



# City of Grand Island

Tuesday, May 22, 2012

Council Session

## Item F5

**#9386 - Consideration of Amending Chapter 16 of the Grand Island City Code Relative to Fireworks**

Staff Contact: Tim Hiemer, Fire Division Chief

# **Council Agenda Memo**

**From:** Robert J. Sivick, City Attorney

**Meeting:** May 22, 2012

**Subject:** Consideration of Amending Chapter 16 of the Grand Island City Code Relative to Fireworks

**Item #'s:** F-5

**Presenter(s):** Tim Hiemer, Fire Operations Division Chief

## **Background**

The topic of fireworks was discussed at Study Session meetings of the Grand Island City Council (Council) held on October 18, 2011 and April 3, 2012. A proposed ordinance was presented to the Council at the regular meeting held on April 10, 2012. At the direction of the Council, City staff has revised the ordinance for further review.

At each meeting referenced above City staff presented and the Council discussed among other things, the following topics:

1. Limiting the dates of sale of fireworks.
2. Limiting the permissible dates and times for the discharge of fireworks.
3. Insuring the Fire Department is aware of fireworks storage locations in the City.
4. The need to protect the City's interests by requiring adequate insurance coverage for fireworks vendors.
5. Limiting the total number of fireworks stands.
6. Insuring changes do not go into effect until 2013 to allow fireworks vendors adequate time to adjust their business practices.
7. Increasing the fee for fireworks vendor permits to cover the City's expenses in administering and enforcing its fireworks laws.

## **Discussion**

The proposed ordinance generally makes the following changes to the Chapter 16, Article II of the Grand Island City Code regarding fireworks:

1. Beginning in 2013 fireworks vendors must disclose fireworks storage locations within

- the City.
2. Beginning in 2013 fireworks vendors must maintain a liability policy of no less than one million dollars listing the City as an additional insured.
  3. Beginning in 2013 fireworks sales will be limited from June 28 to July 4.
  4. Beginning in 2013 the sale and discharge of fireworks will be limited to 8 AM to 10 PM for June 28 to July 2, 8 AM to 11 PM for July 3, and 8 AM to midnight for July 4. Signage requirements at fireworks stands will incorporate the new discharge date and time limits when they take effect.
  5. Beginning immediately the discharge of fireworks will be prohibited within 300 feet of stands.
  6. The State statute listing permissible fireworks has been added for reference.
  7. The fee for obtaining a permit to sell fireworks is not listed in this Ordinance. City staff believes waiting to adjust the fee until the 2012-13 fiscal year budget is drafted will allow the compilation of additional data as to the costs borne by the City related to the sale and discharge of fireworks.

The recommendations presented to Council in the attached Ordinance reflect a discussion held between the City, Marv Kohler and Tom Towne.

### **Alternatives**

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

1. Move to approve the proposed amended Ordinance.
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 the Council approve Ordinance No. 9386 amending Chapter 16, Article II of the Grand Island City Code related to fireworks

### **Sample Motion**

Move to approve Ordinance No. 9386 amending Chapter 16, Article II of the Grand Island City Code related to fireworks.

## ORDINANCE NO. 9386

WHEREAS, the Grand Island City Council finds it necessary to amend Chapter 16, Article II of the Grand Island City Code, its laws regulating fireworks, to reflect existing community standards,

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

I. That Chapter 16, Article II of the Grand Island City Code be amended to read as follows:

### Article II. Fireworks

#### §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 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 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 fireworks in the City without first having made making application to the Fire Administration Office (City Hall) for a permit and received ing a permit to do so from the ~~Fire Prevention~~ Life Safety Division. Beginning in 2013, such permits shall require that applicants disclose any location within the geographic boundaries of the City where they are storing fireworks for sale. Beginning in 2013 such 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 all times be displayed at the place of business of the holder thereof. Such permits shall not be transferable.

Amended by Ord. No. 8895, effective 5-12-2004

#### §16-14. Repealed by Ordinance No. 8895

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

Permissible fireworks may be sold or offered for sale in the City of Grand Island on June 27 through and including July 4 of each year. Beginning in 2013 and each year thereafter permissible fireworks may be sold or offered for sale in the City of Grand Island on June 28 through and including July 4. Beginning in 2013 permissible 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.

Approved as to Form	▣ _____
May 21, 2012	▣ City Attorney

July 4 – 8:00 a.m. to midnight

**§16-16. Temporary Fireworks Stands**

Any person having obtained a permit to sell permissible 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 ~~Fire Prevention~~ 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 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.

Amended by Ord. No. 8895, effective 5-12-2004

**§16-16.1. Signage Required**

Smoking shall not be permitted inside or within 50 feet of the temporary fireworks stand or sales area. At least one sign that reads as follows, in letters at least 2 inches in height on a contrasting background, shall be conspicuously posted on the exterior of each side of the fireworks stand:

NO SMOKING WITHIN FIFTY FEET OR  
DISCHARGE OF FIREWORKS  
WITHIN THREE HUNDRED FEET  
~~ON~~ OF THE PREMISES

In addition to the "no smoking" sign, at least one sign, 2 foot by 3 foot in size, on a contrasting background, shall be posted on the exterior of the fireworks stand that reads as follows:

THE GRAND ISLAND CITY CODE ALLOWS  
FIREWORKS TO BE DISCHARGED ONLY ON THE  
FOLLOWING DATES AND TIMES:  
June 27 through July 3 – 8:00 a.m. to 11:00 p.m.  
July 4 – 8:00 a.m. to midnight

Beginning in 2013 and each year thereafter the language of the sign listed immediately above shall be altered to read as follows:

THE GRAND ISLAND CITY CODE ALLOWS  
FIREWORKS TO BE DISCHARGED ONLY ON THE  
FOLLOWING DATES AND 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

Added by Ord. No. 8895, effective 5-12-2004

**§16-17. Age Limitation for Selling Fireworks**

Retail sales establishments shall, at all times, be supervised by a person of at least sixteen (16) years of age. Failure to comply with this regulation may result in immediate revocation of the retail license.

**§16-18. Discharging Fireworks Where Sold**

It shall be unlawful for any person to discharge fireworks in or upon the premises where fireworks are sold or within three hundred (300) feet of the premises.

Amended by Ord. No. 8895, effective 5-12-2004

**§16-19. Explosives; Throwing Prohibited**

It shall be unlawful for any person to throw any firecracker, or any object which explodes upon contact with another object: (1) from, at, or into a motor vehicle; (2) onto any street, highway, or sidewalk; (3) at or near any person; (4) into any building; or (5) into or at any group of persons.

**§16-20. Definitions**

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, 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 Sections 28-1241(7) and 28-1247 of the ~~State Fire Marshal's Act Book~~ Nebraska Revised Statutes. See also *Rules and Regulations concerning fireworks in the State of Nebraska Administrative Code, Title 157*.

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.

Amended by Ord. No. 8895, effective 5-12-2004

**§16-21. Repealed by Ordinance No. 8895**

**§16-22. Discharge of Fireworks**

Permissible fireworks may be discharged, exploded, or used in the City of Grand Island on June 27 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 27 through July 3 ..... 8 a.m. to 11 p.m.  
July 4 ..... 8 a.m. to midnight

Beginning in 2013 and each year thereafter, the following fireworks discharge schedule shall be in effect:

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 ~~Fire Prevention~~ 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 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.

Amended by Ord. No. 8895, effective 5-12-2004

II. Any ordinances or parts of ordinances in conflict are hereby repealed.

III. This ordinance shall be in full force and will take effect from and after its passage and publication pursuant to law.

Enacted: May 22, 2012.

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Jay Vavricek, Mayor

ATTEST:

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RaNae Edwards, City Clerk