
Sec. 9-9. Fireworks.

(a) *Possession, manufacture, sale, and discharge.*

- (1) The manufacture of fireworks is prohibited within the city.
- (2) Except as otherwise specifically provided in this section, it shall be unlawful for any person to manufacture, assemble, store, transport, receive, keep, sell at retail, offer to sell, have in his possession with intent to sell, give, use, discharge, ignite, detonate, fire, or otherwise cause to be set in action any fireworks of any description.
- (3) However, this section shall not prohibit the mere possession of fireworks for personal, noncommercial use.

(b) *Illegal fireworks; seizure; investigation.* The presence of any fireworks within the city in violation of this section is hereby declared to be a common and public nuisance. The police chief is directed and required to seize and cause to be safely destroyed any fireworks found in violation of this section. Any peace officer is hereby authorized to do any of the following concerning any fireworks in the city that are in violation of any provision of this section:

- (1) Stop the transportation of those fireworks;
- (2) Detain those fireworks; and/or
- (3) Close any building where those fireworks are located.

Any peace officer may take those actions until the police chief can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section.

Notwithstanding any penal provision of this section, the city council may authorize the city attorney to file suit on behalf of the city for such injunctive relief as may be necessary to prevent the unlawful storage, transportation, keeping, or use of fireworks within the jurisdiction of the city and to aid the police chief in the discharge of his duties and to prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.

(c) *Fireworks displays.*

- (1) *Permit.* A fireworks display is not prohibited by this section if the display is conducted:
 - a. In compliance with a valid permit lawfully issued under this section, and
 - b. In compliance with all applicable law.

If a permit is issued hereunder for a fireworks display in a park of this city, then such permit is an exception to any ordinance or policy banning fireworks in a park.

- (2) *Written application.* Any person planning to make a public display of fireworks shall first make written application for a permit to the code enforcement officer at least 30 days in advance of the date of the proposed display. However, the city council may authorize a lesser filing period by approving an application filed within 30 days of such date. No minor may apply for a permit hereunder or receive one.
- (3) *Investigation; approval of permit.* The code enforcement officer shall investigate as to whether the proposed display may be hazardous to property or dangerous to any person. The code enforcement officer shall report his conclusions in writing to the city council as soon as practicable. The city council shall consider the application after receiving such report. If the city council determines, in its sole discretion, that the city council believes the proposed display will not be hazardous to property or

dangerous to any person, then the city council may approve the application for a permit; otherwise, the city council shall deny the application. The city council may include conditions to the granting of the permit, in order to promote the health and safety of persons and property, in the sole discretion of the city council.

- (4) *Insurance required.* If the application is approved, the city council shall also specify the amount of insurance which the applicant shall be required to obtain prior to the issuance of such permit, which shall not be less than that required by any applicable state statute or regulations of the state board of insurance. Such insurance shall include worker's compensation for the applicant's employees and public liability insurance and shall be issued by an insurance carrier licensed to do business in the state and acceptable to the city. Such public liability insurance shall name the city as an additional insured and shall waive subrogation against the city and shall provide that it is the primary coverage for the city. The applicant shall deliver to the city secretary a certificate of insurance proving compliance with this paragraph at least three business days before the fireworks display.
- (5) *Issuance of permit.* After approval of the application by the city council, and after proof of insurance in a form acceptable to the city attorney has been filed with the city secretary, the city shall issue such permit for a time to be specified therein; and such permit shall not be transferable.
- (6) *Aerial display permitted.* Any fireworks display authorized under this section shall be limited to an aerial display. The range of aerial display shall not be more than 400 feet and the fireworks shall be discharged vertically from steel tubes.
- (7) *Material not to be stored in city.* The material to be used for a public display authorized by this section shall not be stored within the city limits, but shall be brought in on the day of the public display and then shall be taken immediately to the place of display for further handling and storage.
- (8) *Hazardous conditions prohibited.* No public display of fireworks shall be of such a character and so located, discharged or fired as to be hazardous or dangerous to persons or property and this determination shall be within the discretion of the fire chief.
- (9) *Qualifications of persons handling fireworks.* The persons handling the display of fireworks under this section shall be competent adults who are experienced pyrotechnic operators approved by the code enforcement officer and possessing a valid and current license therefor issued by the state fire marshal for class B fireworks. No person not approved by the code enforcement officer shall handle fireworks at the public display. The names of the experienced pyrotechnic operators shall be designated on the permit issued.
- (10) *Firefighters to be present.* Even though a permit is issued, no fireworks shall be ignited or discharged unless at least two firefighters and a class A pumper truck from the Oyster Creek Community Volunteer Fire Department are in attendance during the display. Fees for such attendance and equipment may be charged as per current department fee schedules.
- (11) *Revocation of permits.* Any permit issued under the provisions of this section may be suspended or revoked by the city, including but not limited to the code enforcement officer, for the violation of any applicable provision of this section, any other law, or any permit requirement.

(Ord. No. 636, § 9, 7-19-07)