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**Chapter 9.65**

**STORAGE, USE AND SALE OF FIREWORKS**

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**9.65.010 Purpose.**

The purpose of this Chapter is to bring the City's regulation of the use of fireworks into compliance with the California State Fire Marshal's Department regulations and to protect and secure the public health, safety and general welfare.

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13.]

**9.65.015 Definition.**

"Safe and Sane Fireworks" shall be as defined in Section 12504 of the California Health and Safety Code, as that section may in the future be amended.

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13.]

**9.65.020 Sale and Discharge of Fireworks.**

"Safe and Sane Fireworks" may only be sold and/or discharged within the City, and such discharge may only occur during the period beginning at 12:00 noon on the 28th day of June and ending at 11:59 pm on the 4th day of July each year.

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13; Ord. No. 599, Section 3, 5/8/19.]

**9.65.025 License Required; Application for License to Sell Fireworks.**

A. Except as otherwise provided herein, no person shall offer for sale or sell fireworks of any kind in the City, without having first applied for and received a license therefore.

B. All applications for licenses to sell fireworks shall:

1. Be made in writing, accompanied by an initial license fee of two hundred dollars (\$200.00), which will be used to defray the cost of administration, inspection and supervision of fireworks licensees. The Temporary Business License application and Temporary Use Permit application shall be incorporated into the Fireworks application;

fees for the Temporary Business License application and Temporary Use Permit are incorporated into the application fee.

2. Be submitted between the first and the last day of March each year, except when the last day falls on a day when City Hall is closed, then the following business day shall be the last day.

3. Set forth the proposed location of the fireworks stand applied for. Each stand must be on private property located in the "C" zoning district or heavier industrial or manufacturing zones of the City, or on public land at the sole discretion of the City. A notarized statement from the owner of record of the property must accompany the application.

4. Be accompanied by an agreement from the manufacturer and/or wholesaler of the fireworks to defend, indemnify and hold the City harmless from any claims, liability, litigation, damages or other injuries resulting from defective fireworks.

5. Include a statement that the applicant agrees to comply strictly with the terms of any license granted to it and furnish any additional information upon request of the City Manager, the City Council or their authorized employees and/or representatives.

C. At the time of issuance of the license, the applicant must deliver to the Business License Department evidence of public liability insurance in an amount not less than one hundred thousand dollars/three hundred thousand dollars (\$100,000.00/\$300,000.00) and not less than fifty thousand dollars (\$50,000.00) property damage insurance in the form and content required by the City, certificated, and a copy of the requisite permit from the State Fire Marshal.

D. At the time of application, each applicant shall submit a non-refundable clean-up fee of either 6% of the organization's prior year's net sales, or \$600, whichever is greater, so that the City recuperates cost of cleaning up after 4th of July holiday. If this is an organization's first year participating, the \$600 rate shall apply.

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13; Ord. No. 599, Section 3, 5/8/19.]

### **9.65.030 General Requirements for Fireworks Licensees.**

The following qualifications must be met by each applicant for a license issued hereunder:

A. No license shall be issued to any person, firm or corporation except non-profit associations or corporations organized primarily for civic betterment or youth activities. Such organizations, groups or individuals shall be limited to one (1) license.

B. Each such organization must have its principal and permanent meeting place within the corporate limits of the City, must maintain a bona fide membership of at least eighty percent (80%) of the organization must be Adelanto residents, and must have been organized and established in the City's corporate limits for a minimum of one (1) year continuously preceding the filing of the application for the business license.

C. No organization may receive more than one (1) license for fireworks sale during any one (1) calendar year. One (1) license may be issued to two (2) or more qualifying applicants as a joint venture, but may only operate one (1) stand. The maximum number of licenses which may be issued pursuant to this Chapter during any one (1) calendar year shall not exceed one (1) license for each three thousand (3,000) residents of the City, or fraction thereof, based on the latest official roster, State of California census estimate.

D. If the number of applications exceeds the number of licenses allowed to be issued, the licenses shall be granted by a drawing supervised by the City Clerk. The drawing will be held at a Council meeting, the applicants will be notified of the drawing date and notification of selection will be performed the following day.

E. Reserved.

F. Reserved.

G. Reserved.

H. Each organization approved for a fireworks stand must participate in the Adopt-A-Street program, and Community Clean-Up Days. The Adopt A-Street program and Community Clean-Up Days can be satisfied by either of the following: (1) twelve (12) Adopt A-Street clean-ups; or (2) ten (10) Adopt A-Street clean-ups and two (2) Community Clean-Up Days. The Community Clean-Up Days shall be scheduled by the City each Spring and Fall. In the event that an organization's street adopted under the Adopt A-Street program is in satisfactory condition, that organization may volunteer to assist another organization with its Adopt-A Street clean up and will receive credit for the clean-ups under the program. Each group shall have at least twenty percent (20%) of their organization participate to earn community service hours, and service hours related to the operation of the organization itself do not qualify. Each organization must provide evidence to the City of their Adopt-A Street clean ups by providing date stamped photographs of trash collected. Photographic evidence must be submitted to [FireWorks@ci.adelanto.ca.us](mailto:FireWorks@ci.adelanto.ca.us).

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13; Ord. No. 599, Section 3, 5/8/19; Ord. No. 605, Section 3, 8/28/19.]

#### **9.65.035 Operation of Fireworks Stand.**

A. No person other than the licensee organization shall operate the stand for which the license is issued or share or otherwise participate in the profits of the operation of such stand.

B. No person other than the individuals who are members of the licensee organization, or the spouses or adult children of such members, shall sell or otherwise participate in the sale of fireworks at such stand(s) except that in no instance shall a person under the age of eighteen (18) years be permitted to sell or otherwise participate in the operation of the fireworks stand.

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13; Ord. No. 599, Section 3, 5/8/19.]

**9.65.040 Temporary Fireworks Stands.**

- A. All fireworks sales must be made from within a temporary fireworks stand, and sales from any other building or structure are prohibited.
- B. No fireworks stand shall be located within twenty-five (25) feet of any other building nor within one hundred (100) feet of any gasoline pump.
- C. All stands shall be erected under the supervision of the Building and Safety Department, and must be constructed in a manner that will reasonably ensure the safety of attendants and patrons. Any building and safety permit fees shall be waived.
- D. No fireworks stand shall have a floor area in excess of three hundred (300) square feet.
- E. Each fireworks stand must have at least two (2) unobstructed exits; and each stand in excess of forty (40) feet in length must have at least three (3) unobstructed exits spaced approximately equidistant apart, provided, however, that in no case shall the distance between the exits exceed twenty-four (24) feet.
- F. Each fireworks stand shall provide two (2), two and one-half (2-1/2) gallon "water pressure" type or 2A10BC dry chemical type fire extinguishers, underwriter approved, in good working order and easily accessible for use in case of fire.
- G. All weeds and combustible materials shall be cleared from the location of the fireworks stand and for a distance of at least fifty (50) feet from any point of the stand.
- H. "No Smoking Within 100 Feet" signs must be prominently displayed on the fireworks stand.
- I. Each fireworks stand must have an adult in attendance and in charge thereof while fireworks are stored therein, including an onsite presence overnight while the stand is closed. Sleeping or remaining in the fireworks stand after close of business each day is forbidden.
- J. Each fireworks stand shall obtain a safety inspection and clearance from the San Bernardino County Fire Department prior to opening.
- K. The sale of fireworks shall not begin before 12:00 noon on the 28th day of June and shall not continue after 11:59pm on the 4th day of July.
- L. Each fireworks stand shall display a sign of at least ten (10) square feet stating that discharge of fireworks is only legal within the City limits between 12:00 noon, June 28 and 11:59pm, July 4.
- M. During the days allowed for the sale of fireworks, no sales shall be made except between the hours of 7:00 a.m. and 12:00 midnight.
- N. All unsold stock and accompanying litter shall be removed from the fireworks stand location by 5:00 p.m. on July 6.

O. The fireworks stand shall be removed, and the temporary site cleared by 12:00 noon on the 10th day of July. If this requirement cannot be met by the July 10th date, the stand operator must work with City staff to arrange for a new pick up date.

P. Each organization operating or participating in a fireworks stand shall submit, to the City, a financial statement of actual sales and profit by 5:00 p.m. August 31, following the fireworks sale, unless that day falls on a day when City Hall is closed, then the following business day shall be the last day. The financial statements are subject to review and approval by the City. The records shall be retained by the City. Failure to comply will result in revocation of future license eligibility.

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13; Ord. No. 599, Section 3, 5/8/19; Ord. No. 605, Section 3, 8/28/19.]

#### **9.65.045 Temporary Sales Tax Permit Required; Display of License and Permit.**

A. Organizations licensed by the City for fireworks sales are required to obtain a temporary sales tax permit from the State Board of Equalization.

B. The temporary sales tax permit and the City license to sell fireworks must be displayed in a prominent place in the fireworks stand.

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13.]

#### **9.65.050 Prohibition on Discharge of Fireworks.**

It shall be unlawful for any person to ignite, explode, project or otherwise fire or use, any fireworks or permit the ignition, explosion or projection thereof, upon or over onto the property of another without his/her consent, or to ignite, explode, project or otherwise fire or make use of any fireworks within ten (10) feet of any residence, dwelling or other structure used as a place of habitation, congregation or assembly, or within one hundred (100) feet of any fireworks stand.

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13.]

#### **9.65.055 Penalties.**

Any person violating any provision of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of one thousand dollars (\$1,000.00), or imprisonment not to exceed one hundred eighty (180) days, or both fine and imprisonment. Further, the fireworks sales license of any licensee who violates or permits any provision of this Chapter to be violated shall be revoked and the licensee shall not be entitled to receive a license for a period of three (3) years thereafter.

[Ord. No. 494, 4/14/10; Ord. No. 516, Section 2, 4/24/13; Ord. No. 605, Section 3, 8/28/19.]