.			

Fiscal Impact: To conduct a special election in consolidation with the County of Los Angeles, the City can anticipate to incur the following costs:

Legal fees	Approximately \$5,000
Election Costs	Approximately \$23,000

Additionally, to complete this new Council priority, especially on this tight timeline, the City Manager's Office staff will need to redirect its prioritized work program to accommodate all necessary filings and deadlines in a timely manner.

Attachments:

- 1) AN ORDINANCE OF THE PEOPLE OF THE CITY OF DUARTE AMENDING CHAPTER 15.05 (FIREWORKS) OF THE DUARTE MUNICIPAL CODE TO PROHIBIT THE SALE OR DISCHARGE OF FIREWORKS IN THE CITY OF DUARTE
- 2) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 8, 2016, WITH THE STATEWIDE GENERAL ELECTION, FOR THE SUBMISSION TO THE QUALIFIED VOTERS A PROPOSED ORDINANCE PROHIBITING THE SALE AND DISCHARGE OF FIREWORKS IN THE CITY OF DUARTE
- 3) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO § 10403 OF THE ELECTIONS CODE
- 4) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) FOR A CITY MEASURE TO BE SUBMITTED TO QUALIFIED VOTERS AT A SPECIAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 8, 2016, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS
- 5) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENT(S) FOR A CITY MEASURE TO BE SUBMITTED TO QUALIFIED VOTERS AT A SPECIAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 8, 2016
- 6) Letter from County

ATTACHMENT #1

16-O-07

ORDINANCE NO.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF DUARTE AMENDING CHAPTER 15.05 (FIREWORKS) OF THE DUARTE MUNICIPAL CODE TO PROHIBIT THE SALE OR DISCHARGE OF FIREWORKS IN THE CITY OF DUARTE

WHEREAS, pursuant to Section 12541 of the California Health and Safety Code, a city may, by ordinance, prohibit or regulate the sale, use or discharge of fireworks; and

WHEREAS, Chapter 15.05 (Fireworks) of the Duarte Municipal Code currently regulates the sale, use and discharge of fireworks; and

WHEREAS, it is in the interest of the public health, safety and welfare to prohibit the sale and discharge of fireworks in the City of Duarte; and

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has determined to submit to the voters at a Special Municipal Election a ballot measure amending Chapter 15.05 (Fireworks) of the Duarte Municipal Code to prohibit the sale and discharge of fireworks in the City of Duarte except for public firework displays that have obtained a discretionary permit approved by the City Council pursuant to Section 15.05.090 of the Duarte Municipal Code.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF DUARTE,
CALIFORNIA, DO ORDAIN AS FOLLOWS:**

SECTION 1. Findings. The above recitals are true and correct and incorporated herein.

SECTION 2. Municipal Code Amendment. Chapter 15.05 (Fireworks) of the Duarte Municipal Code is hereby amended to read as follows (deletion shown as ~~strike-out~~ and addition as underline):

Chapter 15.05 – FIREWORKS

15.05.010 - Rules and regulations effected.

15.05.011 - ~~Restrictions~~ Prohibition on sale or discharge.

15.05.012 - ~~Reserved Days when fireworks may be discharged.~~

15.05.013 - ~~Reserved Discharge in northerly area prohibited.~~

15.05.020 - ~~Reserved Fraternal organization defined.~~

15.05.030 - ~~Reserved Licenses for sale of safe and sane fireworks.~~

15.05.040 - ~~Reserved Utilization of profits.~~

15.05.050 - ~~Reserved Application.~~

15.05.060 - ~~Reserved Procedure for issuing outdoor stand permit.~~

15.05.081 - ~~Reserved Obligations of sellers of fireworks.~~

15.05.090 - Public fireworks displays.

15.05.100 - Penalties for violation.

15.05.110 - Provisions supplementary.

15.05.010 - Rules and regulations effected.

In addition to the rules, regulations and requirements relative to the manufacture, possession, transportation, display, sale, storage, use or discharge of "Dangerous Fireworks and Safe and Sane Fireworks" set forth or referred to in the State Fireworks Law, codified in Part 2 of Division 11 of the California Health and Safety Code of the state (California Health and Safety Code Section 12500 et seq.) as same now exist or may hereafter be amended, the following rules, regulations and requirements are promulgated and established. The definitions contained in Part 2 of Division 11 of the Health and Safety Code shall be a part of this chapter and are incorporated herein by this reference.

15.05.011 - ~~Restrictions~~ Prohibition on sale or discharge.

(a) Except as provided in this chapter, the sale, offering for sale, or the discharge of fireworks of any kind, nature or description, including those devices defined as fireworks in California Health and Safety Code Section 12511, is prohibited within the city.

(b) Any property owner or person in control of property who allows a person to sell, offer to sell, or ~~use, discharge or possess~~ fireworks that are not "safe and sane" expressly permitted by this chapter on such property shall be in violation of this section, irrespective of such person's intent, knowledge or negligence, said violation hereby being expressly declared a strict liability offense.

15.05.012 - Reserved ~~Days when fireworks may be discharged.~~

~~(a) Except as otherwise provided in this chapter, safe and sane fireworks may be discharged only on July 4 beginning at noon and ending at eleven p.m.~~

~~(b) Safe and sane fireworks shall not be discharged at any other time nor in any other zone or area other than provided in this chapter.~~

15.05.013 - Reserved ~~Discharge in northerly area prohibited.~~

~~It is unlawful for any person, firm or corporation to discharge any fireworks in any area of the city lying northerly of Royal Oaks Drive, except within those portions of Royal Oaks Park which are specifically designated for such discharge by the director of parks and recreation or his/her designee.~~

15.05.020 - Reserved ~~Fraternal organization defined.~~

~~For purposes of this chapter, "fraternal organization" means any bona fide non-profit club, society or association, organized or incorporated for civic, community-~~

service, benevolent, patriotic or charitable purposes, and having an established "Duarte membership." "Duarte membership," as used in this section, means membership consisting of at least seventy-five percent of juvenile or adult persons who are either:

- (a) Duarte residents; or
- (b) Employed in Duarte; or
- (c) Owners or operators of a business or other establishment located in Duarte.

15.05.030 - Reserved Licenses for sale of safe and sane fireworks.

Licenses for the sale of safe and sane fireworks shall be issued only to fraternal organizations, and such fireworks shall be sold only at outdoor sales stands, as more specifically set forth hereinafter. No more than five such licenses shall be issued and outstanding at any time. All applications for such licenses shall be filed with the city clerk on or before five p.m. on the third Thursday of January of each year, containing a detailed statement of each and every kind of fireworks proposed to be sold under the license, the location of the proposed outdoor sales stand, the type of construction of the stand, the dates and hours that the applicant proposes the stand be open, the plans for staffing the stand during those days and hours, and such other information as the city manager shall reasonably require in order to assist the city council in evaluating the application.

15.05.040 - Reserved Utilization of profits.

Sales permit shall be granted only to fraternal organizations which agree that the net profit from the sales shall be utilized only for youth activities in accordance with provisions of this chapter. The following specific provisions and requirements shall apply:

- (a) At least seventy-five percent of the youth participating in and benefiting from such activities shall be residents of the city of Duarte.
- (b) Each permit application shall contain a detailed statement of the youth activities for which the applicant proposes to use such net profits and the manner of such use.
- (c) No part of the net profits shall be disbursed to other governmental agencies or entities as a gift or contribution.
- (d) Except for organizations whose primary purpose is youth service, such net profit shall be expended for new programs or the expansion of existing programs, and shall not be used as replacement income for funds previously raised by the organization through other methods of fund raising. An organization shall be deemed to have a primary purpose of youth service if ninety percent or more of its budget is spent for youth service activities.

15.05.050 - Reserved Application.

~~Each permit application shall be accompanied by an application fee established by resolution of the city council, which shall not be refundable. The application shall contain, in addition to all other information required by this chapter, the following information:-~~

~~(a) A statement of the number and residency of the members of the applicant organization, which statement shall be certified as to accuracy by an officer of the applicant organization;-~~

~~(b) A statement of the number of youth to be served by the applicant and the residency of such youth;-~~

~~(c) A statement certifying that applicant organization agrees to all terms and conditions of the license and this chapter.-~~

15.05.060 - Reserved Procedure for issuing outdoor stand permit.

~~(a) Upon receipt of any application for any permit for the sale of fireworks from any outdoor stand, the city clerk shall promptly refer the application to the city manager for his consideration, report and recommendations thereon. The city manager shall cause the application to be checked for compliance with applicable law and other provisions of this code. Such report, when ready, shall be filed with the city clerk for submission to the city council.-~~

~~(b) Upon considering any such application, the city council may either grant or deny the application or may take it under further advisement, or order further reference thereof to any department of the city for further report, in its discretion.-~~

~~(c) Applicant organizations shall file a statement agreeing that all profits will be utilized in accordance with the requirements of Section 15.05.040, and, if such organization has previously received a fireworks permit, that all previous receipts have been so expended.-~~

~~(d) No applicant for any such outdoor stand or any other person, firm or corporation shall commence to erect or make any preparation to erect, whether by deposit of materials or otherwise, any such outdoor stand unless and until:-~~

~~(1) The council has finally approved the application and authorized the issuance of permit therefor, as herein required;-~~

~~(2) The authorized permittee has obtained a temporary building permit from the building inspector of the city for the erection of such temporary outdoor stand; and-~~

~~(3) Has obtained a temporary permit for the installation by a duly licensed electrical contractor of any electrical installations in, at or about such outdoor stand;- provided, however, that if the permittee does not, and certifies to the building inspector in~~

~~writing that any such outdoor stand will not be open for business after one half hour after sunset of any day, such electrical permit shall not be required; provided, however, that in the event any artificial or other lighting is used, such lighting must be electrical and no other type of lighting may be employed or used at any such stand.~~

~~(e) No such outdoor stand, or any part thereof, shall be located at any point nearer than one hundred fifty feet measured in a straight line from the nearest line of any lot or parcel of land upon which any gasoline or oil station is located. In all cases, all such outdoor stands shall be located in such places as are least likely to catch fire or communicate fire to adjacent or nearby properties, and at least five feet inside the property line, and all such locations shall be subject to the approval of the fire chief or his authorized representative. It shall be the duty of each such permittee and of all persons engaged in or about the storage or sale of fireworks at any such outdoor stand to comply with the reasonable orders and directions of the fire chief or his authorized representative, and to remove from the immediate vicinity of any such outdoor stand any and all combustible materials and growths of weeds, grass or other plantings which are apt to become ignited in case of fire.~~

~~(f) No minor under the age of eighteen years shall be permitted to be in charge of or to make sales of or to otherwise be concerned with the handling of fireworks in or from any such stand; provided, however, that nothing herein contained shall be construed as preventing the sale to minors in the ordinary course of business of such fireworks from such stands.~~

~~(g) All displays and stocks of fireworks in or at any such stand shall be stored and displayed in such manner as to be difficult of access to or by the general public, and each such stand shall be equipped with at least one two and one half gallon soda and acid type fire extinguisher in good and immediate working condition and easily accessible for immediate use, for each fifteen feet of counter space or fraction (over three feet) thereof, and such other first aid fire fighting equipment as required by the fire chief.~~

~~(h) Each such stand and all materials used in or about same shall be completely removed before midnight of the twelfth of July of the year in which same was erected, and the site restored as nearly as reasonably possible to the same condition as that in which it existed immediately prior to the erection of such stand. It shall be the duty of the permittee to make such removal within that time.~~

15.05.081 - Reserved Obligations of sellers of fireworks.

~~It shall be the responsibility of each recipient of a permit under this chapter to comply with the following requirements:~~

~~(a) There shall be included with each sale of fireworks a "flyer" notifying the purchaser of the restriction established by Section 15.05.013. The city shall furnish a specimen of the flyer, which shall be reproduced by and at the expense of the permittee.~~

~~(b) Large visible posters shall be erected at the point of sale of the fireworks to notify purchasers of the restriction established by Section 15.05.013. The city shall provide the posters, which shall be returned to the city after use.~~

15.05.090 - Public fireworks displays.

Notwithstanding any other provision of this chapter, the city council, in its discretion, may grant permits for public displays of fireworks under the supervision of the fire chief. Applications for such permits shall be filed with the fire chief not less than ten days before such public display and shall be accompanied by a detailed statement of the items of such proposed display. If such permit is granted, no items shall be displayed except as are contained in such statement and the city council may in granting such permit eliminate from the statement such items as it deems hazardous and it is unlawful for the grantee of such permit to exhibit or display such eliminated items. Such public display shall be under the supervision of the fire chief and/or such persons as he shall designate and authorize. The fee for such permit shall be one hundred dollars for each display; provided, however, that the city council may waive or reduce such fee, in its discretion, where the application is made by a fraternal organization. Such display and/or displays shall be held at such place and time as designated in the permit.

15.05.100 - Penalties for violation.

(a) Whenever an officer charged with the enforcement of any provision of the municipal code determines that a violation of this chapter has occurred, the officer shall have the authority to issue an administrative citation to any person responsible for the violation.

(b) Whenever an officer charged with the enforcement of this chapter determines that a violation of the chapter has occurred, the officer may issue an administrative citation for each violation found to have occurred.

(c) Citations issued pursuant to this chapter shall carry administrative fines as follows:

~~(1) One thousand dollars for the first and subsequent violations of this chapter Section 15.05.011.~~

~~(2) Two hundred fifty dollars for the first violation and five hundred dollars for all subsequent violations of any other provision of this chapter.~~

(d) Violations of this chapter may also be cited as criminal misdemeanor violations in accordance with Chapter 1 of this code.

15.05.110 - Provisions supplementary.

The provisions of this chapter are supplementary to the provisions of the fire code of the county of Los Angeles adopted by reference in Chapter 15.04. In case of direct conflict between the provisions of the fire code of the county and the provisions of this

chapter, the provisions of this chapter shall prevail. Except with respect to such direct conflict, the provisions of the fire code of the county shall remain in full force and effect.

SECTION 3. Severability. If any section, subsection, sentence, clause phrase or portion of this Ordinance is for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The People of the City of Duarte, California, hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 4. Election Required. This Ordinance shall not become effective unless and until a majority of City voters voting on this measure vote to approve it at the Special Municipal Election to be held on November 8, 2016.

SECTION 5. Effective Date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

SECTION 6. Execution. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City of Duarte by signing where indicated below. The City Clerk is authorized to publish this Ordinance in compliance with law.

THE FOREGOING ORDINANCE was approved by the following vote of the People of the City of Duarte on November 8, 2016:

YES:

NO:

THE FOREGOING ORDINANCE was adopted by Declaration of the vote at the November 8, 2016, Special Municipal Election by the City Council of the City of Duarte at a regular meeting thereof held on _____, 201__, by the following vote:

AYES:

NOES:

ABSENT:

Mayor Samuel Kang

ATTEST

Marla Akana, City Clerk

ATTACHMENT #2

16-R-19

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 8, 2016, WITH THE STATEWIDE GENERAL ELECTION, FOR THE SUBMISSION TO THE QUALIFIED VOTERS A PROPOSED ORDINANCE PROHIBITING THE SALE AND DISCHARGE OF FIREWORKS IN THE CITY OF DUARTE

WHEREAS, the City Council of the City of Duarte, California desires to submit to the voters at a Special Municipal Election a proposed ordinance relating to the sale and discharge of fireworks in the City of Duarte; and

WHEREAS, the City Council is authorized by statute to submit the proposed ordinance to the voters;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Duarte, California, on Tuesday, November 8, 2016, a Special Municipal Election for the purpose of submitting the following proposed ordinance:

Shall the City of Duarte's Fireworks Ordinance (set forth in Chapter 15.05 of the Duarte Municipal Code) be amended to prohibit the sale and discharge of all fireworks everywhere in the City at all times unless the fireworks are part of a public display permitted pursuant to Section 15.05.090 of the Duarte Municipal Code?	YES
	NO

SECTION 2. That the text of the ordinance submitted to the voters is attached to this resolution as Exhibit A.

SECTION 3. That the vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

SECTION 4. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 5. That the City Clerk is authorized, instructed and directed to coordinate with the County of Los Angeles Registrar-Recorder/County Clerk to procure and furnish any and

all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 6. That the polls shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Elections Code § 10242, except as provided in § 14401 of the Elections Code of the State of California.

SECTION 7. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 8. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 9. That the City of Duarte has requested the Board of Supervisors of the County of Los Angeles to consolidate this election with the November 8, 2016, General Statewide Election, and that the City of Duarte recognizes that additional costs will be incurred by the County by reason of this consolidation, and agrees to reimburse the County for any costs.

SECTION 10. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 3rd day of August, 2016.

Mayor Samuel Kang

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 16-19 was adopted by the City Council of the City of Duarte at a special meeting of said Council held on the 3rd day of August, 2016, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California

EXHIBIT A
Resolution 16-19

16-O-07

ORDINANCE NO.

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF DUARTE
AMENDING CHAPTER 15.05 (FIREWORKS) OF THE DUARTE
MUNICIPAL CODE TO PROHIBIT THE SALE OR DISCHARGE OF
FIREWORKS IN THE CITY OF DUARTE**

WHEREAS, pursuant to Section 12541 of the California Health and Safety Code, a city may, by ordinance, prohibit or regulate the sale, use or discharge of fireworks; and

WHEREAS, Chapter 15.05 (Fireworks) of the Duarte Municipal Code currently regulates the sale, use and discharge of fireworks; and

WHEREAS, it is in the interest of the public health, safety and welfare to prohibit the sale and discharge of fireworks in the City of Duarte; and

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has determined to submit to the voters at a Special Municipal Election a ballot measure amending Chapter 15.05 (Fireworks) of the Duarte Municipal Code to prohibit the sale and discharge of fireworks in the City of Duarte except for public firework displays that have obtained a discretionary permit approved by the City Council pursuant to Section 15.05.090 of the Duarte Municipal Code.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF DUARTE,
CALIFORNIA, DO ORDAIN AS FOLLOWS:**

SECTION 1. Findings. The above recitals are true and correct and incorporated herein.

SECTION 2. Municipal Code Amendment. Chapter 15.05 (Fireworks) of the Duarte Municipal Code is hereby amended to read as follows (deletion shown as ~~strike-out~~ and addition as underline):

Chapter 15.05 – FIREWORKS

15.05.010 - Rules and regulations effected.

15.05.011 - ~~Restrictions~~ Prohibition on sale or discharge.

15.05.012 - ~~Reserved Days when fireworks may be discharged.~~

15.05.013 - ~~Reserved Discharge in northerly area prohibited.~~

15.05.020 - ~~Reserved~~ Fraternal organization defined.

15.05.030 - ~~Reserved Licenses for sale of safe and sane fireworks.~~

15.05.040 - ~~Reserved~~ Utilization of profits.

15.05.050 - ~~Reserved~~ Application.

15.05.060 - ~~Reserved~~ Procedure for issuing outdoor stand permit.

15.05.081 - ~~Reserved~~ Obligations of sellers of fireworks.

15.05.090 - Public fireworks displays.

15.05.100 - Penalties for violation.

15.05.110 - Provisions supplementary.

15.05.010 - Rules and regulations effected.

In addition to the rules, regulations and requirements relative to the manufacture, possession, transportation, display, sale, storage, use or discharge of "Dangerous Fireworks and Safe and Sane Fireworks" set forth or referred to in the State Fireworks Law, codified in Part 2 of Division 11 of the California Health and Safety Code of the state (California Health and Safety Code Section 12500 et seq.) as same now exist or may hereafter be amended, the following rules, regulations and requirements are promulgated and established. The definitions contained in Part 2 of Division 11 of the Health and Safety Code shall be a part of this chapter and are incorporated herein by this reference.

15.05.011 - ~~Restrictions~~ Prohibition on sale or discharge.

(a) Except as provided in this chapter, the sale, offering for sale, or the discharge of fireworks of any kind, nature or description, including those devices defined as fireworks in California Health and Safety Code Section 12511, is prohibited within the city.

(b) Any property owner or person in control of property who allows a person to sell, offer to sell, or use, discharge or possess fireworks that are not "safe and sane" expressly permitted by this chapter on such property shall be in violation of this section, irrespective of such person's intent, knowledge or negligence, said violation hereby being expressly declared a strict liability offense.

15.05.012 - Reserved ~~Days when fireworks may be discharged.~~

(a) ~~Except as otherwise provided in this chapter, safe and sane fireworks may be discharged only on July 4 beginning at noon and ending at eleven p.m.~~

(b) ~~Safe and sane fireworks shall not be discharged at any other time nor in any other zone or area other than provided in this chapter.~~

15.05.013 - Reserved ~~Discharge in northerly area prohibited.~~

~~It is unlawful for any person, firm or corporation to discharge any fireworks in any area of the city lying northerly of Royal Oaks Drive, except within those portions of Royal Oaks Park which are specifically designated for such discharge by the director of parks and recreation or his/her designee.~~

15.05.020 - Reserved ~~Fraternal organization defined.~~

~~For purposes of this chapter, "fraternal organization" means any bona fide nonprofit club, society or association, organized or incorporated for civic, community~~

~~service, benevolent, patriotic or charitable purposes, and having an established "Duarte membership." "Duarte membership," as used in this section, means membership consisting of at least seventy five percent of juvenile or adult persons who are either:~~

- ~~(a) Duarte residents; or~~
- ~~(b) Employed in Duarte; or~~
- ~~(c) Owners or operators of a business or other establishment located in Duarte.~~

15.05.030 - Reserved Licenses for sale of safe and sane fireworks.

~~Licenses for the sale of safe and sane fireworks shall be issued only to fraternal organizations, and such fireworks shall be sold only at outdoor sales stands, as more specifically set forth hereinafter. No more than five such licenses shall be issued and outstanding at any time. All applications for such licenses shall be filed with the city clerk on or before five p.m. on the third Thursday of January of each year, containing a detailed statement of each and every kind of fireworks proposed to be sold under the license, the location of the proposed outdoor sales stand, the type of construction of the stand, the dates and hours that the applicant proposes the stand be open, the plans for staffing the stand during those days and hours, and such other information as the city manager shall reasonably require in order to assist the city council in evaluating the application.~~

15.05.040 - Reserved Utilization of profits.

~~Sales permit shall be granted only to fraternal organizations which agree that the net profit from the sales shall be utilized only for youth activities in accordance with provisions of this chapter. The following specific provisions and requirements shall apply:-~~

- ~~(a) At least seventy five percent of the youth participating in and benefiting from such activities shall be residents of the city of Duarte.-~~
- ~~(b) Each permit application shall contain a detailed statement of the youth activities for which the applicant proposes to use such net profits and the manner of such use.-~~
- ~~(c) No part of the net profits shall be disbursed to other governmental agencies or entities as a gift or contribution.-~~
- ~~(d) Except for organizations whose primary purpose is youth service, such net profit shall be expended for new programs or the expansion of existing programs, and shall not be used as replacement income for funds previously raised by the organization through other methods of fund raising. An organization shall be deemed to have a primary purpose of youth service if ninety percent or more of its budget is spent for youth service activities.-~~

15.05.050 - Reserved Application.

~~Each permit application shall be accompanied by an application fee established by resolution of the city council, which shall not be refundable. The application shall contain, in addition to all other information required by this chapter, the following information:-~~

~~(a) A statement of the number and residency of the members of the applicant organization, which statement shall be certified as to accuracy by an officer of the applicant organization;~~

~~(b) A statement of the number of youth to be served by the applicant and the residency of such youth;~~

~~(c) A statement certifying that applicant organization agrees to all terms and conditions of the license and this chapter.~~

15.05.060 - Reserved Procedure for issuing outdoor stand permit.

~~(a) Upon receipt of any application for any permit for the sale of fireworks from any outdoor stand, the city clerk shall promptly refer the application to the city manager for his consideration, report and recommendations thereon. The city manager shall cause the application to be checked for compliance with applicable law and other provisions of this code. Such report, when ready, shall be filed with the city clerk for submission to the city council.~~

~~(b) Upon considering any such application, the city council may either grant or deny the application or may take it under further advisement, or order further reference thereof to any department of the city for further report, in its discretion.~~

~~(c) Applicant organizations shall file a statement agreeing that all profits will be utilized in accordance with the requirements of Section 15.05.040, and, if such organization has previously received a fireworks permit, that all previous receipts have been so expended.~~

~~(d) No applicant for any such outdoor stand or any other person, firm or corporation shall commence to erect or make any preparation to erect, whether by deposit of materials or otherwise, any such outdoor stand unless and until:-~~

~~(1) The council has finally approved the application and authorized the issuance of permit therefor, as herein required;~~

~~(2) The authorized permittee has obtained a temporary building permit from the building inspector of the city for the erection of such temporary outdoor stand; and~~

~~(3) Has obtained a temporary permit for the installation by a duly licensed electrical contractor of any electrical installations in, at or about such outdoor stand; provided, however, that if the permittee does not, and certifies to the building inspector in~~

~~writing that any such outdoor stand will not be open for business after one-half hour after sunset of any day, such electrical permit shall not be required; provided, however, that in the event any artificial or other lighting is used, such lighting must be electrical and no other type of lighting may be employed or used at any such stand.~~

~~(e) No such outdoor stand, or any part thereof, shall be located at any point nearer than one hundred fifty feet measured in a straight line from the nearest line of any lot or parcel of land upon which any gasoline or oil station is located. In all cases, all such outdoor stands shall be located in such places as are least likely to catch fire or communicate fire to adjacent or nearby properties, and at least five feet inside the property line, and all such locations shall be subject to the approval of the fire chief or his authorized representative. It shall be the duty of each such permittee and of all persons engaged in or about the storage or sale of fireworks at any such outdoor stand to comply with the reasonable orders and directions of the fire chief or his authorized representative, and to remove from the immediate vicinity of any such outdoor stand any and all combustible materials and growths of weeds, grass or other plantings which are apt to become ignited in case of fire.~~

~~(f) No minor under the age of eighteen years shall be permitted to be in charge of or to make sales of or to otherwise be concerned with the handling of fireworks in or from any such stand; provided, however, that nothing herein contained shall be construed as preventing the sale to minors in the ordinary course of business of such fireworks from such stands.~~

~~(g) All displays and stocks of fireworks in or at any such stand shall be stored and displayed in such manner as to be difficult of access to or by the general public, and each such stand shall be equipped with at least one two and one-half gallon soda and acid type fire extinguisher in good and immediate working condition and easily accessible for immediate use, for each fifteen feet of counter space or fraction (over three feet) thereof, and such other first aid fire fighting equipment as required by the fire chief.~~

~~(h) Each such stand and all materials used in or about same shall be completely removed before midnight of the twelfth of July of the year in which same was erected, and the site restored as nearly as reasonably possible to the same condition as that in which it existed immediately prior to the erection of such stand. It shall be the duty of the permittee to make such removal within that time.~~

15.05.081 - Reserved Obligations of sellers of fireworks.

~~It shall be the responsibility of each recipient of a permit under this chapter to comply with the following requirements:-~~

~~(a) There shall be included with each sale of fireworks a "flyer" notifying the purchaser of the restriction established by Section 15.05.013. The city shall furnish a specimen of the flyer, which shall be reproduced by and at the expense of the permittee.~~

~~(b) Large visible posters shall be erected at the point of sale of the fireworks to notify purchasers of the restriction established by Section 15.05.013. The city shall provide the posters, which shall be returned to the city after use.~~

15.05.090 - Public fireworks displays.

Notwithstanding any other provision of this chapter, the city council, in its discretion, may grant permits for public displays of fireworks under the supervision of the fire chief. Applications for such permits shall be filed with the fire chief not less than ten days before such public display and shall be accompanied by a detailed statement of the items of such proposed display. If such permit is granted, no items shall be displayed except as are contained in such statement and the city council may in granting such permit eliminate from the statement such items as it deems hazardous and it is unlawful for the grantee of such permit to exhibit or display such eliminated items. Such public display shall be under the supervision of the fire chief and/or such persons as he shall designate and authorize. The fee for such permit shall be one hundred dollars for each display; provided, however, that the city council may waive or reduce such fee, in its discretion, where the application is made by a fraternal organization. Such display and/or displays shall be held at such place and time as designated in the permit.

15.05.100 - Penalties for violation.

(a) Whenever an officer charged with the enforcement of any provision of the municipal code determines that a violation of this chapter has occurred, the officer shall have the authority to issue an administrative citation to any person responsible for the violation.

(b) Whenever an officer charged with the enforcement of this chapter determines that a violation of the chapter has occurred, the officer may issue an administrative citation for each violation found to have occurred.

(c) Citations issued pursuant to this chapter shall carry administrative fines as follows:

~~(1) One thousand dollars for the first and subsequent violations of this chapter Section 15.05.011.~~

~~(2) Two hundred fifty dollars for the first violation and five hundred dollars for all subsequent violations of any other provision of this chapter.~~

(d) Violations of this chapter may also be cited as criminal misdemeanor violations in accordance with Chapter 1 of this code.

15.05.110 - Provisions supplementary.

The provisions of this chapter are supplementary to the provisions of the fire code of the county of Los Angeles adopted by reference in Chapter 15.04. In case of direct conflict between the provisions of the fire code of the county and the provisions of this

chapter, the provisions of this chapter shall prevail. Except with respect to such direct conflict, the provisions of the fire code of the county shall remain in full force and effect.

SECTION 3. Severability. If any section, subsection, sentence, clause phrase or portion of this Ordinance is for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The People of the City of Duarte, California, hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 4. Election Required. This Ordinance shall not become effective unless and until a majority of City voters voting on this measure vote to approve it at the Special Municipal Election to be held on November 8, 2016.

SECTION 5. Effective Date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

SECTION 6. Execution. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City of Duarte by signing where indicated below. The City Clerk is authorized to publish this Ordinance in compliance with law.

THE FOREGOING ORDINANCE was approved by the following vote of the People of the City of Duarte on November 8, 2016:

YES:

NO:

THE FOREGOING ORDINANCE was adopted by Declaration of the vote at the November 8, 2016, Special Municipal Election by the City Council of the City of Duarte at a regular meeting thereof held on _____, 201__, by the following vote:

AYES:

NOES:

ABSENT:

Mayor Samuel Kang

ATTEST

Marla Akana, City Clerk

ATTACHMENT #3

16-R-20

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO § 10403 OF THE ELECTIONS CODE

WHEREAS, the City Council of the City of Duarte called a Special Municipal Election to be held on November 8, 2016, for the purpose of submitting to the voters a proposed ordinance relating to the sale and discharge of fireworks in the City of Duarte; and

WHEREAS, it is desirable that the Special Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the city the precincts, polling places and election officers of the two elections be the same, and that the county election department of the County of Los Angeles canvass the returns of the Special Municipal Election and that the election be held in all respects as if there were only one election;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUARTE DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of § 10403 of the Elections Code, the Board of Supervisors of the County of Los Angeles is hereby requested to consent and agree to the consolidation of a Special Municipal Election with the Statewide General Election on Tuesday, November 8, 2016, for the purpose of submitting to the voters a proposed ordinance relating to the sale and discharge of fireworks in the City of Duarte.

SECTION 2. That a measure is to appear on the ballot as follows:

Shall the City of Duarte's Fireworks Ordinance (set forth in Chapter 15.05 of the Duarte Municipal Code) be amended to prohibit the sale and discharge of all fireworks everywhere in the City at all times unless the fireworks are part of a public display permitted pursuant to Section 15.05.090 of the Duarte Municipal Code?	YES
	NO

SECTION 3. That the proposed complete text of the Ordinance is attached to this resolution as Exhibit A.

SECTION 4. That the vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

SECTION 5. That the county election department is authorized to canvass the returns of the Special Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the statewide or special election.

SECTION 6. That the Board of Supervisors is requested to issue instructions to the county election department to take any and all steps necessary for the holding of the consolidated election.

SECTION 7. That the City of Duarte recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 8. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the county election department of the County of Los Angeles.

SECTION 9. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 3rd day of August, 2016.

Mayor Samuel Kang

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 16-20 was adopted by the City Council of the City of Duarte at a special meeting of said Council held on the 3rd day of August, 2016, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California

EXHIBIT A
Resolution 16-20

16-O-07

ORDINANCE NO.

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF DUARTE
AMENDING CHAPTER 15.05 (FIREWORKS) OF THE DUARTE
MUNICIPAL CODE TO PROHIBIT THE SALE OR DISCHARGE OF
FIREWORKS IN THE CITY OF DUARTE**

WHEREAS, pursuant to Section 12541 of the California Health and Safety Code, a city may, by ordinance, prohibit or regulate the sale, use or discharge of fireworks; and

WHEREAS, Chapter 15.05 (Fireworks) of the Duarte Municipal Code currently regulates the sale, use and discharge of fireworks; and

WHEREAS, it is in the interest of the public health, safety and welfare to prohibit the sale and discharge of fireworks in the City of Duarte; and

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has determined to submit to the voters at a Special Municipal Election a ballot measure amending Chapter 15.05 (Fireworks) of the Duarte Municipal Code to prohibit the sale and discharge of fireworks in the City of Duarte except for public firework displays that have obtained a discretionary permit approved by the City Council pursuant to Section 15.05.090 of the Duarte Municipal Code.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF DUARTE,
CALIFORNIA, DO ORDAIN AS FOLLOWS:**

SECTION 1. Findings. The above recitals are true and correct and incorporated herein.

SECTION 2. Municipal Code Amendment. Chapter 15.05 (Fireworks) of the Duarte Municipal Code is hereby amended to read as follows (deletion shown as ~~strike-out~~ and addition as underline):

Chapter 15.05 – FIREWORKS

15.05.010 - Rules and regulations effected.

15.05.011 - ~~Restrictions~~ Prohibition on sale or discharge.

15.05.012 - ~~Reserved Days when fireworks may be discharged.~~

15.05.013 - ~~Reserved Discharge in northerly area prohibited.~~

15.05.020 - ~~Reserved Fraternal organization defined.~~

15.05.030 - ~~Reserved Licenses for sale of safe and sane fireworks.~~

15.05.040 - ~~Reserved Utilization of profits.~~

15.05.050 - ~~Reserved Application.~~

15.05.060 - ~~Reserved Procedure for issuing outdoor stand permit.~~

15.05.081 - ~~Reserved Obligations of sellers of fireworks.~~

15.05.090 - Public fireworks displays.

15.05.100 - Penalties for violation.

15.05.110 - Provisions supplementary.

15.05.010 - Rules and regulations effected.

In addition to the rules, regulations and requirements relative to the manufacture, possession, transportation, display, sale, storage, use or discharge of "Dangerous Fireworks and Safe and Sane Fireworks" set forth or referred to in the State Fireworks Law, codified in Part 2 of Division 11 of the California Health and Safety Code of the state (California Health and Safety Code Section 12500 et seq.) as same now exist or may hereafter be amended, the following rules, regulations and requirements are promulgated and established. The definitions contained in Part 2 of Division 11 of the Health and Safety Code shall be a part of this chapter and are incorporated herein by this reference.

15.05.011 - Restrictions Prohibition on sale or discharge.

(a) Except as provided in this chapter, the sale, offering for sale, or the discharge of fireworks of any kind, nature or description, including those devices defined as fireworks in California Health and Safety Code Section 12511, is prohibited within the city.

(b) Any property owner or person in control of property who allows a person to sell, offer to sell, or use, discharge or possess fireworks that are not "safe and sane" expressly permitted by this chapter on such property shall be in violation of this section, irrespective of such person's intent, knowledge or negligence, said violation hereby being expressly declared a strict liability offense.

15.05.012 - Reserved Days when fireworks may be discharged.

~~(a) Except as otherwise provided in this chapter, safe and sane fireworks may be discharged only on July 4 beginning at noon and ending at eleven p.m.~~

~~(b) Safe and sane fireworks shall not be discharged at any other time nor in any other zone or area other than provided in this chapter.~~

15.05.013 - Reserved Discharge in northerly area prohibited.

~~It is unlawful for any person, firm or corporation to discharge any fireworks in any area of the city lying northerly of Royal Oaks Drive, except within those portions of Royal Oaks Park which are specifically designated for such discharge by the director of parks and recreation or his/her designee.~~

15.05.020 - Reserved Fraternal organization defined.

~~For purposes of this chapter, "fraternal organization" means any bona fide nonprofit club, society or association, organized or incorporated for civic, community~~

~~service, benevolent, patriotic or charitable purposes, and having an established "Duarte membership." "Duarte membership," as used in this section, means membership consisting of at least seventy-five percent of juvenile or adult persons who are either:~~

- ~~(a) Duarte residents; or~~
- ~~(b) Employed in Duarte; or~~
- ~~(c) Owners or operators of a business or other establishment located in Duarte.~~

15.05.030 - Reserved Licenses for sale of safe and sane fireworks.

~~Licenses for the sale of safe and sane fireworks shall be issued only to fraternal organizations, and such fireworks shall be sold only at outdoor sales stands, as more specifically set forth hereinafter. No more than five such licenses shall be issued and outstanding at any time. All applications for such licenses shall be filed with the city clerk on or before five p.m. on the third Thursday of January of each year, containing a detailed statement of each and every kind of fireworks proposed to be sold under the license, the location of the proposed outdoor sales stand, the type of construction of the stand, the dates and hours that the applicant proposes the stand be open, the plans for staffing the stand during those days and hours, and such other information as the city manager shall reasonably require in order to assist the city council in evaluating the application.~~

15.05.040 - Reserved Utilization of profits.

~~Sales permit shall be granted only to fraternal organizations which agree that the net profit from the sales shall be utilized only for youth activities in accordance with provisions of this chapter. The following specific provisions and requirements shall apply:-~~

~~(a) At least seventy-five percent of the youth participating in and benefiting from such activities shall be residents of the city of Duarte.~~

~~(b) Each permit application shall contain a detailed statement of the youth activities for which the applicant proposes to use such net profits and the manner of such use.~~

~~(c) No part of the net profits shall be disbursed to other governmental agencies or entities as a gift or contribution.~~

~~(d) Except for organizations whose primary purpose is youth service, such net profit shall be expended for new programs or the expansion of existing programs, and shall not be used as replacement income for funds previously raised by the organization through other methods of fund raising. An organization shall be deemed to have a primary purpose of youth service if ninety percent or more of its budget is spent for youth service activities.~~

15.05.050 - Reserved Application.

~~Each permit application shall be accompanied by an application fee established by resolution of the city council, which shall not be refundable. The application shall contain, in addition to all other information required by this chapter, the following information:-~~

~~(a) A statement of the number and residency of the members of the applicant organization, which statement shall be certified as to accuracy by an officer of the applicant organization;~~

~~(b) A statement of the number of youth to be served by the applicant and the residency of such youth;~~

~~(c) A statement certifying that applicant organization agrees to all terms and conditions of the license and this chapter.~~

15.05.060 - Reserved Procedure for issuing outdoor stand permit.

~~(a) Upon receipt of any application for any permit for the sale of fireworks from any outdoor stand, the city clerk shall promptly refer the application to the city manager for his consideration, report and recommendations thereon. The city manager shall cause the application to be checked for compliance with applicable law and other provisions of this code. Such report, when ready, shall be filed with the city clerk for submission to the city council.~~

~~(b) Upon considering any such application, the city council may either grant or deny the application or may take it under further advisement, or order further reference thereof to any department of the city for further report, in its discretion.~~

~~(c) Applicant organizations shall file a statement agreeing that all profits will be utilized in accordance with the requirements of Section 15.05.040, and, if such organization has previously received a fireworks permit, that all previous receipts have been so expended.~~

~~(d) No applicant for any such outdoor stand or any other person, firm or corporation shall commence to erect or make any preparation to erect, whether by deposit of materials or otherwise, any such outdoor stand unless and until:-~~

~~(1) The council has finally approved the application and authorized the issuance of permit therefor, as herein required;~~

~~(2) The authorized permittee has obtained a temporary building permit from the building inspector of the city for the erection of such temporary outdoor stand; and~~

~~(3) Has obtained a temporary permit for the installation by a duly licensed electrical contractor of any electrical installations in, at or about such outdoor stand; provided, however, that if the permittee does not, and certifies to the building inspector in~~

~~writing that any such outdoor stand will not be open for business after one half hour after sunset of any day, such electrical permit shall not be required; provided, however, that in the event any artificial or other lighting is used, such lighting must be electrical and no other type of lighting may be employed or used at any such stand.~~

~~(e) No such outdoor stand, or any part thereof, shall be located at any point nearer than one hundred fifty feet measured in a straight line from the nearest line of any lot or parcel of land upon which any gasoline or oil station is located. In all cases, all such outdoor stands shall be located in such places as are least likely to catch fire or communicate fire to adjacent or nearby properties, and at least five feet inside the property line, and all such locations shall be subject to the approval of the fire chief or his authorized representative. It shall be the duty of each such permittee and of all persons engaged in or about the storage or sale of fireworks at any such outdoor stand to comply with the reasonable orders and directions of the fire chief or his authorized representative, and to remove from the immediate vicinity of any such outdoor stand any and all combustible materials and growths of weeds, grass or other plantings which are apt to become ignited in case of fire.~~

~~(f) No minor under the age of eighteen years shall be permitted to be in charge of or to make sales of or to otherwise be concerned with the handling of fireworks in or from any such stand; provided, however, that nothing herein contained shall be construed as preventing the sale to minors in the ordinary course of business of such fireworks from such stands.~~

~~(g) All displays and stocks of fireworks in or at any such stand shall be stored and displayed in such manner as to be difficult of access to or by the general public, and each such stand shall be equipped with at least one two and one half gallon soda and acid type fire extinguisher in good and immediate working condition and easily accessible for immediate use, for each fifteen feet of counter space or fraction (over three feet) thereof, and such other first aid fire fighting equipment as required by the fire chief.~~

~~(h) Each such stand and all materials used in or about same shall be completely removed before midnight of the twelfth of July of the year in which same was erected, and the site restored as nearly as reasonably possible to the same condition as that in which it existed immediately prior to the erection of such stand. It shall be the duty of the permittee to make such removal within that time.~~

15.05.081 - Reserved Obligations of sellers of fireworks.

It shall be the responsibility of each recipient of a permit under this chapter to comply with the following requirements:-

~~(a) There shall be included with each sale of fireworks a "flyer" notifying the purchaser of the restriction established by Section 15.05.013. The city shall furnish a specimen of the flyer, which shall be reproduced by and at the expense of the permittee.~~

~~(b) Large visible posters shall be erected at the point of sale of the fireworks to notify purchasers of the restriction established by Section 15.05.013. The city shall provide the posters, which shall be returned to the city after use.~~

15.05.090 - Public fireworks displays.

Notwithstanding any other provision of this chapter, the city council, in its discretion, may grant permits for public displays of fireworks under the supervision of the fire chief. Applications for such permits shall be filed with the fire chief not less than ten days before such public display and shall be accompanied by a detailed statement of the items of such proposed display. If such permit is granted, no items shall be displayed except as are contained in such statement and the city council may in granting such permit eliminate from the statement such items as it deems hazardous and it is unlawful for the grantee of such permit to exhibit or display such eliminated items. Such public display shall be under the supervision of the fire chief and/or such persons as he shall designate and authorize. The fee for such permit shall be one hundred dollars for each display; provided, however, that the city council may waive or reduce such fee, in its discretion, where the application is made by a fraternal organization. Such display and/or displays shall be held at such place and time as designated in the permit.

15.05.100 - Penalties for violation.

(a) Whenever an officer charged with the enforcement of any provision of the municipal code determines that a violation of this chapter has occurred, the officer shall have the authority to issue an administrative citation to any person responsible for the violation.

(b) Whenever an officer charged with the enforcement of this chapter determines that a violation of the chapter has occurred, the officer may issue an administrative citation for each violation found to have occurred.

(c) Citations issued pursuant to this chapter shall carry administrative fines as follows:

~~(1) One thousand dollars for the first and subsequent violations of this chapter Section 15.05.011.~~

~~(2) Two hundred fifty dollars for the first violation and five hundred dollars for all subsequent violations of any other provision of this chapter.~~

(d) Violations of this chapter may also be cited as criminal misdemeanor violations in accordance with Chapter 1 of this code.

15.05.110 - Provisions supplementary.

The provisions of this chapter are supplementary to the provisions of the fire code of the county of Los Angeles adopted by reference in Chapter 15.04. In case of direct conflict between the provisions of the fire code of the county and the provisions of this

chapter, the provisions of this chapter shall prevail. Except with respect to such direct conflict, the provisions of the fire code of the county shall remain in full force and effect.

SECTION 3. Severability. If any section, subsection, sentence, clause phrase or portion of this Ordinance is for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The People of the City of Duarte, California, hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 4. Election Required. This Ordinance shall not become effective unless and until a majority of City voters voting on this measure vote to approve it at the Special Municipal Election to be held on November 8, 2016.

SECTION 5. Effective Date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

SECTION 6. Execution. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City of Duarte by signing where indicated below. The City Clerk is authorized to publish this Ordinance in compliance with law.

THE FOREGOING ORDINANCE was approved by the following vote of the People of the City of Duarte on November 8, 2016:

YES:

NO:

THE FOREGOING ORDINANCE was adopted by Declaration of the vote at the November 8, 2016, Special Municipal Election by the City Council of the City of Duarte at a regular meeting thereof held on _____, 201__, by the following vote:

AYES:

NOES:

ABSENT:

Mayor Samuel Kang

ATTEST

Marla Akana, City Clerk

ATTACHMENT #4

16-R-21

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) FOR A CITY MEASURE TO BE SUBMITTED TO QUALIFIED VOTERS AT A SPECIAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 8, 2016 AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, a Special Municipal Election is to be held in the City of Duarte, California, on November 8, 216, at which there will be submitted to the voters the following measure:

Shall the City of Duarte's Fireworks Ordinance (set forth in Chapter 15.05 of the Duarte Municipal Code) be amended to prohibit the sale and discharge of all fireworks everywhere in the City at all times unless the fireworks are part of a public display permitted pursuant to Section 15.05.090 of the Duarte Municipal Code?	YES
	NO

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council authorizes the following member(s) of its body

(Council Member(s) In Favor of Measure)

and

(Council Member(s) Against Measure)

to file (a) written argument(s) not exceeding 300 words regarding the City measure (as specified above), accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California.

SECTION 2. That any written arguments in favor of or against the measure (collectively, "primary arguments") shall not exceed 300 words and shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The

primary arguments shall be accompanied by the “Form of Statement To Be Filed By Authors of Argument” attached to this resolution as Exhibit A.

SECTION 3. That primary arguments shall be submitted to the City Clerk by 5:00 p.m. on August 18, 2016 or any subsequent alternate date fixed by the City Clerk.

SECTION 4. That primary arguments may be changed or withdrawn until 5:00 p.m. on August 18, 2016 or any subsequent alternate date fixed by the City Clerk after which no primary arguments may be submitted to the City Clerk.

SECTION 5. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected.

a. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure. If the measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis.

b. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the City.

c. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: “The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the election official’s office at (insert phone number) and a copy will be mailed at no cost to you.”

d. The impartial analysis shall be filed by 5:00 p.m. on August 18, 2016 or any subsequent alternate date fixed by the City Clerk.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 3rd day of August, 2016.

Mayor Samuel Kang

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 16-21 was adopted by the City Council of the City of Duarte at a special meeting of said Council held on the 3rd day of August, 2016, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California

**EXHIBIT A
ARGUMENTS**

16-R-21

**FORM OF STATEMENT TO BE FILED BY
AUTHORS OF PRIMARY/REBUTTAL ARGUMENTS**

All arguments concerning measures filed pursuant to Division 9, Chapter 3 (beginning with § 9200) of the Elections Code shall be accompanied by the following form statement to be **signed** by each proponent, and by each author, if different, of the argument:

The undersigned proponent(s) or author(s) of the Primary/Rebuttal Argument (in favor of/against) ballot measure (name or number) at the Special Municipal Election for the City of Duarte to be held on Tuesday, November 8, 2016, hereby state that the argument is true and correct to the best of (his/her/their) knowledge and belief.

Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____
Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____
Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____
Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____
Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____

All authors must print his/her name and **sign this form** (EC 9600)

AND

Print his/her name and **sign the Argument itself** (EC 9283)

AND

Print his/her name **and sign the Rebuttal Argument itself** (EC 9285)

Further, pursuant to Elections Code § 9282, printed arguments submitted to the voters shall be titled either "Argument In Favor Of Measure ____" or "Argument Against Measure ____."

Likewise, printed rebuttal arguments submitted pursuant to Elections Code § 9285 shall be titled either "Rebuttal To Argument In Favor of Measure ____" or "Rebuttal to Argument Against Measure ____."

Give this form to Council Members, Proponents, and Opponents of Measures

ATTACHMENT #5

16-R-22

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENT(S) FOR A CITY MEASURE TO BE SUBMITTED TO QUALIFIED VOTERS AT A SPECIAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 8, 2016

WHEREAS, Section 9282 of the California Elections Code provides for written arguments to be filed in favor of or against city measures not to exceed 300 words in length; and

WHEREAS, Section 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to Section 9285 of the California Elections Code, when the elections official has selected the arguments for and against the measure (not exceeding 300 words each) which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.

A rebuttal argument may not be signed by more than five authors.

The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, by 5:00 p.m. on August 29, 2016 or any subsequent alternate date fixed by the City Clerk that is not more than 10 days after the final date for filing arguments in favor of or against the measure (collectively, "primary arguments").

Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

The rebuttal arguments shall be accompanied by the "Form of Statement To Be Filed By Authors of Argument" attached to this resolution as Exhibit A.

SECTION 2. That to the extent this resolution conflicts with a previous resolution providing for the filing of rebuttal arguments for city measures, the terms of this resolution shall prevail.

SECTION 3. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED, AND ADOPTED this 3rd day of August, 2016.

Mayor Samuel Kang

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 16-22 was adopted by the City Council of the City of Duarte at a special meeting of said Council held on the 3rd day of August, 2016, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California

EXHIBIT A ARGUMENTS

FORM OF STATEMENT TO BE FILED BY AUTHORS OF PRIMARY/REBUTTAL ARGUMENTS

All arguments concerning measures filed pursuant to Division 9, Chapter 3 (beginning with § 9200) of the Elections Code shall be accompanied by the following form statement to be **signed** by each proponent, and by each author, if different, of the argument:

The undersigned proponent(s) or author(s) of the Primary/Rebuttal Argument (in favor of/against) ballot measure (name or number) at the Special Municipal Election for the City of Duarte to be held on Tuesday, November 8, 2016, hereby state that the argument is true and correct to the best of (his/her/their) knowledge and belief.

Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____
Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____
Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____
Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____
Print Name _____ Title _____ (If applicable) Submitted on behalf of: _____ (name of organization)	Signature _____ Date _____

All authors must print his/her name and **sign this form** (EC 9600)

AND

Print his/her name and **sign the Argument itself** (EC 9283)

AND

Print his/her name **and sign the Rebuttal Argument itself** (EC 9285)

Further, pursuant to Elections Code § 9282, printed arguments submitted to the voters shall be titled either "Argument In Favor Of Measure ____" or "Argument Against Measure ____."

Likewise, printed rebuttal arguments submitted pursuant to Elections Code § 9285 shall be titled either "Rebuttal To Argument In Favor of Measure ____" or "Rebuttal to Argument Against Measure ____."

Give this form to Council Members, Proponents, and Opponents of Measures

ATTACHMENT #6



Los Angeles County Registrar-Recorder/County Clerk

DEAN C. LOGAN
Registrar-Recorder/County Clerk

June 30, 2016

Marla Akana, City Clerk
City of Duarte
1600 Huntington Drive
Duarte, CA 91010

ESTIMATED COST FOR THE NOVEMBER 8, 2016 GENERAL ELECTION

Dear Ms. Akana:

As requested, the estimated cost for the City of Duarte to participate in the November 8, 2016 General Election with one measure is \$23,000.

The estimated cost is based on the following estimated statistics: 11,789 registered voters, 4,644 permanent vote-by-mail voters, 10 precincts, and 3 other jurisdictions sharing the prorated costs with your City. **Changes in any of these factors and overall election statistics, as well as unanticipated increases in labor rates and cost of materials, will have a significant impact on the final costs.**

If you have any questions regarding this estimate, please contact Bernice Liang of my staff at (562) 462-2690.

Sincerely,

DEAN C. LOGAN
Registrar-Recorder/County Clerk

ANN SMITH, Manager
Fiscal Operations