



## CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

### AGENDA ITEM

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Report: Consideration of Ordinance to Ban the Sale of Mylar Balloons in the City of Glendale

1. Ordinance Amending Title 8 of the Glendale Municipal Code, 1995, Adding Chapter 8.18 Relating to the Prohibition of the Sale of Mylar Balloons within the City of Glendale.
2. Resolution Amending the Citywide Fee Resolution Regarding Administration Citation Fine Amounts for Sale of Mylar Balloons Violations and Amending the Citywide Fee Schedule to Add Violations Subject to Fines for Sale of Mylar Balloons Violations.

### COUNCIL ACTION

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**Item Type:** Ordinance

**Approved for** October 13, 2020 **calendar**

### ADMINISTRATIVE ACTION

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**Submitted by:**

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**Prepared by:**

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**Reviewed by:**

Michele Flynn, Director of Finance

Roubik R. Golanian, P.E., Assistant City Manager

Michael J. Garcia, City Attorney

**Approved by:**

Yasmin K. Beers, City Manager

## **RECOMMENDATION**

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Staff respectfully presents the original ordinance, introduced by the City Council on September 29, 2020, as well as some proposed alternatives relating to the language banning the sale of Mylar Balloons, for the City Council's consideration and direction.

## **BACKGROUND/ANALYSIS**

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On September 29, 2020, at Council's direction, staff presented a report and draft ordinance banning the sale of Mylar Balloons within the City of Glendale (City).

Council's initiation of the consideration to ban the sale of Mylar Balloons was as a result of the numerous outages caused by Mylar Balloons when they come into contact with Glendale Water & Power Department's (GWP) electrical facilities. On July 28, 2020, at Council's request, staff presented a report regarding Mylar Balloon outages including a recap of Mylar Balloon's legislative history, and GWP's efforts on educational campaigns in informing residents of the effects and impacts of electrical outages caused by Mylar Balloons.

During the Council's discussion of the Mylar Balloon ban item on September 29, 2020, Council requested that staff explore alternatives to present to Council during the next Council meeting to consider the proposed ordinance. On October 5, 2020, City Attorney staff met with representatives of the balloon industry and businesses to discuss the proposed Mylar Balloon sale ban and potential alternatives to present to the City Council for further consideration. Attached, as Exhibit 1, is a list of alternative language relating to the proposed ban for Council's consideration. The alternatives range from allowing the sale of air-only filled Mylar Balloons to also allowing deflated/depressed/unfilled Mylar Balloons so long as said balloons are not filled with helium or gas lighter than air at the time of sale.

### **Background:**

Metallic balloons, also known as Mylar balloons, are a safety hazard when they come in contact with, or come close to, high-voltage power lines. Electricity between two lines can arc when the conductive material from the balloon becomes tangled in the lines, causing power outages, explosions, downed power lines and damaged infrastructure. Tests of Mylar Balloons, performed by the Federal Department of Aviation, found that these balloons do not go higher than about 3,000 to 7,000 feet before they either explode or lose their "lift." This is primarily because of their inability to expand to any great extent.

### **Current California State Law:**

Current law only prohibits releasing Mylar Balloons with a metallic finish into the air, California Penal Code, Section 653.1 provides:

*(a) No person or group shall release, outdoors, balloons made of electrically conductive material and filled with a gas lighter than air, as part of a public or civic event, promotional activity, or product advertisement.*

*(b) Any person who violates this section shall be guilty of an infraction punishable by a fine not exceeding one hundred dollars (\$100). Any person who violates this section who has been previously convicted twice of violating this section shall be guilty of a misdemeanor.*

*(c) This section shall not apply to manned hot air balloons, or to balloons used in governmental or scientific research projects.*

California Business and Professions Code, Section 22942 provides:

*(a) A person who manufactures a balloon in this state that is constructed of electrically conductive material shall comply with both of the following:*

*(1) Permanently mark each balloon with a printed statement, written in a legible font size and located in a conspicuous area on the balloon, that warns the consumer about the dangerous risk of fire if the balloon comes in contact with an electrical power line.*

*(2) Permanently mark each balloon with the identity of the manufacturer.*

*(b) A person who sells or distributes a balloon constructed of electrically conductive material that is filled with a gas lighter than air shall comply with both of the following:*

*(1) The person shall affix an object of sufficient weight to each balloon or its appurtenance to counter the lift capability of the balloon.*

*(2) The person shall not attach the balloon to an electrically conductive string, tether, or streamer, to a balloon constructed of electrically conductive material, or to any other electrically conductive object.*

*(c) This section shall not apply to manned hot air balloons or to balloons used in governmental or scientific research projects.*

These existing laws regulating Mylar Balloons have had no effect on eliminating or reducing incidents of metallic balloon contact with overhead power lines. Removing Mylar Balloons from the marketplace would eliminate, outages and fires that occur when these balloons come into contact with power lines.

### **Proposed City of Glendale Ordinance Prohibiting the Sale of Mylar Balloons within City limits:**

The proposed ordinance, if adopted by Council, will prohibit the sale of Mylar Balloons within City limits. It will not make the possession of Mylar Balloons within City limits a violation. The goal is to reduce the negative impacts of Mylar Balloons by prohibiting their sale within City limits. Violations of the ordinance (e.g. the sale of Mylar Balloons within the City) may be punishable by either Administrative Citations, punishable by a fine of \$100 for the first offense and by fines of \$200 and \$500, for the second and third offenses within one year of the first offense, respectively, or a misdemeanor which is punishable by a fine of up to \$1,000, up to 180 days in county jail, or both.

Staff will be working with the neighboring cities in an effort to encourage said cities to also implement a ban of the sale of Mylar Balloons. This will minimize greatly the possession and release of Mylar Balloons, purchased from outside of the City, within the City.

## **FISCAL IMPACT**

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There will be minor fiscal impact due to a potential loss of sales tax revenue from the sale of Mylar Balloons.

The fiscal impact of the proposed ordinance will be associated with the potential loss of sales tax revenue from the lack of sales of Mylar Balloons, as well as the implementation of proposed Chapter 8.18 prohibiting the sale of Mylar Balloons. The use of Administrative Citations for violations of Mylar Balloon sales within City limits (\$100 for the first offense and \$200 and \$500 respectively for the subsequent offenses cited within one year) will recover a portion of the costs associated with enforcement of the ordinance; however, revenues and cost recovery cannot be predicted accurately, as it is not possible to predict the number of fines and penalties imposed and out of those, the dollar amounts collected. Also, pursuant to GMC 1.24.030 in addition to Administrative Fines the City may recover Administrative Costs, which include but are not limited to: staff time in investigating the violation and preparing the investigation report, sending notices, preparing for and attending any appeal hearing, attorneys' fees, and fees paid to the administrative hearing officer. Any fines and/or penalties collected would be paid into the general fund, from which the costs of enforcement would be paid.

## **ALTERNATIVES**

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Alternative 1: The City Council may adopt the proposed ordinance, which was introduced on September 29, 2020, to ban the sale of Mylar Balloons and the related Resolution establishing administrative fines for such violations.

Alternative 2: The City Council may amend any portion of the proposed ordinance introduced on September 29, 2020 and adopt the proposed ordinance, as amended, to ban the sale of Mylar Balloons and the related Resolution establishing administrative fines for such violations.

Alternative 3: The City Council may elect to not adopt the proposed ordinance and related resolution at this time. Alternative 4: The City Council may consider any other alternative not proposed by staff.

## **CAMPAIGN DISCLOSURE**

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Not applicable.

## **EXHIBIT(S)**

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Exhibit 1: Alternatives to Proposed Glendale Municipal Code Section 8.18.030.