

**FULL TEXT OF MEASURE T
CITY OF HUNTINGTON BEACH**

(Proposed language noted in **bold** below)

ARTICLE VIII MISCELLANEOUS

Section 800. TRANSITION.

Elective officers and elective officers whose offices are made appointive of the City shall continue to hold such offices until the completion of their current terms and the election or appointment and qualification of their respective successors under this Charter. All boards, commissions and committees presently in existence shall continue to act in accordance with their original grant of authority until such time as the City Council adopts appropriate ordinances pertaining to their activities or for one year, whichever occurs first. All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Section 801. DEFINITIONS.

Unless the provisions or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Huntington Beach and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Huntington Beach.
- (c) "County" is the County of Orange.
- (d) "State" is the State of California.
- (e) The masculine includes the feminine and the feminine includes the masculine.
- (f) The singular includes the plural and the plural the singular.
- (g) "Person" includes firm and corporation.

Section 802. VIOLATIONS.

The violation of any provision of this Charter shall be a misdemeanor.

Section 803. PROPERTY RIGHTS PROTECTION MEASURE.

(a) The City shall not enact or enforce any measure which mandates the price or other consideration payable to the owner in connection with the sale, lease, rent, exchange or other transfer by the owner of real property. Any such measure is hereby repealed.

(b) The word "mandates" as used in subsection (a) includes any measure taken by ordinance, resolution, administrative regulation or other action of the City to establish, continue, implement or enforce any control or system of controls on the price or other terms on which real property in the City may be offered, sold, leased, rented, exchanged or otherwise transferred by its owner. The words "real property" as used in subsection (a) refer to any parcel of land or site, either improved or unimproved, on which a dwelling unit or residential accommodation is or may be situated for use as a home, residence or sleeping place.

(c) This Section 803 shall not apply to:

- (1) any real property which contains serious health, safety, fire or building code violations, excluding those caused by disasters, for which a civil or criminal citation has been issued by the City and remains unabated for six months or longer;
- (2) any real property owned by a public entity, and real property where the owner has agreed by contract with the public entity, including the City and any of its related agencies, to accept a financial contribution or other tangible benefit including without limitation, assistance under the Community Redevelopment Law;
- (3) any planning or zoning power of the City as relates to the use, occupancy or improvement of real property and to any real property which the City or any of its related agencies may acquire by eminent domain, purchase, grant or donation;
- (4) any power of the City to require a business license for the sale or rental of real property, whether for regulation or general revenue purposes;
- (5) any dwelling unit or accommodation in any hotel, motel or other facility when the transient occupancy of that dwelling unit or accommodation is subject to a transient occupancy tax; or
- (6) to impair the obligation of any contract entered into prior to the enactment of this Section 803 or otherwise required by State law.

Section 804. CHARTER REVIEW.

The City Council shall determine if there is a need to convene a citizen's Charter Review Commission to conduct a review of the City Charter no less frequently than every ten years.

Section 805. SAFE AND SANE FIREWORKS

It shall be lawful to possess, sell, display, use or discharge within the City, those fireworks that are defined and classified as Safe and Sane Fireworks (a.k.a. "state-approved fireworks") in the California State Fireworks Law (Sections 12500 et seq. of the Health and Safety Code and the relevant sections of Code of Regulations Title 19, Subchapter 6) subject to regulation by City Council.

**IMPARTIAL ANALYSIS BY CITY ATTORNEY
CITY OF HUNTINGTON BEACH
MEASURE T**

Background and Existing Law

The City of Huntington Beach City Council is submitting Measure T to the voters for consideration. Measure T would, if adopted, allow for the sale, possession and use of "Safe and Sane" fireworks, subject to City Council regulations, in the City of Huntington Beach. The term "Safe and Sane Fireworks" is defined by State law in the California Health and Safety Code Section 12529.

In general, current Huntington Beach Municipal Code sections 17.56.650 and 9.70.010 prohibit the sale, use, storage, possession and discharge of all fireworks within the City of Huntington Beach. In 2012, the City Council adopted Chapter 5.90 of the Huntington Beach Municipal Code which established a trial period of two years allowing Safe and Sane Fireworks. The trial period expired on July 5, 2013. As such, Huntington Beach again prohibited the sale, use, storage, possession and discharge of any Safe and Sane Fireworks.

Ballot Measure

Specifically, this ballot measure proposes to add Section 805 to Article VIII of the Huntington Beach Charter, which would permit the sale, possession and use of Safe and Sane Fireworks in the City subject to the regulations established by the City Council.

Effect of this Ballot Measure

If adopted, in general, this ballot measure would permit the sale, possession and use of Safe and Sane Fireworks in the City, subject to the regulations established by the City Council. As a consequence, City Council could not completely ban Safe and Sane Fireworks without a subsequent voter approved Charter amendment. If this ballot measure is not adopted, then Huntington Beach Municipal Code Sections 9.70.010 and 17.56.650 which prohibits Safe and Sane fireworks will apply.

Cost of this Ballot Measure

The discharge of fireworks could impact the cost of City services related to the Police, Public Works, and Fire Departments; however the City can not accurately project such costs.

A "no" vote on this measure would leave in place the existing ordinance which permits only supervised public fireworks displays approved by the City.

THE ABOVE STATEMENT IS AN IMPARTIAL ANALYSIS OF **MEASURE T**. IF YOU WOULD LIKE A COPY OF **MEASURE T** OR THE PROPOSED CHARTER AMENDMENT, PLEASE CONTACT THE CITY OF HUNTINGTON BEACH CITY CLERK'S OFFICE AT (714) 536-5227 AND A COPY WILL BE MAILED TO YOU AT NO COST, OR IT IS AVAILABLE ONLINE AT www.huntingtonbeachca.gov

Pursuant to Government Code section 34458.5, the following ballot description is provided: This Charter Amendment would add section 805 to the City Charter allow for the sale, possession and use of Safe and Sane fireworks, in the City of Huntington Beach subject to regulations adopted by the City Council. This amendment does not give the City Council any new enumerated power including to raise its compensation or that of other City officials without voter approval.

Dated: July 16, 2014

s/ Jennifer McGrath
City Attorney

ARGUMENT IN FAVOR OF MEASURE T

Please vote YES on Measure T to restore a Huntington Beach and American tradition of residents using Safe and Sane fireworks for their own personal 4th of July celebrations on Independence Day.

Safe and Sane fireworks are authorized by the California Fire Marshall under state law since the 1950's, allowing local municipalities to regulate their use. A Yes Vote on Measure T will do that in Huntington Beach.

"Three years ago, Huntington Beach conducted a two year pilot project where Safe and Sane fireworks were allowed. The test was a huge success. It's time to formally bring back this wonderful American tradition." ----- Mayor Matthew Harper

By voting YES on Measure T, Huntington Beach residents will:

Allow the City Council to establish a system where important community non-profits groups like the American Legion Post, AYSO Soccer, Boys and Girls Clubs, Little League, school sports and band boosters, church groups and more, earn a share of the profits from fireworks sales.

Allow residents who want to celebrate Independence Day with California State-Approved Fireworks to buy and use them at home, benefiting our community with sales tax dollars and revenue for community groups.

During the two-year trial period in Huntington Beach, twenty nonprofit groups netted over \$700,000 for worthwhile projects that support our community. No major fires or property damage associated with Safe and Sane fireworks were reported. Families were again able to celebrate the Fourth of July at their homes in HB using safe and sane fireworks like they did decades ago. A Yes on T decriminalizes use of State-Approved fireworks in Huntington Beach.

Vote YES on Measure T to once again allow Huntington Beach residents to celebrate our freedoms with traditional Safe and Sane fireworks and simultaneously supporting vital community groups.

s/ Matthew Harper
Mayor, City of Huntington Beach

s/ Joe Carchio
Councilman, City of Huntington Beach

s/ David Yasutake
President, Edison High School Band Booster Association

s/ Alan Gandall
AYSO Regional Commissioner Area K Assistant Director

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE T

Our community does celebrate the 4th with fireworks. On the Fourth of July, nearly 100,000 visitors come to Huntington Beach for our parade and fireworks display at the pier.

Many of these visitors make no distinction between "safe and sane" fireworks and illegal fireworks. In the last two years, during our fireworks experiment, illegal fireworks activity increased.

In our neighborhoods, where illegal fireworks are shot off in increasing numbers, many people are forced to drug or board their animals, our residents suffer through noise pollution, and U.S. war Veterans with Post Traumatic Stress Disorder are traumatized again and again.

Proponents of fireworks say there were no serious injuries or fires during our two year trial. They are wrong. There was a small fire caused by fireworks, and it's really only a matter of time until we see serious injuries and fires.

The latest statistics from 2013 verified by the American Pyrotechnics Association, National Council on Firework Safety, show that nearly 12,000 people were injured by fireworks in the U.S., 45 percent of those injuries were to children under 14 and children under 5 had the highest per capita rate of fireworks injuries. 400 people lost their sight in one or both of their eyes in 2013. 20,000 fires were caused by fireworks in 2013. Four people died.

Our public safety officials – our fire chief and police chief — are right to oppose legalizing fireworks. Second guessing these safety professionals is dangerous and we should vote no on fireworks in Huntington Beach.

s/ Councilwoman Connie Boardman

s/ Councilwoman Jill Hardy

s/ Councilman Joe Shaw

ARGUMENT AGAINST MEASURE T

To vote NO on lifting the ban on fireworks in Huntington Beach is to choose public safety over money.

Multiple Grand Juries recommended bans on personal fireworks because legalizing them increases the use of more dangerous illegal fireworks. This happened in our city. In 2010 and 2011 prior to lifting the ban a total of 50 pounds of illegal fireworks were confiscated, during the two year trial period when personal fireworks were legal, 150 pounds of illegal fireworks were confiscated.

When personal fireworks are legal, those setting off the more dangerous illegal fireworks hide among those setting off the legal ones making enforcement more difficult.

The Orange County Grand Jury also stated that once a ban is lifted and then reestablished it can take three years for the illegal firework activity to return to levels the community experienced when all fireworks were banned.

Only seven of the 34 cities in Orange County allow the use of personal fireworks. No coastal city from Ventura to San Diego allows the use of personal fireworks. Huntington Beach is a destination for over 100,000 visitors on the 4th of July. Crowds and personal fireworks do not mix.

Don't be surprised when you start to receive multiple mailers from the pro side of this issue. The fireworks companies recently spent over \$100,000 in the primary election in Anaheim. Don't be surprised when the mailers tout the amount of money groups can make in a few days. That is true, thousands can be made in a short time by selling fireworks, but at what cost?

Both our Police Chief and Fire Chief advised the City Council not to lift the ban. When choosing between money and public safety, we choose public safety and urge you to vote NO on Measure T.

s/ Councilwoman Jill Hardy

s/ Councilwoman Connie Boardman

REBUTTAL TO ARGUMENT AGAINST MEASURE T

It's time for the opponents of Measure T to get honest about the facts.

Since the Grand Jury report in 2008, the number of cities in Orange County that allow safe and sane fireworks has doubled. Why? Voters see that claims by anti-fireworks activists never materialize. There were two incidents in HB during the two year trial-period with only one related to a state-approved product.

Allowing the use of legal fireworks increases the use of illegal, non-state-approved, fireworks? Many longtime residents saw and heard more illegal fireworks this year than ever - during a ban. You make the call.

The Grand Jury report asked five cities to consider a moratorium on safe and sane fireworks - all five cities refused the recommendation.

Local Orange County cities are opening up their communities to legal fireworks after decades-long bans. Westminster, Fullerton, Villa Park and Anaheim have opened since 2010.

Local Huntington Beach community non-profit groups netted over \$700,000 selling safe and sane fireworks in 2012 and 2013. Those dollars went directly into local high school, junior college, youth sport and philanthropic organizations within our community.

Don't make criminals out of people who want to use products approved by the California State Fire Marshal, once a year on our nation's birthday, on their own private property.

Vote Yes on Measure T.

s/ Matthew Harper
Mayor, City of Huntington Beach

s/ Joe Carchio
Councilman, City of Huntington Beach

s/ Alan Gandall
AYSO Regional Commissioner
Area K Assistant Director

s/ David Yasutake
President Edison High School Band Boosters

s/ Stephanie Green
District 62 Boardmember
Oceanview Little League Boardmember