

## Memorandum

To: Honorable Mayor Shetter and members of the Burleson City Council

From: Stacy Singleton, Fire Marshal

Date: January 20, 2009

Subject: A resolution making certain findings and declaring a moratorium effective immediately and expiring at 5:01 p.m. on July 31, 2009, on the enforcement of any city ordinances or codes prohibiting the storage or retail or wholesale sale of fireworks by Renegade Wholesale Fireworks on the property at 4200 South I-35W, Burleson, Texas; and providing an effective date.

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### **Council Action Requested:**

Approve, deny or modify Resolution R-1139-09, declaring a moratorium effective immediately and expiring at 5:01 p.m. on July 31, 2009, on the enforcement of any city ordinance or codes prohibiting the storage or retail or wholesale sale of fireworks by Renegade Wholesale Fireworks on the property at 4200 South I-35W, Burleson, Texas.

### **Background Information:**

On January 10, 2008, the City Council approved Resolution R-1110-08, which declared a moratorium on the enforcement of any city ordinance or codes prohibiting the storage or retail or wholesale sale of fireworks on the property annexed into the City of Burleson by ordinance A-311-07.

The passing of this Resolution allowed fireworks stand owners in the areas annexed in January 2008, including Renegade Wholesale Fireworks (owned by Mark Minor) located at 4200 South I-35W, to continue the sale and storage of fireworks for the purpose of providing a reasonable opportunity to the owners and operators of the existing fireworks businesses to reduce the inventory and re-locate the businesses. It also allowed them to have two additional retail sale periods, July 2008 and December 2008.

Resolution R-1110-08 will expire at 5:01 p.m. on January 31, 2009.

On January 05, 2009, Mark Minor owner of Renegade Wholesale Fireworks appeared before the Burleson City Council to request an extension of Resolution R-1110-08. Mr. Minor informed the Council that he has purchased some property to relocate his business but is having some difficulty obtaining a TxDot permit for a drive entrance and that he is having difficulty selling the current location due to damage from storms during the spring of 2008.

Staff does not recommend this extension beyond the one year granted by R-1110-08. Should City Council wish to grant an extension, staff recommends the extension be for storage of current inventory only (exclude all sales) and not exceed six additional months.

**Board/Citizen Input:**

N/A

**Financial Considerations:**

There is no expenditure of municipal funds associated with this item.

**Attachments:**

Resolution R-1139-09

**Staff Contact:**

Stacy Singleton, CFEI

Fire Marshal

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**RESOLUTION R - 1139-09**

**A RESOLUTION MAKING CERTAIN FINDINGS AND DECLARING A MORATORIUM EFFECTIVE IMMEDIATELY AND EXPIRING AT 5:01 P.M. ON JULY 31, 2009, ON THE ENFORCEMENT OF ANY CITY ORDINANCES OR CODES PROHIBITING THE STORAGE OR RETAIL OR WHOLESALE SALE OF FIREWORKS BY RENEGADE WHOLESALE FIREWORKS ON THE PROPERTY AT 4200 SOUTH I-35W, BURLESON, TEXAS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on January 10, 2008, the City Council adopted Resolution R-1110-08, which declared a moratorium on the enforcement of any city ordinance or codes which prohibited the storage or retail or wholesale sale of fireworks on property which was annexed into the City of Burleson by Ordinance A-311-07; and

**WHEREAS**, the moratorium imposed by Resolution R-1110-08 shall automatically expire on 5:01 p.m. on January 31, 2009, unless specifically extended or sooner terminated by additional City Council action; and

**WHEREAS**, Mark Minor, owns Renegade Wholesale Fireworks located on the property at 4200 South I-35W, Burleson, Texas, which is within the area annexed into the City by Ordinance A-331-07; and

**WHEREAS**, on January 5, 2009, Mark Minor appeared before the Burleson City Council and requested that the moratorium imposed by Resolution R-1110-08 be extended for an additional period of time to allow Renegade Wholesale Fireworks to continue to sell and store fireworks on the property at 4200 South I-35W so that Renegade Wholesale Fireworks may reduce its current fireworks inventory, may sell the property where it is now located and may find a suitable new location for its business; and

**WHEREAS**, the City Council has considered Mr. Minor's request for extension of the moratorium and the reasons why he believes the moratorium should be extended; and

**WHEREAS**, the City Council finds and determines that immediate enforcement action against the sale and storage of fireworks by Renegade Wholesale Fireworks on the property at 4200 South I-35W would create an unreasonable hardship because the owner of the business has been unable to sell the property due to storm damage and has been unable to find another suitable location for the business.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLESON:**

**SECTION 1.**

The above findings are true and correct and are expressly made a part of this Resolution.

**SECTION 2.**

Effective immediately and for a period expiring at 5:01 p.m. on the 31 day of July, 2009, the City of Burleson shall not take any enforcement action against the owner and employees of Renegade Wholesale Fireworks regarding the storage or retail or wholesale sale of fireworks on the property at 4200 South I-35W, Burleson, Texas.

**SECTION 3.**

The moratorium imposed under Section 2 of this Resolution shall automatically expire at 5:01 p.m. on the 31 day of July, 2009.

**SECTION 4.**

This Resolution shall take effect upon its passage and approval, and it is accordingly so resolved.

PASSED AND APPROVED on this \_\_\_\_ day of January, 2009.

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CITY SECRETARY

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MAYOR