

CITY OF YUBA CITY  
STAFF REPORT

**Date:** April 25, 2017  
**To:** Honorable Mayor & Members of the City Council  
**From:** Administration  
**Presentation By:** Pete Daley, Fire Chief and Rob Landon Police Chief

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**Summary**

**Subject:** Enforcement Strategies Regarding the Use of Dangerous and Illegal Fireworks

**Recommendation:** A. Conduct a Public Hearing, and after consideration;  
B. Introduce an ordinance adding Section 5602.2 to Section 4-5.02 of Chapter 5 of Title 4 of the Yuba City Municipal Code regarding dangerous fireworks, waiving the first reading  
C. Authorize the Finance Director to record a supplemental appropriation of \$25,000 from unallocated funds to the accounts listed below

**Fiscal Impact:** \$25,000 transferred from unallocated funds to the following:  
- \$12,000 to Account Number 4220-62401, Miscellaneous Advertising  
- \$6,500 to Account Number 2140-61430, Police Overtime  
- \$6,500 to Account Number 2310-61430, Fire Overtime

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**Purpose:**

Improving Quality of Life during the Independence Day Celebrations through the management/enforcement of illegal fireworks.

**Background:**

At its meeting on January 17, 2017, the City Council directed staff to provide a report on options to address the influx of illegal fireworks noise and hazard related issues to present to City Council for discussion at a future City Council meeting.

Many cities in California are facing similar challenges with the noise and hazard of illegal fireworks being discharged within their communities and are implementing different programs and tools to address the issues.

At the Council meeting on April 4, 2017 several options were presented to the Council with reference to possible solutions to maximize quality of life during the most prevalent use of illegal fireworks. The staff was directed to incorporate these items and bring it back to Council for further discussion and possible action. Due to the desire of all involved to act swiftly, and impact the dangers and noise of illegal fireworks for the upcoming 4<sup>th</sup> of July period, it is

necessary that we bring back the proposed changes inclusive of a new ordinance at this special meeting.

In exploring options, we chose to review what other cities in California had done with the same issue.

### **Analysis:**

From the April 4, 2017 meeting, staff identified several options for Council to consider, ranging from least permissive (ban of all fireworks, both legal and illegal, within the City limits) to most permissive (maintain the status quo):

- ⇒ Fireworks Ban (both legal and illegal)
- ⇒ Ordinance Amendment (i.e. Administrative Citations)
- ⇒ Public Awareness Outreach Campaign
- ⇒ Enhanced Enforcement
- ⇒ Maintain Status Quo

At Council's direction, staff prepared a hybrid alternative with the objective of creating a safer 4<sup>th</sup> of July period. While some of these measures would occur around July 4<sup>th</sup>, some would require immediate action. These items include:

- ⇒ Creation of a public education campaign, with a focus on educating the public on the dangers of illegal fireworks and the increased enforcement and citations.
- ⇒ Increased directed enforcement by the Fire and Police Department.
- ⇒ A Social Host Ordinance holding the "Responsible Party" of a residence or property liable for the illegal fireworks.
- ⇒ Continue to explore a manner to host or help coordinate a public July 4<sup>th</sup> celebration.
- ⇒ Follow up meeting after the July 4<sup>th</sup>, 2017 holiday. In the event that the city does not experience a measurable decrease in the number of complaints and/or actual illegal firework incidents, explore further options to include the possible prohibition of all fireworks in the incorporated city of Yuba City.

### **Proposed Social Host and Administration Citation Ordinance**

As a result of the Council direction, staff collaborated with the City Attorney in preparing section 5602.2 to Section 4-5.02 to Chapter 5 to Title 4 of the Yuba City Municipal Code regarding dangerous fireworks. The new section identifies the fact that the use or possession of dangerous illegal fireworks continues to increase within the City limits. It addresses the dangers to public safety, property damage and diminishment of quality of life. It also addresses the need to adopt additional regulations and increases penalties for the possession, sale, use and/or discharge of dangerous fireworks. The intent of the new ordinance is to reasonably regulate the possession, sale, use or discharge of dangerous fireworks within the city to protect the public health, safety, and general welfare of its residents and visitors alike.

Specific items addressed in the ordinance, include defining dangerous fireworks, as those specified in the State Fireworks Law, Section 12505 of the California Health and Safety Code, and other such fireworks that may be determined to be dangerous by the State Fire Marshal. It does not include items identified as "Safe and Sane", such as those that are commonly sold

legally at local firework stands. It makes our definition of dangerous fireworks consistent with the definition of the State.

The ordinance makes it unlawful for any person or responsible party to possess, sell, use or discharge dangerous fireworks unless a permit authorizing such possession, sale, use or discharge has been issued by the Fire Chief to the person or responsible party using, selling, or discharging or found in possession of said fireworks, and unless such person is in possession of a valid pyrotechnic operator's license issued by the Office of the State Fire Marshal. The Fire Chief may establish reasonable rules and regulations for governing issuance of a firework permit and may issue the same subject to payment of a fee as established by the City Council from time to time.

The ordinance contains a social host component and allows for the use of administration citations to allow for more effective enforcement. The Police and Fire departments still maintain, if necessary, prosecution authority using existing legal process. The change in the ordinance moves the process to the Administration Citation process, which allows more flexibility and local control over enforcement.

The social host component is provided in the ordinance as "responsible party" and is defined as follows:

"Responsible Party includes, but is not limited to:

1. The person(s) who owns, rents, leases, or otherwise has possession of the residence or other private property;
2. The person(s) in immediate control of the residence or other private property; and
3. The person(s) who organizes, supervises, sponsors, conducts, allows, controls, or controls access to the illegal discharge or illegal storage of fireworks."

If the residence or other private property is rented or leased, the landlord or lessor is not covered by this section unless they fall within the category of persons described under paragraph 2 or 3 of this definition. A landlord or lessor can only be held responsible under paragraph 3 of this definition if he or she has knowledge that fireworks are being discharged or illegally stored on the property without obtaining a permit therefor from the Fire Chief.

The violations and penalties of this section provide that any person or responsible party who violates any provisions of this section, may be charged with a misdemeanor. It also allows for any violator or responsible party to be subject to an administrative fine in an amount not to exceed \$1000 for the first violation and a fine in an amount not to exceed \$1000 for any subsequent violation. It limits the imposition of administrative fines to be limited to persons or responsible parties who possess, sell, use or discharge or seizure of 25 pounds or less of dangerous fireworks. In addition administration fines collected pursuant to this section shall not be subject to Health and Safety Code Section 12706 (dictates the fine amount distribution to other entities outside of city). The fines associated with the administration citation are expected to cover the cost of any appeals procedures and enforcement of this section.

### **Proactive Enforcement**

In addition to the changes in the Municipal Code, staff will be providing the following education and enforcement steps:

- ⇒ Educational: Staff will immediately launch an aggressive public relations campaign informing community members of the many dangers of illegal fireworks, and to inform the public of potential legal consequences should they be in violation of the new ordinance.
- ⇒ Proactive Enforcement. Increased Police and Fire Department personnel will be deployed between July 1 through July 4, 2017. The directed enforcement will consist of teams of Police Officers, partnered with a Fire Department counterpart in marked and unmarked vehicles. Teams will be on patrol from 1900 hours (7pm) until 0200 hours (2 am), for this 4 day period.
- ⇒ Additional research is needed on a potential community 4<sup>th</sup> of July celebration. Staff will collaborate with other public and private entities to explore costs and viability. Given resources constraints this option is not available this year, however it will be explored for upcoming years.
- ⇒ Continue to explore the use of web based applications that allow community members to self-report violators. This may include a reward system.
- ⇒ Future Efforts: Continue to conduct research to identify best practices. Evaluate and strategize for next year, using 2017 as a baseline. Staff will report back to Council on the second City Council meeting in August of 2017, with a status update.

The addition of the ordinance to the municipal code will provide a more effective enforcement deterrent to help combat the use of illegal fireworks. The goal is to improve the quality of life and safety for our community. Staff will monitor the events of the 2017 July 4<sup>th</sup> holiday period and report back to the Council at the second City Council meeting in August 2017. This will allow us to evaluate and critique the program, with input from City Council and Community members, to make improvements for the 2018 Independence Day celebration.

**Fiscal Impact:**

The total cost of implementation of enhanced enforcement along with a comprehensive public awareness campaign is \$25,000. The public awareness campaign is estimated to cost \$12,000. Enhanced enforcement costs are estimated to cost \$13,000 for overtime hours for Public Safety officials.

**Recommendation:**

- A. Introduce an ordinance adding section 5602.2 to Section 4-5.02 of Chapter 5 of Title 4 of the Yuba City Municipal code regarding dangerous fireworks, waiving the first reading
- B. Authorize the Finance Director to record a supplemental appropriation from unallocated funds to the following accounts:
  - \$12,000 to Account Number 4220-62401 Miscellaneous Advertising
  - \$6,500 to Account Number 2140-61430, Police Overtime
  - \$6,500 to Account Number 2310-61430. Fire Overtime

**Alternatives:**

1. Decline to adopt the dangerous firework ordinance, retaining ordinance in its current format.
2. Provide staff with further direction, however due to time restraints, an Ordinance regulating the dangerous fireworks would not become effective in time for this year's 4<sup>th</sup> of July Holiday period.

**Attachment:**

- Ordinance regarding dangerous fireworks

**Prepared by:**

[/s/ Rob Landon](#)  
Robert D. Landon  
Police Chief

**Submitted by:**

[/s/ Steven C. Kroeger](#)  
Steven C. Kroeger  
City Manager

**Reviewed by:**

Fire Chief

PD

Development Services

AR

Finance

RB

City Attorney

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF YUBA CITY  
ADDING SECTION 5602.2 TO SECTION 4-5.02  
OF CHAPTER 5 OF TITLE 4 OF THE YUBA CITY  
MUNICIPAL CODE REGARDING DANGEROUS FIREWORKS**

**WHEREAS**, the use or possession of dangerous or illegal fireworks continues to increase within the City limits; and,

**WHEREAS**, dangerous fireworks pose a serious risk to the public's safety, given the potential for personal bodily injury and property damage and loss, and the unknown material composition of these fireworks and lack of safeguards; and

**WHEREAS**, law enforcement personnel have been unable to hold users and possessors of property fully accountable for the possession or use of dangerous or illegal fireworks; and

**WHEREAS**, the City recognizes the need to adopt further restrictions and increase penalties for the possession, sale, use or discharge of dangerous fireworks; and

**WHEREAS**, it is the intent of the City Council to reasonably regulate the possession, sale, use or discharge of dangerous fireworks within the City to protect the public health, safety, and general welfare of its residents.

**NOW, THEREFORE**, the City Council of the City of Yuba City does hereby ordain as follows:

Section 1:

Section 5602.2 is hereby added to Section 4-5.02 of Chapter 5 of Title 4 of the Yuba City Municipal Code to read as follows:

**Section 5602.2.** Add Section 5602.2 as follows:

**Dangerous Fireworks – Prohibition**

- (a) For purposes of this section, dangerous fireworks are those fireworks specified as such in the State Fireworks Law, Section 12505 of the California Health and Safety Code, and such other fireworks as may be determined to be dangerous by the State Fire Marshal.
- (b) It shall be unlawful for any person or responsible party to possess, sell, use or discharge dangerous fireworks unless a permit authorizing such possession, sale, use or discharge has been issued by the Fire Chief to the person or responsible party using, selling, discharging or found in possession of said fireworks, and unless such person is in possession of a valid pyrotechnic operator's license issued by the Office of the State Fire Marshal. The Fire Chief may establish reasonable rules and regulations for governing issuance of a firework permit and may issue the same subject to payment of a fee as established by the City Council from time to time.

## **Definitions.**

For the purposes of this section, the following definitions shall apply:

“Enforcement officer” means any City officer, employee, or law enforcement officer of the City designated by the Municipal Code or the City Manager to enforce any provision of the Municipal Code or any Code adopted by the City, and includes the City’s Fire Chief, Fire Marshal, Building Official, Development Services Director, enforcement officer, and their respective designees. Whenever an enforcement officer charged with the enforcement of any provision of this code determines that a violation has occurred, the enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation.

“Property” means private property, rented residential premises, or rented commercial residences; including, but not limited to, a home, yard, or field, whether occupied on a temporary or permanent basis, whether or not occupied as a dwelling and whether owned, leased, rented, or used with or without compensation.

“Residence or other private property” means a home, yard, apartment, condominium, hotel or motel room, other dwelling unit, a hall or meeting room, or commercial property, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.

“Responsible party” includes, but is not limited to:

1. The person(s) who owns, rents, leases, or otherwise has possession of the residence or other private property;
2. The person(s) in immediate control of the residence or other private property; and
3. The person(s) who organizes, supervises, sponsors, conducts, allows, controls, or controls access to the illegal discharge or illegal storage of fireworks.

If the residence or other private property is rented or leased, the landlord or lessor is not covered by this section unless they fall within the category of persons described under paragraph 2 or 3 of this definition. A landlord or lessor can only be held responsible under paragraph 3 of this definition if he or she has knowledge that fireworks are being discharged or illegally stored on the property without obtaining a permit therefor from the Fire Chief.

## **Violations and Penalties.**

- (a) Misdemeanor. Any person or responsible party who violates any of the provisions of this section shall be guilty of a misdemeanor.
- (b) Administrative Citation. An administrative citation may be issued by an enforcement officer to any person or responsible party who violates any of the provisions of this section pursuant to the procedures as set forth in Chapter 6, Title 1 of the Yuba City Municipal Code.
  - (1) All violators and responsible parties shall be subject to an administrative fine in an amount not to exceed \$1,000 for the first violation; and a fine in an amount not to exceed \$1,000 for any subsequent violation.

- (2) The imposition of administrative fines shall be limited to persons or responsible parties who possess, sell, use or discharge or seizure of 25 pounds or less of dangerous fireworks.
- (3) Administrative fines collected pursuant to this section shall not be subject to Health and Safety Code Section 12706.

**Penalties Not Exclusive.**

Nothing in this section shall be intended to limit any of the penalties provided for under the California Health and Safety Code or Penal Code with regard to the sale, use, possession, delivery, storage, and/or transportation of dangerous fireworks. The penalties set forth herein are intended to be nonexclusive and are intended to be in addition to any other remedies provided in the Yuba City Municipal Code or any other law, statute, ordinance or regulation.

**Section 2.** The first paragraph of Section 5602 entitled “Fireworks – Prohibition” of Section 4-5.02 of Chapter 5 of Title 4 of the Yuba City Municipal Code is hereby repealed.

**Section 3.** This ordinance shall be effective thirty (30 days after its adoption and after it is adopted, is shall be published as provide for by law.

Introduced and read at a special meeting of the City Council of the City of Yuba City the 25th day of April, 2017, and adopted at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

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Stanley Cleveland, Jr., Mayor

ATTEST:

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Patricia Buckland, City Clerk

Approved as to form:

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Timothy Hayes, City Attorney