

construed to apply to Law Enforcement Officers, or any of the Armed Services of the United States. No vehicle transporting explosives shall make an unscheduled stop for longer than five (5) minutes within the Municipality and in the event of mechanical failure, immediate notice of such breakdown shall be given to the Chief Law Enforcement Officer who shall then proscribe such precautions as may be necessary to protect the residents of the Municipality and a reasonable time for removal of the vehicle from the Municipality.

FIREWORKS

§ 91.70 DEFINITIONS AND GENERAL AUTHORITY.

For the purpose of this Article, the City's requirements for fireworks are the same as those contained in Title 157 NEB. ADMIN. CODE. To the extent anything herein conflicts with such Title 157, the requirements of Title 157 shall control. Certain words, phrases, and terms shall be construed as specified below, unless the context otherwise requires:

- A. Fireworks means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of consumer or special fireworks set forth by the United States Department of Transportation in Title 49 of the Code of Federal Regulations.
- B. Permissible Fireworks shall mean only sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of making a noise, lady fingers, not to exceed seven-eighths of an inch in length or one-eighth inch in diameter, total explosive composition not to exceed fifty milligrams (50 mg.) each in weight, color wheels and any other fireworks approved by the State Fire Marshal. Permissible fireworks shall mean only those fireworks annually listed and promulgated by the State Fire Marshal in Title 157, Chapter 8, "Fireworks Acceptable in the State of Nebraska for the Year 20__".
- C. Sale shall include barter, exchange, or gifts, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.
- D. Retailer shall mean any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers. A retail license shall not be used to purchase fireworks for personal use outside the June 24 to July 5 selling window.

§ 91.71 UNLAWFUL ACTS.

Except as provided in Section 91.76, it shall be unlawful for any person to possess, sell, offer for sale, bring into the City or discharge, explode, or use any pyrotechnics, commonly known as fireworks, other than permissible fireworks.

§ 91.72 PERMISSIBLE; RETAIL SALE, LICENSE REQUIRED, FEE.

It shall be unlawful for any person to sell, hold for sale, or offer for sale at retail, any permissible fireworks in the City unless such person has first obtained a license from the City as a retailer.

Any person desiring to sell, or offer for sale, any permissible fireworks as a retailer shall make application to the City for a license authorizing the same. Applications shall be for proposed sales for the current calendar year only and shall be submitted to the City on or between March 1 and March 30 of the year in which the license is sought. Such application shall include the following information and such additional information as the City shall deem necessary:

1. The name, residence, and address of the applicant.
2. The location of the premises for which the license is sought.
3. When the license is sought in a permanent building, the applicant shall provide an accurate drawing or plan showing the location of the sales display within the building, together with aisles, exits, etc.
4. When the license is sought in a temporary structure or facility, the applicant shall provide a legal description of the premises.
5. A copy of the applicant's valid License for Sale of Fireworks issued by the Nebraska State Fire Marshall.

After consideration of the information contained in the application for license, the Administrator/Clerk/Treasurer may issue a permit after March 30th upon payment by the applicant of a fee of one thousand dollars (\$1,000.00). Any license issued under the provisions of this Section shall be valid only for the period of June twenty-fifth (25th) through and including July fourth (4th) and December twenty-ninth (29th) through and including December thirty-first (31st) of the year in which issued.

Factors that may be considered by the City in deciding whether to issue a license include, but are not limited to:

- A. Presence or absence of any past violations of applicant;
- B. Experience and expertise of applicant;
- C. Safety record of applicant; and
- D. Whether applicant is a civic organization committed to the betterment of the City.

The funds received under the provisions of this Section shall be deposited in the General Fund of the City. One-half of the funds collected may be provided for the July 4th community fireworks display. (*Amended by Ord. No. 98-19, 19/7/98, 02-08, 3/4/02; 09-14, 12/7/09; 10-13, 9/7/10*)

§ 91.73 PERMISSIBLE FIREWORKS.

Only permissible fireworks may be sold, held for sale or offered for sale at retail in the City pursuant to this Code and Title 157 NEB. ADMIN. CODE.

§ 91.74 RESERVED.

§ 91.75 CONSUMER; SALE, USE, HOURS RESTRICTED.

Consumer fireworks may be sold at retail, offered for sale at retail, discharged, exploded, or used within the City of Waverly, only from June twenty-fifth (25) through and including July fourth (4) and from December twenty-ninth (29) through and including December thirty-one (31) of each year; provided it shall be unlawful to discharge, explode or use permissible fireworks on said dates before eight (8:00) a.m., and after eleven (11:00) p.m., except on July fourth (4) and December thirty-one (31) when permissible fireworks may be lawfully discharged, exploded or used between the hours of eight (8:00) a.m. and twelve (12:00) midnight. (*Amended by Ord. No. 10-12, 8/16/10*)

§ 91.76 PROHIBITION NOT APPLICABLE.

The provisions of Section 91.71 shall not apply to:

- A. Any fireworks for purposes of public exhibitions or displays purchased from a distributor licensed under State law or the holder of a display license issued by the State Fire Marshal as provided by State law;
- B. Any public exhibition or display under the auspices of any governmental subdivision of the State; and
- C. Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths of a gram of explosive material.

§ 91.77 FIREWORKS; UNLAWFUL DISCHARGING, FIRING, LAUNCHING, OR THROWING PROHIBITED.

It shall be unlawful for any person to discharge, fire, launch, or throw any fireworks or any object which explodes upon contact with another object:

- A. From or into any motor vehicle;
- B. Onto any street, highway, or sidewalk;
- C. At or near any person;
- D. Into or upon any building;
- E. Into or at any group of persons; or
- F. Into or upon the premises of another person.

For the purposes of this section, person shall mean any natural person or any private or public firm, corporation, or partnership.

§ 91.78 VIOLATION, PENALTY.

Any retailer violating any of the provisions of Sections 91.70 through 91.77 shall be guilty of a Class I Misdemeanor as defined by § 131.22 of this Code.