

CHAPTERS IX & X NUISANCES AND OFFENSES

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ORDINANCE 95     FIREWORKS

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**Section 95.1. Definitions.**

**Subd. 1. Fireworks:** For the purposes of this section, “fireworks” will have the same definition as contained in Minnesota Statute § 624.20 Subd. 1 or any superceding statute.

**Section 95.2. Sale and Use of Fireworks Prohibited.** It shall be unlawful for any person to offer for sale, expose for sale, sell at retail, or wholesale, or use or explode any fireworks, except as otherwise hereinafter provided.

**Section 95.3. Permit Required.** No person shall sell or possess for sale fireworks without first having obtained an annual permit from the City.

**Subd. 1. Application for Fireworks Display.** An application for a fireworks display permit shall be made in writing to the City Clerk at least fifteen (15) days in advance of the date of display. The application shall be promptly referred to the Chief of the Fire Department.

- A. **Investigation.** The Fire Chief shall make an investigation to determine whether the operator of the display is competent and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. The Fire Chief shall report the results of this investigation to the Clerk and if he reports that in his opinion the operator is competent and that the display as planned will conform to safety requirements, including the rules and regulations of the State Fire Marshal hereinafter provided for, the Clerk shall issue a permit for the display when the applicant pays a permit fee set forth in Appendix B of this Code. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit so granted shall be transferable.

**Subd. 2. Application for Permitted Sales, Use, and/or Possession.** An application for a permitted sale, use, and/or possession permit shall be made in writing to the City Clerk at least fifteen (15) days in advance of the date of display. The application shall be promptly referred to the Fire Official.

- A. **Investigation.** The Fire Official shall make an investigation to determine whether the applicant is competent. The Fire Official shall report the results of this investigation to the Clerk and if he reports that in his opinion the applicant is competent and that the permitted sale, use, and/or possession will conform to safety requirements, including the rules and regulations of the State Fire Marshal

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hereinafter provided for, the Clerk shall issue a permit when the applicant pays a permit fee set forth in Appendix B of this Code. After such permit shall have been granted, sales, possession, use and/or distribution of fireworks shall be lawful. No permit so granted shall be transferable.

**Subd. 3.** The designated Fire Official shall give final approval or denial of an application for the manufacture, storage for commercial purposes or sale of fireworks within 15 days of such application being made to the City.

**Subd. 4.** Permits for permitted use, sale, and/or possession shall be issued for the calendar year applied for and shall expire on December 31st of that year. Display permits shall be issued for the duration of the event only and expire thereafter.

**Subd. 5.** Prior to processing the application, a criminal records check may be conducted. Neither the applicant nor the responsible party for the permit shall have been convicted of a felony or a fire or fireworks-related misdemeanor within the last three (3) years.

**Subd. 6.** Prior to processing the application, the designated Fire Official shall determine that the proposed location is code compliant.

**Subd. 7.** The application shall include a letter from the person legally responsible for the property on which the fireworks related activity would occur. Such letter shall grant permission to the applicant for the use of said property.

**Subd. 8.** No display shall be given unless a permit, therefore, has first been secured in the manner hereinafter set forth, provided, however, no such permit shall be required when such display is given by a municipality or fair association within its own limits.

### **Section 95.4. Exceptions and Permitted Sales and Uses.**

**Subd. 1.** Section 95.2 shall not be construed to prohibit the sale or uses set forth in any of the following subdivisions.

**Subd. 2.** Sales at wholesale to those persons holding valid permits for a fireworks display from a governmental subdivision of the State.

**Subd. 3.** Sales outside the State.

**Subd. 4.** Any resident wholesaler, dealer, or jobber, from selling at wholesale such fireworks as are not herein prohibited.

**Subd. 5.** The sale of any kind of fireworks for shipment directly out of the State.

**Subd. 6.** The use of fireworks by airplanes and railroads or other transportation agencies for signal purposes or illumination.

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**Subd. 7.** The sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations.

**Subd. 8.** Supervised public displays of fireworks by cities, villages, and fair associations, amusement parks, and other organizations, when granted a permit and conducted as hereinafter provided.

### **Section 95.5. Regulations.**

**Subd. 1.** No person shall sell or store consumer fireworks within 50 feet of any fuel dispensing apparatus unless the total aggregate quantities of consumer fireworks are below the exempt amounts listed within Chapter 7 of NFPA® 1124 *Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles*®, 2003 Edition and within an approved structure or building. Retail fireworks sales and display shall be limited to mercantile occupancies as defined in NFPA 101®, *Life Safety Code*®. No person shall construct a retail display nor offer for sale explosives, explosive materials, or fireworks upon highways, sidewalks, public property, or in assembly or educational occupancies. The designated Fire Official shall determine compliance.

**Subd. 2.** It shall be unlawful for any seller of any fireworks to permit smoking at any site containing fireworks. “No Smoking” signs must be conspicuously posted and approved fire extinguishers must be available for use.

**Subd. 3.** Exempt amounts: The requirements of Chapter 7 of NFPA 1124® shall not apply to consumer fireworks retail sales facilities or stores where the total quantity of consumer fireworks on hand does not exceed 56.8 kg [125lb (net)] of pyrotechnic composition or, in a building protected throughout with an approved automatic sprinkler system installed in accordance with NFPA® 13 *Standard for the installation of sprinkler systems*® 113.6 kg [250lb (net)] of pyrotechnic composition. Where the actual weight of the pyrotechnic composition of consumer fireworks is not known, 25 percent of the gross weight of the consumer fireworks, including packaging, shall be permitted to be used to determine the weight of the pyrotechnic composition. Amounts in excess of the exempt amounts shall be required to comply with NFPA 1124.

**Subd. 4.** The requirements of this ordinance are in addition to any requirements imposed by any building and zoning regulations, fire codes or state law.

**Subd. 5.** Only persons 18 years of age or older may purchase fireworks and the age of the purchaser must be verified by photographic identification.

**Subd. 6.** Exterior storage, display, sales or transient sales of fireworks are permitted subject to a site plan review. Site plans shall be submitted for review and approval a minimum of fifteen) 15 days before display. Approved minimum separation distances in compliance with table 7.7.2 of NFPA 1124® shall be provided from the exterior display to adjacent buildings, combustibles or flammable liquids. No manufacturing, sales or storage for commercial purposes shall occur on residentially zoned property or within 100 feet thereof.

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**Subd. 7.** A list of all consumer fireworks displayed for sale and stored on the property shall be available at all times. The list shall document the name, weight and quantity of the fireworks and be accompanied by the material safety data sheets.

**Subd. 8.** Manufacturing, warehouse buildings, or sales displays in excess of the quantities listed in Subd. 3 for retail consumer fireworks shall be classified as defined in the Building Code and where applicable, subject to the requirements of NFPA 24® and the current edition of the Minnesota State Fire Code.

**Subd. 9.** The retailer shall provide a handout describing fireworks use, safety, and warnings to each consumer purchasing fireworks.

### **Section 95.6. Use and Possession.**

**Subd. 1.** It is unlawful to use, fire or discharge any fireworks along the route of and during any parade, in any place of public assembly, on any public property or in any area of the city which is zoned commercial or industrial.

**Subd. 2.** It is unlawful at any time to throw, toss or aim any fireworks at any person, animal, vehicle or other thing or object or used in any manner that may threaten or cause possible harm to life or property.

**Subd. 3.** The discharge of fireworks shall be prohibited inside a building and within fifteen (15) feet of any building.

**Subd. 4.** The Fire Official may ban fireworks if dry or windy conditions occur.

**Subd. 5.** Juveniles may not possess fireworks unless under the direct supervision of a responsible adult.

**Subd. 6.** Fireworks shall not be discharged in such a manner that may create a nuisance. Fireworks use shall also be subject to any additional ordinances such as noise and/or assembly.

**Section 95.7. Officers May Seize Illegal Fireworks.** The State Fire Marshal, or any Sheriff, Police Officer, Constable, or local Fire Marshal, shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of Ordinance 95 et seq.

### **Section 95.8. Penalties.**

**Subd. 1.** Materials that violate and/or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal shall be assessed back to the property owner or permit holder.

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**Subd. 2.** Violations of this regulation, city ordinance or state statute may result in revocation of the permit.

**Subd. 3.** Any violation of Section 95 is a misdemeanor.

**Section 95.9. Fees.** Permit fees shall be assessed in accordance with the fee schedule adopted by the City of Waite Park in Appendix B - Waite Park Schedule of Fee Charges.

Rescinded and Re-enacted April, 2004