

- (h) The manner in which the object is displayed for sale,
- (i) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise,
- (j) The existence or scope of legitimate uses for the object in the community, and
- (k) Expert testimony concerning its use.

**4.54.220 DISPLAY OF DRUG PARAPHERNALIA.** Except as authorized by law, it is unlawful for any person to willfully maintain or operate any business knowing or under circumstances where one reasonably should know that drug paraphernalia is displayed at such business.

Except as authorized by law, it is unlawful for any person who is the owner of a business, an employee thereof or one who works at such business as an agent of the owner, to willfully display drug paraphernalia at such business.

**4.54.225 DISTRIBUTION OF DRUG PARAPHERNALIA.** Except as authorized by law, it is unlawful for any person to willfully distribute to another person drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, product, process, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of any law of the state.

**4.54.230 EXCEPTIONS.** No provision of this Article shall be deemed, whether directly or indirectly, to authorize any act which is otherwise prohibited by any law of the state or require any act which is otherwise prohibited by any law of the state. Nor shall any provision of this Article be deemed, whether directly or indirectly, to prohibit any act or acts which are prohibited by any law of the state.

#### **Article 4 Fireworks**

**4.54.300 GENERAL PROHIBITION AGAINST POSSESSION, SALE OR USE OF FIREWORKS.** Except as otherwise provided in this Article, no person shall possess, sell, use, display or explode any rocket, firecracker, roman candle, squib, torpedo, torpedo cane, fire balloon, wire core sparkler, wooden core sparkler, black cartridge or other combustible device or explosive substance or any kind of fireworks, by whatsoever name known, within the City.

**4.54.310 EXCEPTION - CERTAIN PUBLIC DISPLAYS.** Public displays of fireworks may be given with a written permit issued by the fire chief, or the fire chief's designee, of the fire district within which the display is to be given so long as such display takes place under the supervision and direction of a State of California licensed fireworks operator.

**4.54.320 EXCEPTION - SAFE AND SANE FIREWORKS.** It shall not be unlawful to possess, sell, use, display or discharge within the City those fireworks as are defined and classified as "safe and sane fireworks" in Part 2 (commencing with Section 12500) of Division 11 of the California Health and Safety Code during that time period beginning at 12:00 noon on June 28 and ending at 10.00 p.m. on July 5 of the same year.

**4.54.330 LICENSE TO SELL FIREWORKS REQUIRED.** It shall be unlawful for any person to sell "safe and sane fireworks" within the City without a valid City business license authorizing such sales.

**4.54.340 WHOLESALE STORAGE OF FIREWORKS.** The wholesale storage of fireworks shall be unlawful in the City without valid permits for such storage from the fire district in whose jurisdiction the storage site is located and the Chief Building Inspector. Any such storage is limited to the period from June 1st through July 15th of each year.

**4.54.350 LICENSE RESTRICTED.**

(a) No City business license authorizing the sale of "safe and sane fireworks" shall be issued to any person, firm, corporation, organization or group other than organizations which are exempted from the payment of the bank and corporation tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), 23701(h), 23701(i), 23701(j), 23701(k), 23701(l), 23701(m), 23701(n), 23701(o), 23701(p), 23701(q), 23701(r), 23701(s), 23701(t), 23701(u), 23701(v), 23701(w) of the Revenue and Taxation Code as long as the organization satisfies the following criteria:

- (1) It has its principal and permanent meeting place in the City of Elk Grove;
- (2) It has been organized and established in the City of Elk Grove for a continuous period of at least one (1) year immediately preceding the application for a permit; and
- (3) It has a bona fide membership of at least twenty (20) members.

(b) No organization shall submit more than two applications for licenses to sell fireworks within the City. Submittal of more than two such applications shall be grounds for denial of all applications.

(c) City business licenses authorizing the sale of "safe and sane fireworks" shall not be transferable to another organization.

(d) Transfer of temporary stands from the location for which the license was initially issued may be made if the application is made to the City Manager on or before the first day of June, and if any such location change has been approved in writing by the fire district having jurisdiction, the Chief Building Inspector, and otherwise complies with all provisions of this Article regulating the location of temporary fireworks stands.

#### **4.54.360 APPLICATION.**

(a) All applications for a City business license to sell fireworks shall be in writing to the City Manager on forms supplied by the City. Applications shall be received and filed with the City Manager on or before the second Tuesday in April of each year. Applications shall specify the proposed location of the fireworks stand, the name, address and telephone number of one or more responsible adults who will be in charge of and responsible for the fireworks stand during the period fireworks are sold, displayed or stored, such other information as may be required by the City Manager, and an application fee in an amount periodically set by the City Council.

(b) The application shall be made in triplicate. The original of the application shall be retained by the City Manager, one copy shall be transmitted to the fire district in whose jurisdiction the proposed fireworks stand will be located, and one copy shall be sent to the City Building Inspection Division.

(c) Applicants for a license shall be notified by the City Manager of the tentative approval or denial of the application for a City business license by the first Monday in May of each calendar year. Within two weeks of the notification of the tentative approval of the City business license, the applicant shall furnish to the City's Risk Manager evidence of insurance providing comprehensive general liability coverage written on an occurrence basis, including but not limited to premises/operations, personal injury contractual liability, independent contractors, and products/completed operations, with a \$1 million combined single limits for bodily injury and property damage. The insurance policy shall designate the City, its officers, agents, employees and volunteers as additional insureds as to products sold and to premises/operations of the named insured. The insurance policy shall further be endorsed to provide that any insurance and/or self insurance maintained by the City of Elk Grove shall apply in excess of, and not contribute with, insurance provided by the applicant. The City Risk Manager shall be the certificate holder. In the event of non-renewal or cancellation of the insurance policy, thirty (30) days advance notice shall be provided to the the City's Risk Manager. The insurance policy shall be limited to the specific location for which the City business license is issued. The City Manager shall issue the license to the applicant upon the presentation and approval of required proof of insurance.

(d) A copy of the City business license shall be transmitted to the fire district in whose jurisdiction the proposed fireworks stand will be located.

(e) The continued validity of any City business license issued pursuant to this Article shall be subject to the requirement that at least one of the responsible adults listed in the licensee's application shall attend a fireworks stand operator seminar conducted by the fireworks industry and approved by a fire department or fire district within the City. The failure of a licensee to have such a responsible individual attend such safety seminar shall subject the City business license to revocation.

#### **4.54.370 DENIAL OF LICENSE.**

(a) The City Manager shall issue the City business license to sell fireworks unless:

(1) The City Manager finds in writing that the applicant has failed to provide sufficient or adequate plans, information or other data necessary to permit a determination respecting compliance with the requirements of this Article;

(2) The City Manager finds in writing that the applicant is not in compliance with any of the requirements of this Article;

(3) The City Manager finds in writing that the applicant falls within the provisions of Section 4.54.420(c) of this Article; or

(4) Either the fire district in whose jurisdiction the proposed stand will be located or the City Building Inspection Division fails to approve the application.

(b) Any denial of a license pursuant to this section may be appealed pursuant to the procedures set forth in Section 4.54.420(b) of this Article.

#### **4.54.380 OPERATION OF STAND.**

(a) No person shall sell fireworks to any person under the age of eighteen.

(b) Sale of fireworks shall begin no earlier than 12:00 noon on June 28th and shall not continue after 10:00 p.m. on July 5th of the same year. Sale of fireworks shall be permitted only from 9:00 a.m. to 10:00 p.m. daily.

(c) 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.

(d) No person other than the individuals who are members of the licensee organization or the wives, husbands, parents or adult children of such members shall sell or otherwise participate in the sale of fireworks at such stand.

(e) No person under the age of eighteen shall sell or participate in the sale of fireworks.

(f) No person shall be paid any consideration by the licensee or any wholesale distributor of "safe and sane" fireworks for selling or otherwise participating in the sale of fireworks at such stand except compensation may be paid for security personnel during non-sale hours and to the party authorizing location of the stand on its property.

(g) Fireworks stands shall be removed from the temporary locations by noon on July 18th, and all accompanying litter shall be cleared from such locations by that date and time.

**4.54.390 TEMPORARY FIREWORKS STAND.** All retail sales of "safe and sane" fireworks shall be permitted only from within a temporary fireworks stand, and the sale from any other building or structure is hereby prohibited. Temporary stands shall be subject to the following provisions:

(a) No fireworks stand shall be located within twenty-five feet of any other building or within one hundred feet of any gasoline pump or distribution point.

(b) Fireworks stands need not comply with the provisions of the applicable Building Code except all stands shall be erected under the supervision of the Chief Building Inspector, who shall require that stands be constructed in a manner that will reasonably insure the safety of attendants and patrons and that any electrical installations shall comply with all applicable codes.

(c) No stand shall have a floor area in excess of seven hundred and fifty square feet.

(d) Each stand shall have at least two exits. Each stand in excess of forty feet in length shall have at least three exits spaced approximately equidistant apart except in no case shall the distance between exits exceed twenty feet. Exit doors shall be not less than twenty-four inches wide and six feet and two inches in height and shall swing in the direction of exit travel.

(e) Each stand shall be provided with two (2) two and one-half gallon "water-type" (minimum rating 2A) fire extinguishers in good working order and easily accessible for use in case of fire.

(f) Fireworks stands shall be located on property zoned SC, LC, GC, AC, TC, M-1 or M-2, or in any other zoning classification if the County's Chief Building Inspector certifies in writing to the City Manager that the operation of a fireworks location in such other zoning classification will not endanger the health and safety of the community or create a fire hazard to surrounding properties.

**4.54.400 GENERAL REQUIREMENTS FOR LICENSEES.**

(a) Stands shall not be located closer than six hundred feet apart, unless separated by a principal arterial roadway.

(b) All weeds and combustible material shall be cleared from the location of the stand to a distance of at least twenty-five feet surrounding the stand.

(c) "NO SMOKING" signs shall be prominently displayed on and in the fireworks stand.

(d) Each stand must have an adult watchman in attendance and in charge thereof when the stand is being used for sale, dispensing or storage of fireworks.

(e) All unsold stock of fireworks in the hands of the retailer after 10:00 p.m. on the 5th day of July shall be returned to the distributor or wholesaler and removed from the City within ten days. On closing of stands, all litter shall be removed from the premises.

(f) No fuel-powered generator or similar equipment shall be allowed within fifty (50) feet of a fireworks stand.

**4.54.410 ENFORCEMENT.** The division of authority for enforcement of this Article shall be as follows:

(a) The chief of any fire protection district or his designated representatives shall have authority to enforce this Article and issue citations for violations in their respective districts.

(b) The City Building Inspector shall have authority to enforce this Article in any area lying without any fire protection district.

(c) The City Building Inspector shall have authority to enforce this Article in any fire protection district upon request of the chief of the fire protection district or the governing body thereof.

**4.54.420 REVOCATION OF LICENSE - APPEAL.**

(a) The City Building Inspector may revoke, immediately and without notice or hearing, the license of any licensee who violates the provisions of Section 4.54.360(e), Section 4.54.380(a), (b) or (e), or Section 4.54.400(d). If the revocation occurs between June 22nd and July 5th, the City Building Inspector shall inform the licensee that the licensee may seek review of the City Building Inspector's decision by the City Manager, or the City Manager's designee, on the next business day. At the earliest opportunity on the next business day after the revocation, the City Building Inspector shall provide the City Manager with written notice that a fireworks business license has been revoked, including the name of the licensee and a brief statement of the grounds for revocation. If requested by the licensee, the City Manager, or the City Manager's designee, shall meet with the licensee on that day to review the City Building Inspector's decision. The decision of the City Manager or his designee shall be final. If the revocation occurs before or after the specified period, the appeal procedures of subsection (b) shall apply.

(b) The City Building Inspector may revoke the license of any licensee who violates any provision of this Article not specified in subsection (a). Such revocation shall not take effect for five days, during which time the licensee may seek review of the City Building Inspector's decision by submitting a written request for review to the City Manager. The City Building Inspector shall provide the City Manager with written notice that a fireworks license has been revoked, including the name of the licensee and a brief statement of the grounds for revocation. The City Manager, or the City Manager's