

CHAPTER 6

FIREWORKS SALES AND USE

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3-6-1: **PURPOSE:** The purpose of this chapter is to regulate the retail sales and use of fireworks within the corporate limits of the city to promote the public safety and welfare. (11-8-2001, eff. 11-8-2001)

3-6-2: **DEFINITIONS:** The following words and phrases as used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

COMBINATION FIREWORKS DEVICE: Any device containing combinations of two (2) or more of the effects described in the definition of "fireworks" as defined in this section.

FIREWORKS: Any composition or device manufactured or used for the purpose of producing a visible or audible effect by combustion, deflagration or detonation, but does not include model rockets, toy pistol caps, emergency signal flares, snakes

or glow worms, party poppers, wire sparklers under thirty six inches (36") in length, matches or class A and B explosives.

**GROUND AUDIBLE
DEVICE:**

Any paper or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic material that travels along the ground (chaser) upon ignition and often produces a whistling and/or popping effect.

**GROUND OR
HANDHELD SPARKLING
DEVICE:**

A. Any cylindrical tube (cylindrical fountain) not exceeding thirty four inches (34") in inside diameter and containing not more than seventy five (75) grams of pyrotechnic composition which produces a shower of color and sparks upon ignition and may whistle or pop;

B. Any cardboard or heavy paper cone (cone fountain) containing up to fifty (50) grams of pyrotechnic composition which produces a shower of color and sparks upon ignition and may whistle or pop;

C. Any cylindrical tube (illuminating torch) containing up to one hundred (100) grams of pyrotechnic composition which produces colored fire upon ignition;

D. Any pyrotechnic device (wheel) capable of being attached to a post or tree containing up to six (6) "driver" units or tubes not exceeding one-half inch ($\frac{1}{2}$ " in inside diameter that each contain not more than sixty (60) grams of pyrotechnic composition per driver unit, which revolve upon ignition producing a shower of color and sparks and sometimes a whistling effect.

E. Any device similar in design and effect to a "wheel" capable of being placed on the ground (ground spinner) and ignited;

F. Any narrow paper fuseless tube (flitter sparkler) filled with pyrotechnic composition that

produces color and sparks when the popper at one end of the tube is ignited; and

G. Any other similar devices as defined by the state fire marshal.

TRICK NOISEMAKER:

A. Any tube or sphere containing pyrotechnic composition that upon ignition produces white or colored smoke (smoke device) as its primary effect; and

B. Any device that produces a small report intended to surprise the user, including:

1. A "booby trap", which is a small tube with a string protruding from both ends that ignites the friction sensitive composition in the tube when the string is pulled;

2. A "snapper", which is a small paper wrapped device containing a minute quantity of explosive composition coated on bits of sand which explodes producing a small report;

3. A "trick match", which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

4. A "cigarette load" which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when the cigarette is ignited; and

5. An "auto burglar alarm", which is a tube which contains pyrotechnic composition that produces a loud whistle and smoke when ignited. A small quantity of explosive, not exceeding fifty (50) milligrams, may also be used to produce a small report. A squib is used to ignite the device.

C. Any other similar devices as defined by the state fire marshal. (11-8-2001, eff. 11-8-2001)

3-6-3: LICENSE REQUIREMENTS:

- A. License Required: No person shall sell or offer for sale any fireworks within the city without first having applied for and received a license.
- B. Application For License: All applications for licenses to sell fireworks shall:
 - 1. Be made in writing and set forth the proposed location of the fireworks stand, and state that the applicant will comply with all the provisions of this chapter.
 - 2. Include a copy of the state sales tax license.
 - 3. Include payment of the fee and a cleanup deposit in amounts as established from time to time by resolution of the city council. Said cleanup deposit is to assure compliance with the provisions of this chapter, including, but not limited to, the removal of the stand and the cleaning of the site. In the event the licensee does not comply or remove the stand or clear the site, the city may do so, or cause the same to be done by other persons, and the reasonable cost shall be a charge against the licensee and his deposit. The license fee and cleanup deposit may be waived for owners of an existing permanent business within the city licensed under this title.
 - 4. Include an insurance certificate evidencing public liability, product liability and property damage coverage in favor of the additional insured in the amount of five hundred thousand dollars (\$500,000.00) per occurrence.
- C. Notification Of Approval Or Denial: Applicants for a license shall be notified by the city of approval or denial of a license application within ten (10) days of the filing date.
- D. Display Of License: The license to sell fireworks and the sales tax license shall be displayed in a prominent place in the fireworks stand. (11-8-2001, eff. 11-8-2001)

3-6-4: EXEMPTIONS:

- A. Wildlife Management Agencies: State division of wildlife resources and federal game agents charged with the duty of managing wildlife resources may, without obtaining a permit or license, use fireworks and explosives to rally drive, or otherwise disperse concentrations of

wildlife as may be necessary to protect property or wildlife resources.

- B. City Agent: An authorized agent of the city may conduct, permit or regulate the discharge of class B fireworks and pyrotechnic displays held outside public buildings or in public areas. (11-8-2001, eff. 11-8-2001)

3-6-5: **FEE FOR LICENSE:** The city shall collect a fee for fireworks sales in the amount established by resolution of the city council. (11-8-2001, eff. 11-8-2001)

3-6-6: **CLEANUP DEPOSIT:** A cleanup deposit in the amount established by resolution of the city council shall be required of the licensee to assure the removal of unsold fireworks and related debris remaining on the premises at the conclusion of the license period. Said deposit shall be refunded to the licensee, provided the premises are left clean and free of said debris within a reasonable time period. (11-8-2001, eff. 11-8-2001)

3-6-7: **SALE OR USE OF UNAUTHORIZED FIREWORKS UNLAWFUL:** It is unlawful for any person to sell, offer for sale, or discharge in the city any fireworks other than those defined in sections 3-6-2 and 3-6-4 of this chapter. (11-8-2001, eff. 11-8-2001)

3-6-8: **DATES PERMITTED:**

- A. Sales: Fireworks may be sold on or between June 20 and July 25; on or between December 20 and January 2; and fifteen (15) days before and on the Chinese New Year.
- B. Use: Fireworks may be discharged three (3) days prior to, on the day of, and three (3) days following July 4, July 24, January 1, and the Chinese New Year. (11-8-2001, eff. 11-8-2001)

3-6-9: **TEMPORARY STANDS; SAFETY RULES:** Retail sales of fireworks from a "temporary stand", defined as a non-permanent structure used exclusively for the sale of fireworks, shall be subject to the following regulations:

- A. Location: Stands shall only be located in commercial zones, at least fifty feet (50') from any other building, one hundred feet (100') from any flammable liquid or gas storage or dispensing device, and twenty five feet (25') from any power line.
- B. Surface: Each stand shall be located on and surrounded by a paved asphalt or concrete surface and have seven (7) or more paved and marked parking spaces separated from the stand by a fire lane at least twenty five feet (25') wide.
- C. Clearing Of Weeds And Combustible Material: All weeds and combustible material shall be cleared from within fifty feet (50') of the stand.
- D. Construction: Temporary stands shall be constructed in accordance with nationally recognized good practice and in a manner that will assure the safety of salespersons and patrons.
- E. Exits; Locks: Each stand less than twenty four feet (24') in length shall have at least two (2) exit doors which swing out at opposite ends of the stand, and each stand in excess of twenty four feet (24') in length must have a third such exit door. Door locking devices, if any, shall be easily released from the inside without special knowledge, key or effort.
- F. Aisle: Each stand shall have a minimum three foot (3') wide unobstructed aisle, the length of the stand, inside and behind the counter.
- G. Pass Through Openings: The pass through openings for sales of fireworks in stands shall be arranged to permit the customer to view the merchandise for sale, but prevent the touching or handling of nonprepackaged fireworks by the customer.
- H. Unauthorized Entry Prevented: If the stand is used for overnight storage of fireworks, it shall be equipped with suitable locking devices to prevent unauthorized entry.
- I. Illumination Or Heating: Stands shall not be illuminated or heated by any device requiring an open flame or exposed heating elements. All heaters and lighting devices shall be approved by the city.
- J. Smoking; Signage: Smoking shall not be permitted within twenty five feet (25') of any fireworks stand. "Smoking prohibited within 25 feet" (or similar wording) signs shall be conspicuously posted on each

side of the stands. Sign lettering shall be not less than two inches (2") high with a minimum three-eighths inch ($\frac{3}{8}$ ") stroke on a contrasting background.

- K. Signage For Discharge Dates: A sign, clearly visible to the general public, shall be posted at all stands, indicating the legal dates for discharge of fireworks and prohibiting the discharge of any fireworks within one hundred feet (100') of the stand. Sign lettering shall be not less than one inch (1") high with a minimum three-sixteenth inch ($\frac{3}{16}$ ") stroke on a contrasting background.
- L. Fire Extinguisher: Each stand shall be equipped with an approved portable fire extinguisher having a minimum 2A rating, and be in good working order, and easily accessible for use in case of fire.
- M. Supervision: All stands shall be under the direct supervision of a responsible person who is eighteen (18) years of age or older. A salesperson shall remain at the sales location at all times unless suitable locking devices are provided to prevent the unauthorized access to the merchandise by others, or the merchandise is removed.
- N. Entry By General Public Prohibited: The general public shall not be allowed to enter a temporary stand.
- O. Sleeping In Stand Prohibited: No person shall sleep in a stand.
- P. Underage Sales: Fireworks shall not be sold to any person under the age of sixteen (16) years, unless accompanied by an adult.
- Q. Removal Of Stand: All stands shall be removed within seven (7) days of the close of the sales periods set forth in subsection 3-6-8A of this chapter. (11-8-2001, eff. 11-8-2001)

3-6-10: **INDOOR SALES:** Retailers licensed by the city may sell items such as, but not limited to, model rockets, toy pistol caps, emergency signal flares, snakes or glow worms, party poppers, wire sparklers under thirty six inches (36") in length, and matches inside their permanent structure on the licensed premises as a part of their licensed business in accordance with the following provisions as allowed by the state fire marshal:

- A. The area where the foregoing items are displayed or stored shall be at least fifty feet (50') from any flammable liquid or gas or other highly combustible material.
- B. Said items shall not be stored (including stock for sale) near exit doorways, stairways or in locations that would impede egress.
- C. Said items shall be stored, handled, displayed and sold only as packaged units. (11-8-2001, eff. 11-8-2001)

3-6-11: ENFORCEMENT:

- A. **Seizure; Revocation:** Notwithstanding the provisions of section 3-1-17 of this title, upon finding any licensee violating any provision of this chapter, every city officer charged with the enforcement of state and municipal laws, including all fire enforcement officials, shall have authority summarily to seize fireworks sold or offered for sale in violation of this chapter and revoke the business license for the temporary stand or prohibit further sales inside a permanent structure on the licensed premises as a part of a licensed business. Upon revocation, no refund of any portion of any license fee shall be made to the licensee and he shall immediately cease all sale of fireworks until resumption of business is allowed by the city council. (11-8-2001, eff. 11-8-2001)
- B. **Hearing:** Upon request by the licensee to the city council, a special hearing on the summary order shall be held before the city council. Notice of such hearing shall be given to the affected person three (3) days prior to said hearing. The findings of the city council shall be final and conclusive and shall be personally served upon the licensee. (11-8-2001, eff. 11-8-2001)

3-6-12: PENALTY: Any person who sells or offers for sale or discharges fireworks, other than those listed in section 3-6-2 of this chapter, is guilty of a class B misdemeanor and, upon conviction, subject to penalty as provided in section 1-4-1 of this code. (11-8-2001, eff. 11-8-2001; amd. 2006 Code)