

AN ORDINANCE RELATING TO THE SALE AND USE OF FIREWORKS

Be it ordained by the City Council of the City of Castle Dale, Emery County, as follows:

SALE AND USE OF FIREWORKS

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Sec. 1-1-1. Sale and Use of Fireworks

(a) Fireworks, as defined by and authorized pursuant to the Utah Fireworks Act (U. C. A.) 11-3-1, et seq.), may be sold within the City on or between:

- (1) June 23 and July 27 of each year:
- (2) beginning on December 29 and ending on January 1:
- (3) and two (2) days before and on Chinese New Year.

(b) Fireworks may be discharged between the hours of 11 am and 11 pm except as noted below or allowed by permit obtained from Castle Dale City

- (1) July 1 through July 7: (July 4 hours extended to midnight)
- (2) July 21 through July 27: (July 24 hours extended to midnight)
- (3) December 31; (11 am through 1 am the following day)
- (4) Chinese New Years Eve (11 am through 1 am the following day)

Sec. 1-1-2. Definitions.

The following terms shall have, for the purpose of this Ordinance, the following definitions:

(a) Authority having jurisdiction (AHJ): Such county and municipal officers who are charged with the enforcement of state and municipal laws; consisting of all fire enforcement officials including designated staff from the Utah State Department of Public Safety.

(b) Allowable Class "C" Fireworks: Those fireworks which are not listed as not approved by the State Fire Marshall.

(c) Indoor Sales: Sales conducted inside permanent structures.

(d) Permanent Structure: A non-movable building, securely attached to a foundation, housing a business licensed to sell merchandise generally, in addition to the sales of fireworks.

(e) Person: An individual, company, partnership, corporation or other business entity.

(f) Pre-packaged: The product is wrapped in a clear plastic wrap or other equivalent material to prevent the fuse of the Class "C" common state approved explosive from being accessible to the customer.

(g) Resale: The act of reselling Class "B" or "C" explosives to a new party.

(h) Temporary stand: A non-permanent structure used for the sale of fireworks.

Sec. 1-1-3. License to Sell Required

Except as provided herein, no person shall offer for sale or sell at retail any fireworks without first having applied for and received a license from the authority having jurisdiction to do so for each location at which the said fireworks are sold or offered for sale. Said license shall be valid from 1 January through 31 December of each calendar year.

Sec. 1-1-4 Application for License

Applications for a license to sell fireworks shall:

(a) Be made in writing, accompanied by a permit fee of Fifty (\$50.00) Dollars in addition to any current annual business license already acquired from the City; and

(b) Set forth the proposed location of the fireworks sales; and

(c) Include for delivery to the City Recorder insurance certificates evidencing public liability insurance coverage in the amount of \$200,000.00/\$400,000.00 and property damage insurance coverage in the amount of \$200,000.00. Such certificates shall designate City as an additional insured; and

(d) Include for delivery to the City Recorder insurance certificates evidencing products liability in an amount not less than \$1,000,000.00; and

(e) Include a statement that the applicant agrees to comply strictly with terms of this Ordinance, the laws of the State of Utah and of City and this license as granted; and

(f) Include evidence of a current sales tax permit issued by the State of Utah.

Sec. 1-1-5 General Requirements

The following shall be general requirements which must be followed by all persons selling fireworks within the City:

- (a) All weeds and combustible materials shall be cleared from any sales location, including a distance of at least twenty-five (25) feet surrounding the sales location; and
- (b) A sign, bearing the message "Discharge of Fireworks Prohibited Within 100 Feet of This Location", in letters at least three (3) inches tall, shall be conspicuously displayed at each sales location; and
- (c) There shall be at least one supervisor, no younger than eighteen (18) years of age, on duty at all times when the sale of fireworks is in progress. Such supervisor shall remain near the sales location at all times unless suitable locking devices are provided to prevent the unauthorized access to the merchandise by others, or unless the merchandise is removed; and
- (d) All fireworks shall be effectively kept away from any kind of self service by the public unless the fireworks are prepackaged and kept in the original packages; and
- (e) The license authorizing the sales of fireworks and a copy of the sales tax permit used by the licensee shall be available for inspection by public safety personnel; and
- (f) Fireworks shall not be sold to any person under the age of sixteen (16) years, unless such person is accompanied by an adult; and
- (g) The storage of fireworks for sale shall not be located in residential areas; and
- (h) Smoking shall not be permitted within fifty (50) feet of any fireworks, either on display for retail sale or being stored. "Smoking Prohibited Within 50 Feet" (or similar wording) signs shall be conspicuously posted at all sales and storage locations; and
- (i) A sign indicating the legal dates for the discharge of fireworks shall be posted at all fireworks sales locations in such a position as to be clearly visible to the general public; and
- (j) All retail sales locations shall be equipped with at least one (1) portable fire extinguisher having a combined rating of no less than 2~A:10~B:C: approved by a recognized testing laboratory; and
- (k) No amount of retail storage or retail sales of fireworks shall, by its presence, create a distinct hazard to any to any person or property.
- (l) The retail seller shall notify the local fire authority where the fireworks are to be stored.

Sec. 1-1-6 Indoor Sales

The following requirements shall be specifically applied to any indoor sales locations:

- (a) In all retail sales locations in permanent structures where fireworks are sold, the area where fireworks are displayed or stored shall be at least fifty (50) feet from any flammable liquid or gas or from any other highly combustible material. Fireworks shall not be stored, including stock for sale, near any exit doorways, stairways or in any location that would impede egress; and

(b) Fireworks shall be stored, handled, displayed and sold only as units in their original packaging; and

(c) Fireworks inside buildings shall be displayed according to the following restrictions:

1. Up to two hundred fifty (250) pounds of fireworks, display of fireworks is unrestricted: and
2. From two hundred fifty-one (251) pounds to five hundred (500) pounds of fireworks, display for fireworks must be within constant visual supervision of sales personnel; and
3. In excess of five hundred (500) pounds of fireworks, display of fireworks must be constantly attended by a salesperson who is over the age of eighteen (18).
4. Display in fully sprinkled buildings shall not exceed 25% of the retail floor space or exceed six hundred (600) square feet, whichever is less.
5. Display in non-sprinklered buildings shall not exceed one hundred twenty-five (125) pounds of pyrotechnic composition. Where the actual weight of the pyrotechnic material is not known, 25 of the gross weight, including the packaging, shall be permitted to determine the weight of the pyrotechnic composition.
6. Display of Class "C" fireworks shall not exceed a height greater than six (6) feet above the floor surface.
7. Rack storage of Class "C" fireworks is prohibited.

Sec.I-1-7 Temporary Fireworks Stand

Retail sales of fireworks shall be permitted from within a temporary fireworks stand.

Sales from such temporary stands shall be subject to the following regulations:

(a) All fireworks stands shall be located in a commercial zone or any other zone that that future change made by planning ordinances provide, no closer than twenty-five (25) feet from any other fireworks stand or any unit used for the storage or dispensing of any flammable substance; and

(b) Fireworks stands need not comply with the provisions of the Uniform Building Code, but all such stands shall be erected in a manner that will reasonably assure the safety of occupants and patrons; and

(c) Each stand up to twenty-four (24) feet in length must have at least two (2) exits. Each stand in excess of twenty-four (24) feet in length must have at least three (3) exits. All exits shall be spaced at approximately equal distances apart. Exit locking devices, if any, shall be easily released from the inside without special knowledge, key or effort; and

(d) Each stand shall maintain a two and one-half (2-112) gallon 2A rated water fire extinguisher or an ABC minimum 2-A;10-B; C rated fire extinguisher near each exit and such extinguishers shall be kept in good working order with a current inspection

tag and shall be easily accessible for use; and

(e) Two signs, each sign bearing the message "No Smoking Within 50 Feet of This Stand" in letters at least three (3) inches tall. Shall be displayed on each and every side of a fireworks stand; and

(f) Fireworks stands shall be removed within seven (7) days after retail sales shall cease and the licensee shall clean the site upon which the temporary stand was formerly located; and

(g) Prior to the issuance of a license for a temporary stand, each applicant shall file with the City Recorder a cash deposit, irrevocable letter of credit or a surety bond made payable to the City in the amount of One Hundred Fifty (\$150.00) for each temporary stand to be operated by the applicant. Such deposit, letter or bond shall assure compliance with the provisions of this Ordinance, to remove the stand and clean the site as required. The City may do so or cause the same to be done and the reasonable cost thereof shall be charged against the licensee and the deposit, letter of credit or security bond; and

(h) Each temporary stand in which customers enter shall have a minimum three (3) foot wide unobstructed aisle running the length of the stand, inside and behind the sales counter; and

(i) Any pass through openings for the sales of fireworks in temporary stands shall be arranged to permit the customer to view the merchandise for sale but shall prevent the touching or handling of non-packaged fireworks by the customer; and

(j) In the event that the temporary stand is used for the overnight storage of fireworks, it shall be equipped with suitable locking devices to prevent unauthorized entry; and

(k) No person shall sleep in a temporary fireworks stand.

Sec. 1-1-8 Prohibition of Discharge

It shall be unlawful for any person to:

(a) Discharge a firework within one hundred (100) feet of any fireworks location; and

(b) Ignite, explode, project or otherwise fire or use, or permit the ignition, explosion or projection of any fireworks upon or over or on the property of another; and

(c) Ignite, explode or otherwise make use of any fireworks within twenty (20) feet of any residence, dwelling or structure.

Sec. 1-1-9 Repeal of Conflicting Provisions

Any ordinances or provisions thereof which are in conflict with this Ordinance of City are hereby repealed to the extent of such conflict.

Sec. 1-1-10 Penalty

Any person violating the provisions of this Ordinance shall be deemed guilty of a Class B Misdemeanor.

Any official charged with the enforcement of this Ordinance or Utah Fireworks Act may seize fireworks that are offered for sale, sold or in the possession of individuals in violation of this Ordinance or Utah Fireworks Act.

In the opinion of the City Council it is necessary for the immediate preservation of the peace, health, safety and welfare of the City and the inhabitants thereof that this Ordinance shall take effect immediately upon posting or publication.

PASSED AND APPROVED BY THE City Council of Castle Dale City, Utah this
30th day of May 2012