

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisors Ashley and Tavaglione

SUBMITTAL DATE: May 23, 2006

SUBJECT: INTRODUCTION OF ORDINANCE 858, an Urgency Ordinance of the County of Riverside Prohibiting Fireworks

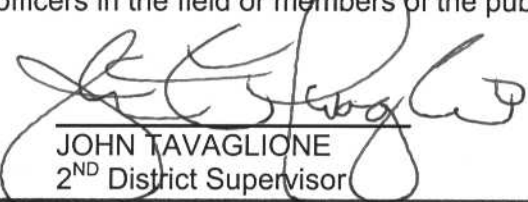
RECOMMENDED MOTION:


1. That the Board of Supervisors approve the introduction of urgency Ordinance 858 prohibiting fireworks in unincorporated areas of the County and set it for a Public Hearing on June 6, 2006.
2. The Board of Supervisors authorize the Clerk of the Board to place an advertisement for the June 6, 2006 Public Hearing in the appropriate local publications.
3. Upon the close of the Public Hearing, the Board of Supervisors adopt urgency Ordinance 858.
4. The Board of Supervisors direct the Sheriff's Department to review and track the costs associated with the enforcement, storage, transporting, handling and disposal of fireworks seized pursuant to this ordinance.

BACKGROUND:

The Board of Supervisors approved an Illegal Fireworks Task Force on April 11, 2006 at the request of Supervisors Ashley and Tavaglione. The task force has been meeting weekly with representatives from Code Enforcement, the District Attorney's Office; County Counsel; the Sheriff's Department, including the Hazardous Device Team; the State Fire Marshall's Office; the City of Perris; and staff from Supervisors Tavaglione's and Ashley's offices. The introduction of Ordinance 858 is the first recommendation to the Board from the task force.

With the Fourth of July fast approaching, it became apparent to the task force that an urgency ordinance was needed to assist the Sheriff's Department and the County Fire Department with the enforcement of fireworks' regulations during the upcoming holiday weekend and beyond. Currently, the county ordinances with regard to the use and possession of fireworks are somewhat confusing. For example, Ordinance 546 was repealed with the adoption of Ordinance 787.2. However, Ordinance 546 is still cited in some instances. Also Ordinance 787.2 adopts and incorporates the 2000 Uniform Fire Code and the 2001 California Fire Code, but never clearly states in the body of the ordinance that fireworks are illegal in County unincorporated areas. Instead, Ordinance 787.2 incorporates the Uniform Fire Code and California Fire Code provisions prohibiting the manufacturing, possession, storage, sale, use and handling of fireworks. Such provisions of the fire codes are not easily accessible to officers in the field or members of the public.


JOHN TAVAGLIONE
2ND District Supervisor


MARION ASHLEY
5TH District Supervisor

Ordinance 858, Prohibiting Fireworks
Page 2

In addition to the need for clarification of regulations, the current penalties allowed for under 787.2 for the use of illegal fireworks are so low that they do not serve as a deterrent to offenders.

Ordinance 858 would combine all of the county regulations on fireworks into one ordinance and provide for stiffer penalties for the use and possession of illegal fireworks. This will enable clear-cut and more successful enforcement. (continued)The number of calls to the Sheriff's Department regarding illegal fireworks and the total amount of fireworks' seizures has steadily increased in the county from 1999 to 2005. (See attached table.) The total calls for service only reflect those calls that generated a file number for the Sheriff's Department. Many times on holidays the calls regarding fireworks are so numerous that there is a radio broadcast, but officers are unable to respond. This year the county can anticipate additional increases in both categories.

Available statistics from the Fire Marshall's office indicate that fires caused by fireworks have increased for the last three years. There were 63 fireworks-related fires in 2003; 70 fires in 2004; and 79 fires in 2005. This number can also be expected to increase again this year.

These statistics clearly underscore the pressing need for the Board to have an ordinance in place prior to July 4, 2006 to safeguard the public from injuries, fires and property damage.

In conjunction with the urgency ordinance, the task force has identified two different areas, one each within Districts 2 and 5, as pilot project areas for prevention, education and enforcement activities during the Fourth of July holiday period. The education and prevention campaign consists of a combination of flyers mailed to residents or distributed locally; posting of "No Fireworks" signs in the neighborhoods; Code Enforcement and Sheriff's Department personnel walking the neighborhoods the week before the Fourth of July with flyers; and press releases. It is hoped that this effort will reduce the hazards of illegal fireworks during this time period and in the future.

During the enforcement period, Sheriff's department personnel will keep track of the costs associated with the enforcement, storage, transporting, handling and disposal of fireworks seized pursuant to Ordinance 858. These statistics will be used by the task force in the future to develop recommendations to bring to the Board for cost recovery related to illegal fireworks.

With the approval of the Board, Ordinance 858 will be set for a Public Hearing on June 6, 2006. Since it is an urgency ordinance, it will take effect immediately after adoption by the Board if passed by a four-fifths vote.

We urge the Board to introduce Ordinance 858 as part of our ongoing effort to reduce the public safety hazards caused by the use of illegal fireworks in the unincorporated areas of Riverside County.

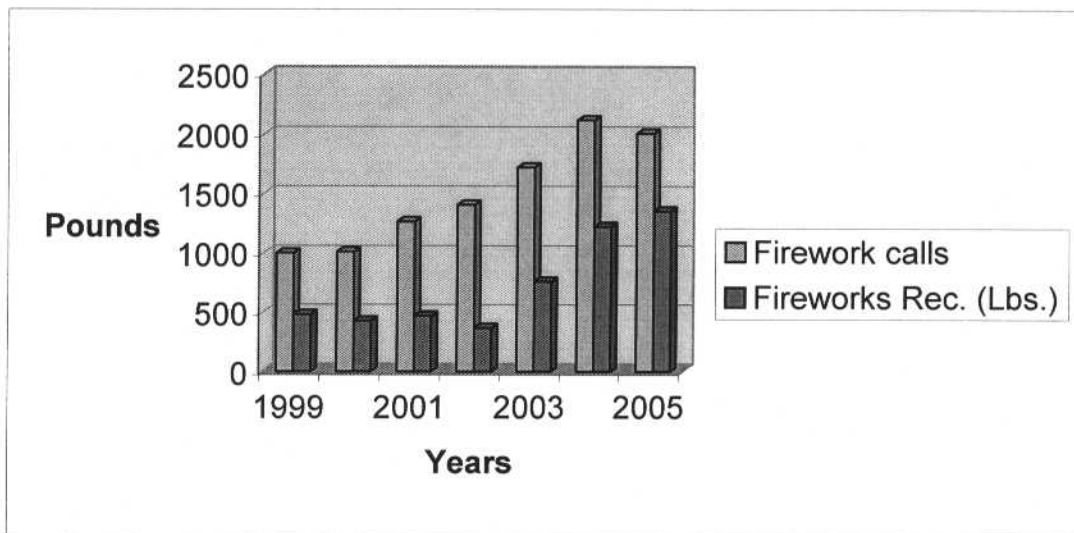
Riverside County Sheriff's Hazardous Device Team

Fireworks Statistics

1999-2005

	1999	2000	2001	2002	2003	2004	2005
Firework calls	1000	1011	1267	1407	1721	2118	2007
Fireworks Rec. (Lbs.)	483	428	469	368	758	1223	1352

The total calls for service only reflect those calls that generated a file number. Many times on holidays that have numerous firework related calls, they will be broadcast, via the radio as a general broadcast only, and not included in the statistics.



1 residential neighborhoods. In March 2006, in Los Angeles County, a cache of illegally stored fireworks
2 destroyed a Lakewood home when they erupted in a massive explosion that knocked the house off its
3 foundation and damaged several other houses and cars nearby. Third, fireworks can be disassembled for
4 the explosive powder they contain to make bombs and other explosive devices. Fourth and finally,
5 fireworks often come from Mexico where safety regulations for making fireworks are not as stringent as
6 those for fireworks manufactured in the United States.

7 It is well evident that illegal fireworks lead to hazardous situations, injuries, personal property
8 loss, and fires, which jeopardize the safety of the public and increase the cost of law enforcement and fire
9 protection. Moreover, in light of Riverside County's geographical location, the County is subject to
10 extreme fire hazards and long and volatile fire seasons, making the illegal fireworks activities even more
11 dangerous to all citizens of the County not just the ones possessing and using the fireworks. The number
12 of fires caused by fireworks in Riverside County has steadily increased in recent years. In 2003, 63 fires
13 were caused by fireworks. The number rose to 70 fires in 2004 and 79 fires in 2005.

14 Even with enforcement and prosecution, the personal sale and use of fireworks in the
15 unincorporated areas of the County is extremely difficult for local authorities to deter since the current
16 penalties and fines for these illegal activities are minimal. There is a very lucrative "black market" for
17 fireworks, often making the sale and manufacturing of illegal fireworks profitable despite the current
18 penalties allowed for under the Riverside County Ordinances. The seizure of illegal fireworks is further
19 complicated as public safety agencies are not currently funded to cover the full cost of the transport,
20 storage, and disposal of illegal fireworks after they are confiscated.

21 Immediate action is needed to increase the penalties for the use, sale, transportation, and
22 manufacturing of fireworks in the unincorporated areas of Riverside County to deter the continued illegal
23 activities and preserve the public peace, health, safety and welfare. The provisions of this Ordinance shall
24 apply to all of the unincorporated areas of the County of Riverside.

25 SECTION 2. DEFINITIONS

26 Whenever, in this Ordinance, or in any resolution or standard adopted by the Board of Supervisors
27 pursuant to this Ordinance, the following terms are used, they shall have the meaning ascribed to them in
28 this Section 2, unless it is apparent from the context thereof that some other meaning is intended.

1 a. "AGRICULTURAL AND WILDLIFE FIREWORKS" means fireworks designed and intended by
2 the manufacturer to be used to prevent damage to crops or unwanted occupancy of areas by animals or
3 birds through the employment of sound or light, or both.

4 b. "DANGEROUS FIREWORKS" has the same meaning ascribed to it under Section 12505 of the
5 California Health and Safety Code and includes all of the following:

6 (a) Any fireworks which contain any of the following:

7 (1) Arsenic sulfide, arsenates, or arsenites.

8 (2) Boron.

9 (3) Chlorates, except:

10 (A) In colored smoke mixture in which an equal or greater amount of sodium
11 bicarbonate is included.

12 (B) In caps and party poppers.

13 (C) In those small items (such as ground spinners) wherein the total powder content
14 does not exceed 4 grams of which not greater than 15 percent (or 600 milligrams) is
15 potassium, sodium, or barium chlorate.

16 (4) Gallates or Gallic acid.

17 (5) Magnesium (magnesium-aluminum alloys, called magnalium, are permitted).

18 (6) Mercury salts.

19 (7) Phosphorus (red or white except that red phosphorus is permissible in caps and party
20 poppers).

21 (8) Picrates or picric acid.

22 (9) Thiocyanates.

23 (10) Titanium, except in particle size greater than 100-mesh.

24 (11) Zirconium.

25 (b) Firecrackers.

26 (c) Skyrockets and rockets, including all devices which employ any combustible or explosive
27 material and which rise in the air during discharge.

28 (d) Roman candles, including all devices which discharge balls of fire into the air.

1 (e) Chasers, including all devices which dart or travel about the surface of the ground during
2 discharge.

3 (f) Sparklers more than 10 inches in length or one-fourth of one inch in diameter.

4 (g) All fireworks designed and intended by the manufacturer to create the element of surprise upon
5 the user. These items include, but are not limited to, auto-foolers, cigarette loads, exploding golf balls, and
6 trick matches.

7 (h) Fireworks known as devil-on-the-walk, or any other firework which explodes through means
8 of friction, unless otherwise classified by the State Fire Marshal pursuant to this part.

9 (i) Torpedoes of all kinds which explode on impact.

10 (j) Fireworks kits.

11 (k) Such other fireworks examined and tested by the State Fire Marshal and determined by him,
12 with the advice of the State Board of Fire Services, to possess characteristics of design or construction
13 which make such fireworks unsafe for use by any person not specially qualified or trained in the use of
14 fireworks.

15 c. "EXEMPT FIREWORKS" has the same meaning ascribed to it under Section 12508 of the
16 California Health and Safety Code and shall mean any special item containing pyrotechnic compositions
17 which the State Fire Marshall, with the advice of the State Fire Advisory Board, has investigated and
18 determined to be limited to industrial, commercial, agricultural use, or religious ceremonies when
19 authorized by a permit granted by the authority having jurisdiction.

20 d. "FIRE CHIEF" or "CHIEF" shall mean the Fire Chief of the County of Riverside or his authorized
21 representatives.

22 e. "FIREWORKS" has the same meaning ascribed to it under Section 12511 of the California Health
23 and Safety Code and shall mean any device containing chemical elements and chemical compounds
24 capable of burning independently of the oxygen of the atmosphere and producing audible, visual,
25 mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. The term
26 "FIREWORKS" includes, but is not limited to, devices designated by the manufacturer as fireworks,
27 torpedoes, skyrockets, roman candles, model rockets, rockets, Daygo bombs, sparklers, chasers,
28 fountains, smoke sparks, aerial bombs and fireworks kits.

1 f. "FIREWORKS KITS" has the same meaning ascribed to it under Section 12512 of the California
2 Health and Safety Code and means any assembly of materials or explosive substances, which is designed
3 and intended by the seller to be assembled by the person receiving such material or explosive substance
4 and when so assembled would come within the definition of "FIREWORKS."

5 g. "PUBLIC DISPLAY OF FIREWORKS" means an entertainment feature where the public or a
6 private group is admitted or permitted to view the display or discharge of DANGEROUS FIREWORKS.

7 h. "PYROTECHNIC OPERATOR" means any licensed pyrotechnic operator, who by examination,
8 experience, and training, has demonstrated the required skill and ability in the use and discharge of
9 fireworks as authorized by the license granted.

10 i. "PYROTECHNIC SPECIAL EFFECTS MATERIAL" means a low explosive material, other than
11 detonating cord, commonly used in motion picture, television, theatrical or group entertainment
12 production for which a permit from the Chief is required for use or storage.

13 j. "SAFE AND SANE FIREWORKS" has the same meaning ascribed to it under Section 12529 of
14 the California Health and Safety Code and shall mean any fireworks which do not come within the
15 definition of "DANGEROUS FIREWORKS" or "EXEMPT FIREWORKS."

16 k. "SHERIFF" shall mean the Sheriff of the County of Riverside or his authorized representatives.

17 SECTION 3. PROHIBITION

18 a. GENERAL. No person shall have in his possession, or keep, store, use, shoot, discharge, set off,
19 ignite, explode, manufacture, sell, offer to sell, give or transport any FIREWORKS, DANGEROUS
20 FIREWORKS, or SAFE AND SANE FIREWORKS, except for use as AGRICULTURAL AND
21 WILDLIFE FIREWORKS or for use in a PUBLIC DISPLAY OF FIREWORKS pursuant to a permit
22 obtained under the provisions of Sections 12640-12654 of the California Health and Safety Code, Article
23 78 of the Riverside County Fire Code (Riverside County Ordinance No. 787.2) and this Ordinance.

24 b. MANUFACTURING PROHIBITED. The manufacturing of FIREWORKS, DANGEROUS
25 FIREWORKS, or SAFE AND SANE FIREWORKS is prohibited except under special permits as
26 required by local and state regulations by the Fire Chief and the Sheriff.

27 c. PYROTECHNIC SPECIAL EFFECTS MATERIAL. A permit is required to manufacture,
28 compound, store or use PYROTECHNIC SPECIAL EFFECTS MATERIAL. Permit application shall be

1 make to the Fire Chief and the Sheriff. A permit shall be granted only to a State Fire Marshall licensed
2 PYROTECHNIC OPERATOR.

3 SECTION 4. DISPLAYS

4 a. GENERAL. Permits are required to conduct a PUBLIC DISPLAY OF FIREWORKS. Permit
5 application shall be made to the FIRE CHIEF and the SHERIFF not less than 14 days prior to the
6 scheduled date of the display. The permit application shall include a diagram of the grounds on which the
7 display is to be held showing the point at which the fireworks are to be discharged; the location of
8 buildings, highways and other lines of communication; the lines behind which the audience will be
9 restrained; and the location of nearby trees, telegraph or telephone lines and other overhead obstructions.
10 At the time of permit application, the FIRE CHIEF shall be consulted regarding the requirements for
11 standby fire apparatus.

12 b. UNDER SUPERVISION OF PYROTECHNIC OPERATOR. Public display of fireworks
13 operations shall be under the direct supervision of a PYROTECHNIC OPERATOR. The PYROTECHIC
14 OPERATOR shall be responsible for all aspects of a display related to pyrotechnics.

15 c. BOND REQUIRED. The permittee shall furnish a bond or certificate of insurance in an amount
16 deemed adequate by the FIRE CHIEF and the SHERIFF for the payment of damages which could be
17 caused either to a person or persons or to property by reason of the permitted display and arising from acts
18 of the permittee, agents, employees or subcontractors.

19 SECTION 5. EXCEPTION

20 Nothing in this Ordinance shall be construed to prohibit the use of fireworks by railroads or other
21 transportation agencies for signal purposes of illumination, or the sale or use of blank cartridges for a
22 show or theater, or for signal or ceremonial purposes in athletics or sports or for use by military
23 organizations.

24 SECTION 6. SEIZURE AND DISPOSAL

25 a. It shall be the duty of the FIRE CHIEF and his authorized representatives and the SHERIFF and
26 his authorized representatives to enforce the provisions of this Ordinance.

27 b. The FIRE CHIEF and his authorized representatives and the SHERIFF and his authorized
28 representatives shall have the authority to seize, take, and remove any FIREWORKS, DANGEROUS

1 FIREWORKS, and SAFE AND SANE FIREWORKS. The FIRE CHIEF and his authorized
2 representative and the SHERIFF and his authorized representative may charge any person whose
3 fireworks are seized pursuant to this section, a reasonable amount which is sufficient to cover the cost of
4 transporting, storing, handling, and disposing of the seized fireworks.

5 c. The additional remedies and procedures for violations of this Ordinance and for recovery of costs
6 related to enforcement provided for in Riverside County Ordinance No. 725 are incorporated herein by
7 reference.

8 SECTION 7. PENALTIES

9 a. Any person who violates any provision of this part is guilty of a misdemeanor, and upon
10 conviction shall be punished by a fine not less than five hundred dollars (\$500) nor more than one
11 thousand dollars (\$1,000), or by imprisonment in the county jail for not exceeding one year, or by both
12 such fine and imprisonment.

13 b. Upon any second or subsequent conviction of the offense, the person shall be punished by the
14 penalties of a fine of one thousand dollars (\$1,000) and by imprisonment in the county jail for one year.

15 c. A person is guilty of a separate offense for each and every day or portion thereof during which he
16 or it commits, continues, or permits a violation of this part.

17 d. Nothing in this Ordinance shall be intended to limit any of the penalties provided for under the
18 California Health and Safety Code or Penal Code with regard to the sale, use, possession, delivery, and/or
19 transportation of DANGEROUS FIREWORKS.

20 SECTION 8. SEVERABILITY

21 If any portion, provision, section, paragraph, sentence, or word of this Ordinance is rendered or
22 declared to be invalid by any final court action in a court of competent jurisdiction, or by reason of any
23 preemptive legislation, the remaining portions, provisions, sections, paragraphs, sentences, and words of
24 this Ordinance shall remain in full force and effect and shall be interpreted by the court so as to give effect
25 to such remaining portions of the Ordinance.

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1 SECTION 9. EFFECTIVE

2 This Ordinance is hereby declared to be an urgency ordinance and shall take effect immediately after its
3 adoption.

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5 BOARD OF SUPERVISORS OF THE COUNTY
6 OF RIVERSIDE, STATE OF CALIFORNIA

7
8 By: _____
9 Bob Buster, Chairman, Board of Supervisors

10 ATTEST:

11 NANCY ROMERO
12 Clerk to the Board

13
14 By: _____
15 Deputy

16 (SEAL)