

ARTICLE III. - FIREWORKS

Cross reference: Definitions generally, § 1-2; Use and sale of fireworks - Ord. No. 366, adopted 6-26-03, with emergency clause.

State law references: Fireworks Licensing and Safety Act, NMSA 1978, § 60-2C-1 et seq.

Division 1. - Generally

Section 16-56. - Defined.

As used in this article, "fireworks" means any combustible of explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, dago bombs, sparklers or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive substance; except that the term "fireworks" shall not include any auto flares, paper caps containing not in excess of an average of 0.25 of a grain of explosive content per cap and toy pistols, toy canes, toy guns or other devices for the use of such caps, the sale and use of which shall be permitted at all times.

History: Ord. No. 118, § 2, adopted 3-8-83.

Section 16-57. - Stands.

(a) The fee for operating fireworks stands shall be as follows:

- (1) Each commercial stand of a size of 15 square feet or greater operated by anyone other than the owner (or his immediate family) of the land upon which the stand is located: \$100.00

No such stand shall exceed 200 square feet.

- (2) Each stand of a size of 40 square feet or greater but not exceeding 100 square feet operated by the owner of the land (or his immediate family) located on the land \$ 50.00

- (3) Each stand of a size of less than 40 square feet operated by the owner of the land (or his immediate family) located on the land \$ 10.00

"Square feet" as used in this section means that area within the corners of the stand measuring its dimensions along the outside edge of the outermost physical appurtenances of that stand. Only those fireworks permitted under this article shall be permitted to be sold at such stands.

(b) This section is not intended to preclude established retail businesses from selling fireworks through preexisting locations.

(c) It shall be considered fraud and a violation of this section for people in the business of selling fireworks to contract with landowners to contravene Subsection (a)(1) of this section, providing the fee for non-owner operators.

History: Ord. No. 111, § 1, adopted 5-26-82; Ord. No. 118, § 3, adopted 3-8-83.

Section 16-58. - Penalty for violation of article.

Any person violating the provisions of this article or failing or neglecting to comply with any orders issued pursuant to any section of this article shall be deemed guilty of a misdemeanor; and such person shall be guilty of a separate offense for each and every day or portion thereof during which any such

violation is continued or permitted. Upon conviction for any such violation, such person shall be guilty of a misdemeanor, and punished in accordance with Section 1-6.

History: Ord. No. 118, § 8, adopted 3-8-83.

Section 16-59. - Possession, transportation, discharge and sale restricted.

- (a) Generally. It shall be unlawful for any person to possess, own, transport, discharge, offer for sale, expose for sale, advertise for sale or sell within the Village limits, and within one mile of such limits, any type or form of explosive commonly known as fireworks, unless such item is approved by the provisions of this article. This section shall apply within one mile outside of the Village municipal boundary because the fireworks business is a danger to the general public, offensive and unwholesome.
- (b) Children under age 12. It shall be unlawful to sell any fireworks to children under 12 years of age unless accompanied by an adult.
- (c) Time period for retail sales. Fireworks may be sold at retail on the following dates each year, unless the Governing Body by proclamation or resolution has prohibited the sale of fireworks on any such dates due to the existence of drought conditions or for any other reason, as provided by law:
 - (1) June 20 to July 6, inclusive;
 - (2) New Year's Day and the five (5) days immediately preceding;
 - (3) Chinese New Year and the two (2) days immediately preceding;
 - (4) May 5; and
 - (5) September 16.
- (d) Temporary prohibitions or restrictions. The Governing Body, by proclamation or resolution, may from time to time prohibit or restrict the sale, possession or use of fireworks due to the actual presence or anticipated and predicted presence of severe or extreme drought conditions. The Governing Body, by proclamation or resolution, may from time to time prohibit or restrict the sale, possession or use of fireworks upon a finding that such prohibition or restriction is necessary to protect the health, safety, property and general welfare of the Village. Any such temporary prohibitions or restrictions shall be fully enforceable as an order adopted under this article, and the violation of any such temporary prohibitions or restrictions shall be deemed a violation of this article, punishable in accordance with Section 16-58.

History: Ord. No. 118, §§ 4(h), (i), adopted 3-8-83; Ord. No. 120, adopted 5-10-83; Ord. No. 131, adopted 6-28-84; Ord. No. 12-007, adopted 6-19-12.

Section 16-60. - Manufacture prohibited.

The manufacture of fireworks within the Village is prohibited.

History: Ord. No. 118, § 4(a), adopted 3-8-83.

Section 16-61. - Location restrictions.

- (a) Church, school, hospital. No fireworks shall be used within 300 feet of any church, hospital, or school building.
- (b) Gasoline, liquid storage. No fireworks shall be stored, kept, or discharged within 50 feet of any gasoline pump, gasoline filling station, or any building in which gasoline or volatile liquids are sold in

quantities in excess of one gallon except in stores where cleaners, paints and oils are handled in sealed containers only.

History: Ord. No. 118, § 4(j), (k), adopted 3-8-83.

Section 16-62. - Disposal of unused fireworks.

Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining.

History: Ord. No. 118, § 4(e), adopted 3-8-83.

Section 16-63. - Inspections.

The Fire Chief or his representative may, at all reasonable hours, enter and inspect the premises, building or any structure temporarily or permanently located at the site designated for the sale, packaging or handling of fireworks.

History: Ord. No. 118, § 6, adopted 3-8-83.

Section 16-64. - Seizure of fireworks.

The Fire Chief shall seize, take, remove or cause to be removed at the expense of the owner all stocks of noncomplying fireworks offered or exposed for sale, stored or held in violation of this article.

History: Ord. No. 118, § 7, adopted 3-8-83.

Section 16-65. - Exceptions to use prohibitions.

Nothing in this article shall be construed to prohibit the use of fireworks by transportation agencies, for signal purposes of illumination, for the sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations.

History: Ord. No. 118, § 4(f), adopted 3-8-83.

Sections 16-66 to 16-75. - Reserved.

Division 2. - Permits

Section 16-76. - Requirements for sale, use, possession or storage; regulation by fire chief.

Except as provided in this article, it shall be unlawful for any person to possess, store, offer for sale, expose for sale, sell at retail or use or explode any fireworks within the Village, except as specifically permitted by Section 16-79; provided, that the Fire Chief shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays by a jurisdiction, fair associations, amusement parks and other organizations or for the use of fireworks by artisans in pursuit of their trade. Every such use or display shall be handled by a competent operator approved by the Fire Chief and shall be of such character and so located, discharged or fired so as, in the opinion of the Fire Chief after proper investigation, not to be hazardous to property or endanger any person.

History: Ord. No. 118, § 4(B), adopted 3-8-83.

Section 16-77. - Application; nontransferability.

Applications for permits under this article shall be made in writing to the Village Clerk at least ten days in advance of the date of the display. After such privilege shall be granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted under this article shall be transferable.

History: Ord. No. 118, § 4(c), adopted 3-8-83.

Section 16-78. - Bond or insurance requirement.

The permittee under this article shall furnish a bond or certificate of insurance in an amount deemed adequate by the Fire Chief for the payment of all damages which maybe caused either to persons or property by reason of the permitted display and arising from any acts of the permittee, his agents, employees or subcontractors.

History: Ord. No. 118, § 4(d), adopted 3-8-83.

Section 16-79. - Type of fireworks permitted.

It is hereby provided that "safe and sane fireworks" shall be permitted within the Village. This shall mean and include all fireworks that are not self-propelling and the effects of which do not extend above ten feet in height from the ground; it shall include the following items:

- (1) Snakes, total pyrotechnic composition not to exceed 20 grams each in weight.
- (2) Smoke devices and spray balls, total pyrotechnic composition not to exceed 25 grams each in weight.
- (3) Wheels, total pyrotechnic composition not to exceed 60 grams in weight per driver unit, but any number of drivers may be on any one wheel. The inside bore of driver tubes shall not be over one-half inch.
- (4) Illuminating torches and colored fire in any form, total pyrotechnic composition of illuminating torches not to exceed 100 grams each in weight.
- (5) Sparklers and dipped sticks, total pyrotechnic composition not to exceed 100 grams each in weight. Pyrotechnic composition containing any chlorate or perchlorate shall not exceed five grains.
- (6) Cone-shaped and cylindrical fountains, total pyrotechnic composition not to exceed 75 grams each in weight. The inside tube diameter of cylindrical fountains shall not exceed three-fourths inch.
- (7) Railway fuses, fuses, truck flares, hardship distress signals, smoke candles, smoke signals and smokepots.
- (8) All other fireworks similar to but not specifically permitted in this section shall be tested for approval by the Fire Chief prior to sale.
- (9) Ground audible devices:
 - a. Firecrackers. Small paper-wrapped or cardboard tube that may not contain more than 50 milligrams of pyrotechnic composition and may not exceed seven-eighths inch long by one-sixth inch diameter. Noise accompanied by a flash of light is produced upon ignition.
 - b. Chaser Small paper-wrapped or cardboard tube that travels along the ground upon ignition. A whistling effect is often produced, and a small noise may be produced. The explosive composition used to create the noise may not exceed 50 milligrams.

History: Ord. No. 118, § 4(G), adopted 3-8-83.

Section 16-80. - Permit fees and conditions.

- (a) No person, manufacturer, wholesaler, or retailer shall keep, store, transport, or sell within the Village any of the devices permitted by this article without first:
 - (1) Applying to the Village for a permit to keep, store, transport, or sell such devices.
 - (2) Demonstrating to the Fire Chief that the items to be handled under such permit comply with the terms of this Code.
 - (3) Certifying that no person under the age of 16 years shall be permitted under the authority of the permit to be issued to keep, store, transport, or sell such permitted devices.
- (b) Retailer's permit.
 - (1) A permit issued to keep, store, transport, or sell permitted devices under this article shall be applicable and shall be enforced from date of issuance beginning June 5 of the current year to July 4, expiring at 9:00 p.m. on July 4 of the current year. The retailer may store such permitted devices up to July 14 of the current year. The permit fee is \$100.00.
 - (2) Permits are not transferable in name or location. If the permit under this article is revoked, a new permit will not be issued to the same person for a period of 12 months.
- (c) The structure where fireworks are sold shall be protected by at least one five-gallon bucket of water or an approved fire extinguisher with at least a no. 5 ABC classification.
- (d) Smoking shall be prohibited within 25 feet of any fireworks stand or warehouse. "No Smoking" signs must be prominently displayed.

History: Ord. No. 118, § 5, adopted 3-8-83; Ord. No. 120, § 1, adopted 5-10-83.