



Owatonna Fire Department

107 West Main Street
Owatonna, Minnesota 55060-2913

Ed Hoffman
Fire Chief
(507) 444-2454

FIREWORKS DEALER'S LICENSE APPLICATION

SECTION 111

ORDINANCE CODE OF OWATONNA

Name of Applicant _____

Circle One: Natural person, Corporation, Partnership, Business Association, Organization

Address _____

Phone Number _____ Hours of operation _____

Street Address of premises to be licensed _____

Zoning District of licensed premises _____

Are all real estate and personal property taxes that are due and payable for the premises paid? YES NO

Does applicant own the business premises? YES NO If not, a true and correct copy of the current, executed lease and the written authorization of the property owner for the applicant's use of the property for the sale of permitted consumer fireworks is required.

Description of on-site management and parking facilities _____

Detailed site plan illustrating and describing proposed sales and storage areas to be covered by this license has been attached. YES NO

Name of Person in Charge of Premises _____

Address _____

Phone Number _____

I have read the above mentioned Section 111, Ordinance Code of Owatonna and have knowledge of its terms and provisions, and I agree to obey all the terms, provisions and requirements of said ordinance and all other ordinances of the City of Owatonna and all the laws of the State of Minnesota.

Signature of Applicant

Date

City of Owatonna
Consumer Fireworks Ordinance

Chapter 111: FIREWORKS

Section 111.01. Purpose and Findings.

(A) The purpose of this Section is to regulate the sale of permitted consumer fireworks in order to protect the health, safety, and welfare of the general public.

(B) The City Council makes the following findings regarding the need to license and regulate the sale, distribution, storage, and display of fireworks permitted under State law.

- (1) Consumer fireworks contain pyrotechnic chemical compositions that are combustible; accordingly, the unregulated accumulation, storage, display, and sale of these items present a fire safety hazard.
- (2) The improper disposal of consumer fireworks presents environmental hazards.
- (3) Regular inspection, sampling and testing of the consumer fireworks being offered for sale is necessary to assure compliance with the limitations set forth in Minnesota Statutes §624.20, Subd. 1 (c), as it may be amended from time to time, as to chemical content.
- (4) Regular police inspections are necessary to prevent the sale of these materials to minors.
- (5) Regular inspections by the City Fire Chief are necessary to prevent improper display, storage, and disposal of consumer fireworks.
- (6) Accurate information concerning the addresses and locations of persons dealing in permitted consumer fireworks in the city is necessary to facilitate the inspection of the premises for compliance with necessary safety regulations and performance standards and to assist the city in responding to any emergency situation arising out of or adjacent to this business.

Section 111.02. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Adult. A person 18 years of age or older.

Business. The business of selling, storing or displaying any form of permitted consumer fireworks.

Issuing authority. The City of Owatonna.

Licensed premises. The premises described in the approved license application and approved site plan for the sale, display and storage of permitted consumer fireworks.

Licensee. The person to whom a license is issued under this chapter, including any agents or employees of the person.

Licensed consumer fireworks. Those non-explosive, non-aerial pyrotechnic entertainment devices containing only the limited amounts of pyrotechnic chemical compositions permitted by Minnesota Statutes Section 624.20, Subd. 1(c), as it may be amended from time to time.

Person. One or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or non-profit corporation; a trust; a political subdivision of the state; or any other business organization.

Section 111.03. License Required.

No person shall keep for retail sale or wholesale distribution, sell at retail or wholesale, or otherwise supply or furnish as part of a commercial transaction any permitted consumer fireworks without first having obtained a current license hereunder, paid the required license fee and conspicuously posted the license on the licensed premises. Issuance of a license under this chapter shall not relieve the person from obtaining any other licenses required by this code of ordinances, state law or federal law to conduct this or other businesses at the same or any other location.

Section 111.04. License Fee; Term of License.

- (A) The annual license fee shall be in the amount duly established by the Council from time to time. The license fee shall cover the administrative and enforcement costs, including the conduct of unannounced compliance checks, inspections by the Fire Chief, inspections by the Police Department or other city department, as well as sampling and testing of the merchandise to ascertain chemical content. Full payment of the required license fee shall accompany the application.
- (B) When the license is for premises not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be 90 days after approval of the license or upon the date the building is ready for occupancy, whichever is sooner.
- (C) When a new license application is submitted as a result of incorporation by an existing licensee and the ownership, control, and interest in the license are unchanged, no additional fee shall be required.
- (D) A separate fee and license shall be required for each separate, non-contiguous licensed premises, even if owned and operated by the same licensee. An application for the renewal of an existing license shall be made prior to the expiration date of the license and shall be made in such form as the issuing authority requires.
- (E) The annual license expires December 31 of each year.
- (F) The annual license fee of each retail seller that is in the business of selling only the permitted consumer fireworks as described by Minn. Stat. §624.20, Subd. 1(c), as it may be amended from time to time, may not exceed \$350, and the annual license fee of each other retail seller may not exceed \$100.

Section 111.05. License Application.

An application for a license under this chapter shall be made on a form supplied by the issuing authority and shall contain the following information:

- (A) Whether the applicant is a natural person, corporation, partnership or any other business association or organization.
- (B) The applicant's full legal name, mailing address, and telephone number.

- (C) The street address or legal description of the premises to be licensed and the zoning district.
- (D) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid and, if not paid, the years and amounts that are unpaid.
- (E) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the City Building and Inspection Division, no plans need be submitted to the issuing authority.
- (F) If the applicant does not own the business premises, a true and correct copy of the current, executed lease, as well as the written authorization of the property owner for the applicant's use of the property for the sale of permitted consumer fireworks.
- (G) The applicant's hours of operation, description of on-site management and parking facilities.
- (H) A detailed site plan illustrating and describing the proposed sales and storage areas covered by the license.
- (I) The full name, mailing address and telephone number of the person in charge of the licensed premises.
- (J) Such other information as the issuing authority may require.

Section 111.06. License Application Verification and Consideration.

- (A) **Verification.** Applications for a license under this chapter shall be submitted to the issuing authority who shall verify the information on the application form. The issuing authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant.
- (B) **Consideration.** After verifying the information contained on the license application, the issuing authority shall then route the application to the City Fire Chief which shall review the site plan and determine if the manner of storage, display or sales area of the licensed premises constitutes a fire or safety hazard. In assessing the potential hazard, reference shall be made to all applicable state and federal laws, rules and regulations, as well as the administrative standards for the storage, display and sales of permitted consumer fireworks established by the Fire Chief. If the Fire Chief finds no such hazard with the proposed site plan, the issuing authority shall grant the license in accordance with this chapter, provided all other requirements of this chapter are met. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.
- (C) **Denial of Application.** If the application is denied, the issuing authority shall notify the applicant of that determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within 20 days after the date of the notice to request an appeal of the denial to the City Council. If an appeal to the City Council is timely received by the city, the hearing before the City Council shall take place within a reasonable period thereafter.

Section 111.07. Persons and Locations Ineligible for a License.

(A) Persons ineligible. No original or renewal license under this chapter shall be issued to an applicant if such applicant or any manager, proprietor, or agent in charge of the business to be licensed:

- (1) Is not 18 years of age or older on the date the license application is submitted to the issuing authority;
- (2) Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes Section 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a purveyor of permitted consumer fireworks as prescribed by Minnesota Statutes Section 364.03, Subd. 3 as it may be amended from time to time;
- (3) Is not of good moral character or repute;
- (4) Has knowingly falsified or misrepresented information on the license application;
- (5) Is not the real party in interest in the business being licensed; or
- (6) Owes taxes, assessments, fines, or other obligations to the United States, state, county, school district, or city that are due and delinquent.

(B) Locations ineligible. The following locations shall be ineligible for a license under this chapter.

- (1) Claims due. No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the United States, state, county, school district, or city are due, delinquent, or unpaid. In the event a suit has been commenced under Minnesota Statutes Sections 278.01-278.14, as they may be amended from time to time, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due.
- (2) Improper zoning. No license shall be granted if the property is not properly zoned for the activity being licensed under this chapter, unless the business is a legal, non-conforming use.

Section 111.08. License Restrictions.

- (A) License display. A license issued under this chapter must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application.
- (B) Licensed premises. A separate license is required for each place of business.
- (C) Change in ownership. Any change, directly or beneficially, in the ownership of the licensed business shall require the application for a new license and the new owner must satisfy all current eligibility requirements.
- (D) Non-transferable. Each license under this chapter shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give or assign a license to another person.
- (E) Location restrictions. A license under this chapter authorizes the licensee to carry on its business only at the place of business designated on the license. However, upon written request, the city may approve an off-site locked and secured storage facility. Such a site must meet all city zoning

requirements and must have the written approval of the City Fire Chief. Buildings used for the storage of consumer fireworks shall be non-residential, shall not exceed one story, and shall be without basements. The licensee shall permit inspection of the facility in accordance with this chapter. Property shall be stored in compliance with all provisions of the City Ordinance Code and in compliance with the standards established by the City's Fire Chief. The licensee must either own the premises on which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises which extends for more than one month. No retail business transactions shall be conducted at this off-site storage site.

- (F) Fire restrictions. Smoking, matches, open flames, spark-producing devices and firearms shall not be permitted inside of the licensed premises or an approved storage building or within 25 feet (7.6 m) of stored consumer fireworks. Signs that read "FIREWORKS – NO SMOKING" in letters not less than 4 inches (101.6 m) in height on a contrasting background shall be conspicuously posted.
- (G) Flammable liquids, gases. No consumer fireworks shall be stored within 50 feet of any dispensing unit for flammable liquids or gases.
- (H) Firefighting equipment. Portable fire-fighting equipment shall be provided in consumer fireworks storage areas as required by the authority having jurisdiction.
- (I) Emergency action plan. The operator of each consumer fireworks storage building shall prepare a written emergency action plan for employees that provides specific directions to be followed in the event of a fire. Employees shall be trained to follow this plan.

Section 111.09. Operation Restrictions.

- (A) Prohibited transactions. No licensee, clerk, agent or employee thereof shall sell, distribute or furnish any permitted consumer fireworks to a person under the age of 18 years, any person who is obviously intoxicated, chemically impaired or incompetent, or any person who fails to present competent age identification in the form of a current, valid Minnesota driver's license, current, valid Minnesota identification card, or current, valid photo driver's license or photo identification issued by another state or a province of Canada.
- (B) Inspection of items. The licensee must, at all times during the term of the license, allow the authorized agents of the City Police Department, the City Fire Chief or issuing authority to enter the premises where the licensed business is located, including all display areas, storage areas and all approved off-site storage facilities, during normal business hours, or beyond normal business hours where the inspector determines an emergency situation exists, for the purpose of inspecting such premises and inspecting the items, ware, and merchandise therein for the purpose of verifying compliance with the requirements of this chapter, and any other applicable state and federal regulations. Upon request, the licensee must provide a test sample to the inspector for the purpose of verifying the chemical content of the merchandise.
- (C) Maintenance of order. A licensee under this chapter shall be responsible for the conduct of the business being operated and shall maintain conditions of order.
- (D) Smoking prohibited; open fires. A licensee under this chapter must strictly prohibit any cigarette, cigar, pipe smoking or any other open fires in or around the licensed premises and conspicuously post and maintain appropriate "NO SMOKING" signage throughout.

- (E) Proper disposal of unsold permitted consumer fireworks. It shall be the responsibility of the licensee to properly dispose of all unsold permitted consumer fireworks. Any consequential cost to the city for disposal of these goods shall be the ultimate responsibility of the licensee.
- (F) Maintenance of sales and storage areas. Any significant deviation, enlargement, or alteration from the approved site plan for the sales display and storage areas covered by the license must be pre-approved in writing by the City Fire Chief.
- (G) Confiscation and destruction of illegal fireworks.
 - (1) Any authorized agent of the Police Department or Fire Department may seize, take, remove or cause to be removed all stocks of fireworks or other combustibles offered or exposed for sale, stored or held in violation of this chapter or applicable state or federal law.
 - (2) Any consequential cost to the city for disposal of these goods shall be the ultimate responsibility of the licensee.

Section 111.10. Sanctions for License Violations.

- (A) Suspension or revocation. The City Council may suspend or revoke a license issued pursuant to this chapter for a violation of:
 - (1) Fraud, misrepresentation, or false statement contained in a license application or a renewal application;
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business;
 - (3) Any violation of this chapter or federal, state law, or other municipal ordinance;
 - (4) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes Section 364.03, Subd. 2, as it may be amended from time to time; provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes Section 364.03, Subd. 3, as it may be amended from time to time;
 - (5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community; and/or
 - (6) Any significant unauthorized deviation, enlargement, or alteration of the approved site plan for the storage and sales display areas of the licensed premises shall, in and of itself, constitute a basis for license revocation.
- (B) Notice of hearing. A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least eight days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular and certified mail to the licensee at the most recent address listed on the license application.

Section 111.99. Penalty.

A violation of this chapter shall be a misdemeanor.

If you have any questions regarding the sale of retail fireworks, please give me a call at 507-444-2454.

Sincerely,

Ed Hoffman

FIRE CHIEF, CITY OF OWATONNA