



# City of Grand Island

Tuesday, June 8, 2021

Council Session

## Item F-3

### **#9829 – Consideration of Amending Chapter 16 of the Grand Island City Code Relative to Fireworks**

Staff Contact: Cory Schmidt, Fire Chief

# **Council Agenda Memo**

**From:** Fred Hotz, Fire Prevention Division Chief

**Meeting:** June 8, 2021

**Subject:** Request to Amend Chapter 16 of the Grand Island City Code Relative to Fireworks Sales

**Presenter(s):** Fred Hotz, Fire Prevention Division Chief

## **Background**

May 5<sup>th</sup>, 2021 the Governor signed into legislation LB 152 which made changes to the allowed fireworks sales. With the emergency clause, it became law on May 10. The ordinance language for the sale of fireworks in Grand Island immediately became outdated. Chapter 16 ordinance language currently references permissible fireworks. By definition, this permissible list created by the State Fire Marshal's office identified each acceptable (permissible) firework. This list will no longer be created by the State Fire Marshal's office.

## **Discussion**

This Ordinance will amend Chapter 16 of City Code to coincide with the State of Nebraska new fireworks sales statutes. Below is synopsis of the impact by the change:

- State statute 28-1241 has updated references with a 1-1-21 date to Federal CFR requirements for fireworks. As before only fireworks labeled as 1.4G (consumer fireworks) are acceptable for sale in Nebraska – and now the only 1.4G fireworks that remain prohibited are wire sparklers.
- Bottle rockets are now legal to purchase in Nebraska (1.4G)
- Firecrackers with explosive composition exceeding 50 milligrams are not 1.4G and are not acceptable for sale. Traditional M-80's and Cherry Bombs are still not legal in Nebraska as they are not 1.4G products
- Note that there is a firecracker called 'M-80' that has been sold in Nebraska for several years. This is a legal product as it does not

contain more than 50 milligrams of explosive composition. It is a regular firecracker and has a 1.4G label

- The State Fire Marshal's Office can prohibit specific fireworks as a response to complaints after testing
- Display fireworks (commercial) are labeled as 1.3G explosives and cannot be sold to the public
- Local jurisdictions can continue to enforce ordinances more restrictive than state law

### **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the changes to Chapter 16 of City Code.

### **Sample Motion**

Move to approve ordinance approving changes to Chapter 16 of Grand Island City Code.

## ORDINANCE NO. 9829

An ordinance to amend Chapter 16 of Grand Island City Code ; to amend Sections 16-12, 16-13, 16-15, 16-16, 16-20 and Section 16-22; to clarify and/or make general corrections to various code sections, to repeal any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. Sections 16-12, 16-13, 16-15, 16-16, 16-20 and Section 16-22 of the Grand Island City Code is hereby amended to read as follows:

### **§16-12. Generally**

It shall be unlawful for any person to possess, sell, offer for sale, bring into this City, or discharge any pyrotechnics, commonly known as fireworks other than ~~permissible~~ consumer fireworks; provided, that the provisions of this section shall not apply to:

- (1) Any fireworks for purposes of public exhibitions or displays purchased from a licensed distributor or the holder of a display license to be issued by the State Fire Marshal, which license shall be good only for the calendar year in which issued and which shall not authorize the holder to sell or hold for sale any ~~permissible~~ consumer fireworks as defined in §16-20 or any firecrackers of any description, whether soft shell or hard shell;
- (2) Any public exhibition or display under the auspices of the City of Grand Island;
- (3) Any fireworks brought into this state for storage by a licensed distributor and held for sale outside of this State;
- (4) Any fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal to any holder of a distributor's license; or
- (5) Toy cap pistols or toy caps each of which does not contain more than twenty-five hundredths of a grain of explosive material.

### **§16-13. Permit to Sell Fireworks**

It shall be unlawful for any person to sell or offer for sale ~~permissible~~ consumer fireworks in the City without first making application to the Fire Administration Office (City Hall) for a permit and receiving a permit to do so from the Life Safety Division. Permits shall require that applicants disclose any location within the geographic boundaries of the City where they are storing fireworks for sale. Permits shall require applicants to offer proof of a valid liability insurance policy of at least one million dollars (\$1,000,000.00) naming the City as an additional insured party. This policy must be in full force and effect for the entire period of lawful fireworks sales as set forth in §16-15. Such permits shall be in accordance with the City of Grand Island Fee Schedule and shall be valid for the calendar year in which issued, and shall at

Approved as to Form	☐ _____
June 2, 2021	☐ City Attorney

## ORDINANCE NO. 9829(Cont.)

all times be displayed at the place of business of the holder thereof. Such permits shall not be transferable.

### §16-15. Dates and Times of Lawful Sale

~~Permissible~~ Consumer fireworks may be sold or offered for sale in the City of Grand Island on June 28 through and including July 4 of each year. ~~Permissible~~ Consumer fireworks may only be sold during the following times:

June 28 through July 2 – 8:00 a.m. to 10:00 p.m.

July 3 – 8:00 a.m. to 11:00 p.m.

July 4 – 8:00 a.m. to midnight

### §16-16. Temporary Fireworks Stands

Any person having obtained a permit to sell ~~permissible~~ consumer fireworks may sell or offer for sale such fireworks only from a temporary stand or enclosure erected or placed on real estate for that purpose. No fireworks shall be sold from permanent buildings or structures in the City. If fireworks are to be sold from a temporary stand or enclosure, such stand or enclosure shall be of wood or steel frame construction covered with metal or wood. Any temporary enclosure or stand shall be permitted only in those areas of the City zoned for business or manufacturing, and only after a permit is obtained from the Life Safety Division for the erection or placement of such temporary enclosures or stands. Such temporary enclosures or stands shall be permitted to remain on real estate where ~~permissible~~ consumer fireworks are sold for only the period beginning on June 22 through and including July 9 of each year. Any such temporary stand or enclosure shall not be located closer than twenty-five feet from any building, and at least one hundred feet from any station where gasoline and oil for motor vehicles is sold. Such temporary stand or enclosure shall not exceed five hundred square feet in size. Such temporary enclosures shall only be permitted as an accessory to a permitted principal use on improved property, no vacant lots shall be utilized for sale of fireworks. Temporary stands with customer openings adjacent to a public street or sidewalk shall maintain a ten (10) foot setback to protect customers from traffic on the adjacent street or sidewalk.

### §16-20. Definitions

~~Permissible Consumer 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, firecrackers not to exceed two inches in length and three eighths of an inch in diameter, total pyrotechnic composition not to exceed 50.0 milligrams each in weight, color wheels, and any other fireworks approved under~~ Neb. Rev. Stat. §§28-1241(7) and 28-1247. *See also Rules and Regulations concerning fireworks in the State of Nebraska Administrative Code, Title 157.*

ORDINANCE NO. 9829(Cont.)

Consumer fireworks not permitted include wire sparklers and any other fireworks that have been tested by the Nebraska State Fire Marshal as a response to complaints and deemed to be unsafe.

Person as used in this Article shall include any person, firm, partnership, association of persons, or corporation.

Sale shall include barter, exchange, or gift or offer therefor, and each such transaction made by any person whether as principal, proprietor, agent, servant, or employee.

**§16-22. Discharge of Fireworks**

Permissible Consumer fireworks may be discharged, exploded, or used in the City of Grand Island on June 28 through and including July 4 of each year; provided that on such days the discharge and explosion of fireworks shall be permitted during the following times:

June 28 through July 2 .....	8:00 a.m. to 10:00 p.m.
July 3 .....	8:00 a.m. to 11:00 p.m.
July 4 .....	8:00 a.m. to midnight

The discharge of fireworks within the City of Grand Island on any dates or times other than as set out in this section shall require a permit from the Life Safety Division. Public exhibition applications shall be accompanied by documentation of a display license issued by the State Fire Marshal. Private party display applications will not require a State Fire Marshal license, but displays will be limited to permissible consumer fireworks as described in §16-20 of this Article. Applicant shall also show that there will not be any substantial danger to people or property. Factors that will be considered when reviewing an application will include, but not be limited to, where the fireworks will be discharged, the procedures used to discharge the fireworks and the qualifications of the individuals discharging the fireworks.

SECTION 2. Any ordinance or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

ORDINANCE NO. 9829(Cont.)

Enacted: June 8, 2021.

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Roger G. Steele, Mayor

Attest:

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RaNae Edwards, City Clerk