

ORDINANCE NO. 965

AN ORDINANCE TO AMEND THE FIREWORKS PORTION OF CHAPTER 10, ARTICLE 6 OF THE MUNICIPAL CODE OF THE CITY OF ORD, NEBRASKA; TO PROVIDE AN EFFECTIVE DATE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT AND ORDERING THE PUBLICATION OF SAID ORDINANCE IN PAMPHLET FORM, REPEALING ANY ORDINANCES OR OTHER PROVISIONS IN CONFLICT HEREWITH.

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

Section 1. That the Mayor and City Council of Ord, Nebraska, do hereby amend the Fireworks portion of Chapter 10, Article 6 of the Municipal Code of the City of Ord to read as follows:

FIREWORKS

§10-601 FIREWORKS; DEFINITIONS

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them:

DISTRIBUTOR means any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks either as a jobber or as a retailer or both;

JOBBER means any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail;

RETAILER means any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers;

SALE includes barter, exchange, or gift or offer therefor and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

FIREWORKS means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of consumer or special fireworks set forth by the United States Department of Transportation in Title 49 of the Code of Federal Regulations;

CONSUMER FIREWORKS means any of the following devices that (i) meet the requirements set forth in 16 C.F.R. parts 1500 and 1507, as such regulations existed on January 1, 2010, and (ii) are tested and approved by a nationally recognized testing facility or by the State Fire Marshal:

- (A) Any small firework device designed to produce visible effects by combustion and which is required to comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission set forth in 16 C.F.R, as such regulations existed on January 1, 2010;
- (B) Any small device designed to produce audible effects such as a whistling device;
- (C) Any ground device or firecracker containing fifty milligrams or less of explosive composition; or
- (D) Any aerial device containing one hundred thirty milligrams or less of explosive composition.
- (E) Class C explosives as classified by the United States Department of Transportation shall be considered consumer fireworks.
- (F) Consumer fireworks does not include:
 - (i) Rockets that are mounted on a stick or wire and project into the air when ignited, with or without report;
 - (ii) Nighttime parachutes;
 - (iii) Fireworks that are shot into the air and after coming to the ground cause automatic ignition due to sufficient temperature;
 - (iv) Firecrackers that contain more than fifty milligrams of explosive composition; and
 - (v) Fireworks that have been tested by the State Fire Marshal as a response to complaints and have been deemed to be unsafe.

DISPLAY FIREWORKS means those materials manufactured exclusively for use in public exhibitions or displays of fireworks designed to produce visible or audible effects by combustion, deflagration, or detonation. Display fireworks includes, but is not limited to, firecrackers containing more than one hundred thirty milligrams of explosive composition, aerial shells containing more than forty grams of explosive composition, and other display pieces which exceed the limits for classification as consumer fireworks. Class B explosives, also known as 1.3G explosives, as classified by the United States Department of Transportation in 49 C.F.R. 172.101, as such regulation existed on January 2, 2010, shall be considered display fireworks. (1990 Code, §7-301)

Statutory reference:

Related state law provisions, see Neb. RS 28-1241

§10-602 FIREWORKS; GENERALLY

Except as provided in section 10-604, it shall be unlawful for any person to possess, sell, offer for sale, bring into the city limits or discharge any fireworks other than consumer fireworks.

Penalty, see §10.-1101

Statutory reference:

Related state law provisions, see Neb. RS 28-1244

§10-603 FIREWORKS; UNLAWFUL THROWING

A person commits the offense of unlawful throwing of fireworks if he or she throws any firework, or any object which explodes upon contact with another object:

- (a) From or into a motor vehicle,
- (b) onto any street, highway, or sidewalk;
- (c) at or near any person;
- (d) into any building; or
- (e) into or at any group of persons.

Penalty, see §10-1101

Statutory reference:

Related state law provisions, see Neb. RS 28-1242

§10-604 FIREWORKS; UNLAWFUL DISCHARGE; SPECIAL PERMIT

- (1) Discharge of fireworks.

(a) A person commits the offense of discharging fireworks if he or she discharges fireworks, except consumer fireworks, during the period beginning at 8:00 a.m. on June 25 and ending July 4 at 11:59 p.m. of each year. Consumer fireworks can be discharged only during said period of time between the hours of 8:00 a.m. and 10:00 p.m. on June 25 through and including July 3, and between the hours of 8:00 a.m. and 11:59 p.m. on July 4.

(b) However, a person may discharge consumer fireworks at times other than those times designated herein upon obtaining a special permit to do so, which permit may be issued if approved by the Mayor upon application.

(2) It shall further be unlawful to discharge fireworks within 300 feet of a fireworks stand, gasoline station, or any commercial area where flammable materials are stored, or in or on any public park.

§10-605 FIREWORKS; PUBLIC DISPLAYS

(1) No person shall conduct a public exhibition or display of fireworks without first procuring a display permit from the State Fire Marshal. Such application for a display permit shall be accompanied by a fee as provided in Neb. Rev. Stat. 28-1239.01. Said display permit shall also be filed with the City Clerk prior to the exhibition or display.

(2) No display fireworks shall be sold or delivered by a licensed distributor to any person who is not in possession of an approved display permit.

Statutory reference:

Related state law provisions, see Neb. RS 28-1239.01

§10-606 FIREWORKS; WEATHER HAZARD

The Governing Body reserves the power to ban or further limit the sale/discharge of fireworks in the event of dry weather or other weather hazards.

§10-607 FIREWORKS; SALE.

It shall be unlawful for any person to sell, hold for sale, or offer for sale as a distributor, jobber, or retailer any fireworks in this state unless such person has first obtained a license as a distributor, jobber, or retailer pursuant to Neb. Rev. Stat. 28-1246. A copy of said license shall also be filed with the city Clerk, prior to commencement of any sales within the city limits. In addition, application shall be filed with the City clerk upon a form supplied by the City, requesting such information and documents as the City Council may deem necessary as to whether to grant said license. Upon the determination to grant the license, the Council shall direct the City Clerk to collect the appropriate fee and issue said license. Any license so issued may be revoked at any time by the City Council upon property notice and hearing, if one is requested by the licensee. It shall be unlawful to sell, hold for sale, or offer to sale any fireworks within the City except between June 25th and July 4th of each year.

Penalty, see §10-1101

Statutory reference:

Related state law provisions, see Neb. RS 28-1246

Section 2. That any ordinance or section passed and approved prior to the passage and approval of this ordinance and in conflict with its provisions, is hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval and publication in pamphlet form as required by law.

PASSED AND ADOPTED this 3rd day of January, 2022.

ATTEST:

CITY OF ORD

Sandy Kume
City Clerk

BY: [Signature]
Mayor