

On motion by **Councilman Marino** and seconded by **Councilman Rau**, the following ordinance was introduced:

ORDINANCE NO. 4692

An ordinance as amended amending the Gretna Code of Ordinances Chapter 22. –Businesses; Section 22-3. – Fireworks Permits and Chapter 66. Article II. – Fireworks.

WHEREAS, the City of Gretna has interest in the health, safety and welfare of its citizens; and

WHEREAS, the City of Gretna has the need from time to time make amendments for enforcement procedures.

NOW THEREFORE BE IT ORDAINED, by the Gretna City Council, acting as legislative authority for said city that:

Sec. 22-3. - Fireworks permits and licenses.

(a) The number of fireworks permits and licenses is fixed at twenty nine (29) and shall only be issued to the 29 locations holding a license in 2015.

(b) It shall be unlawful to sell any items of fireworks as a retailer without first obtaining a permit/license, to be issued by the tax department of the city as follows:

(1) An applicant to engage in the sale of fireworks as a retailer must complete an application on a form provided by the city, setting forth such facts and information as the city may determine necessary and proper, including but not limited to the location and a plot plan of the fireworks retail location. Application shall also include an affidavit by the applicant that no counter letter or similar business transaction has been made with a second party and further stating that the business will be operated by the applicant or a qualified individual under the supervision of the applicant and identifying all individuals with an ownership interest in the retail sale of fireworks under the permit/license. Any fraudulent application will make the permit/ license null and void.

(2) All applications shall be accompanied by a copy of the previous year's sales tax return and certified copies of any lease agreement, partnership agreement or incorporation charter. The applicant must pay all taxes and fees due to the city.

(3) The applicant shall pay a license fee of \$250.00 for a license and a \$1,250.00 permit fee to engage in the sale of fireworks as a retailer.

(4) Each application for a permit/license for the possession, sale, offering for sale and use of specified pyrotechnics shall be accompanied by a \$250.00 deposit to apply to the sales tax collected for the sales thereof and cleanup expenses of site.

(5) No person convicted of a felony in this state or any state in the United States, may hold a valid permit or license provided herein nor shall such person engage in the sale or offering for sale of fireworks within the city limits.

(c) On June 1 of every year fireworks permits/licenses application and fees become due and payable and may be renewed. Retail fireworks permits/licenses received after June 1 of each year shall incur a penalty of 50 percent of the cost of the permit. Any permits/licenses that have not been purchased by December 1 will be considered abandoned.

(d) The city prohibits the issuance of fireworks permits/licenses or the renewal of same for license holders and/or property owners that have been found in violation of any city, state or federal laws.

ARTICLE II. - FIREWORKS

Sec. 66-54. - Fireworks.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Retailer* means any person engaged in the business of making sales of fireworks at retail to persons other than a distributor or a jobber.

(2) *Sale* means the sale, barter, exchanges or gift or offer therefore, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

(b) It shall be unlawful for any person to possess, sell or offer for sale or use within the city any pyrotechnics (commonly known as fireworks) other than the permissible fireworks hereinafter enumerated. The permissible fireworks consist of ICC class "C" "common fireworks," and shall mean such articles of fireworks as are enumerated or may hereinafter be enumerated as ICC class "C" fireworks in the regulations of the interstate commerce commission for the transportation of explosives and other dangerous articles and shall include but not be limited to the following:

(1) *Roman candles*. Total pyrotechnic composition not to exceed 20 grams each in weight (10 ball).

(2) *Skyrockets with sticks*. Total pyrotechnic composition not to exceed 20 grams in weight (6 oz.). The rocket sticks must be securely fastened to the casing.

(3) *Helicopter type rockets*. Total pyrotechnic composition not to exceed 20 grams each in weight.

(4) *Cylindrical fountains*. Total pyrotechnic composition not to exceed 75 grams each in weight. The inside tube diameter shall not exceed three-fourths inch.

(5) *Cone fountains*. Total pyrotechnic composition not to exceed 50 grams each in weight.

(6) *Wheels*. Total pyrotechnic composition not to exceed 60 grams in weight for each driver unit, but there may be any number of drivers on any one unit. The inside bore of driver tubes shall not be over one-half inch.

(7) *Illuminating torches and colored fire in any form*. Total pyrotechnic composition not to exceed 100 grams each in weight.

(8) *Sparklers and dipped stocks*. Total pyrotechnic composition not to exceed 100 grams each in weight. Pyrotechnic composition containing any chlorate or perchlorate shall not exceed five grams.

(9) *[Mines and shells.]* Mines and shells, of which the mortar is an integral part, total pyrotechnic composition not to exceed 40 grams each in weight.

(10) *[Firecrackers and salutes.]* Firecrackers and salutes, with castings, the external dimensions of which do not exceed one and one-half inches in length or one-quarter inch in diameter and other items designed to produce an audible effect, total pyrotechnic composition not to exceed two grains each in weight.

(11) *Combination of two or more*. Items composed of a combination of two or more articles or devices of the above-enumerated approved items.

(12) *Whistles*. Domestic or imported whistles with report.

No component of any device listed in this subsection, which is designed to produce an audible effect shall contain pyrotechnic composition in excess of two grains in weight, excluding propelling or expelling charges.

(c) Permissible items of fireworks enumerated in subsection (b) of this section may be sold at retail and ignited or exploded from June 25 through July 5 and December 15 through January 1 of each year and then only as follows:

June 25—July 2	9:00 a.m. to 11:00 p.m.
July 3—July 4	9:00 a.m. to 12:00 midnight
July 5	9:00 a.m. to 11:00 p.m.
Dec. 15—Dec. 28	9:00 a.m. to 11:00 p.m.
Dec. 29—Dec. 30	9:00 a.m. to 12:00 midnight
December 31	9:00 a.m. to 1:00 a.m.
January 1	9:00 a.m. to 11:00 p.m.

(d) It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of ten years or to any intoxicated or irresponsible person. It shall be unlawful to explode or ignite fireworks within 1,000 feet of any church, hospital, asylum, public school or within 75 feet of where fireworks are stored, sold or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle.

(e) Nothing in this section shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical or athletic events.

(f) (1) Applicants for the retail sale of fireworks shall be permitted to install portable buildings two weeks before the opening dates for the sale of fireworks and shall be permitted two weeks to remove the buildings after the closing dates of the sale of the fireworks. All trash and signs relating to the sale of fireworks shall be removed within five days after the last day of the sale of fireworks. No more than two buildings shall be allowed for each lot or municipal address. No building can be moved from one location to another after the permit/license is issued without the approval of the City and amendment of the application. The operator of the retail outlet shall provide adequate trash containers or storage of disposable waste and shall be responsible for the cleanliness of the area around the retail outlet.

(2) Fireworks retailers doing business within the city must store all portable buildings, signs and other materials related to the sale of fireworks behind sight-obscuring fences located in C-2 general commercial or M-1 and M-2 industrial districts within five days after the last day on which the sale of fireworks is permitted under this section. Failure to comply with the provisions of this section shall result in a citation. A finding of guilt for violation of this section shall result in a revocation of the retailer's permit/license to sell fireworks in the city.

(g) An informational sales tax return for each license issued respecting the sale of fireworks shall be furnished to the city within two weeks after the closing date for the sale of fireworks of each period.

(h) Any person who sells or offers for sale any fireworks not permitted by this section shall, in addition to all other penalties provided for herein, forfeit his right to a permit for the sale of fireworks for all future years.

(i) The following regulations are relative to the regulation of fireworks sales and related matters:

(1) All fireworks licenses must provide a certificate of insurance in the amount of \$1,000,000.00 naming the city as an additional insured. Said certificate shall be provided to the city prior to receiving a fireworks license.

(2) All retail sales must take place behind a counter. Additionally, for safety reasons all inventory displayed for sale shall be stored or displayed behind a counter and out of reach of customers.

(3) Any retail fireworks location must comply with all relevant parking requirements.

(4) Each licensee shall provide to the city in writing at the time of the issuance of the license, the location that any excess or unsold inventory will be stored at the expiration of the fireworks seasons.

Any violation of the above shall be grounds for immediate revocation of the fireworks license.

Provided that a majority of the City of Gretna Council have voted in favor of this ordinance, this ordinance shall have the full force and effect of law at midnight on the tenth day following the Clerk’s presentment of the same to the Mayor, in accordance with Louisiana Revised Statutes 33:406(c)(2) unless the Mayor returns the same, unsigned, to the Clerk during that ten-day period.

This ordinance having been submitted to a vote, the vote thereon was as follows:

Yeas: Councilman Marino, Rau, Crosby, Miller and Berthelot

Nays: None

Absent: None

This ordinance having been submitted to a vote, the vote thereon was as follows:

Yeas: **Councilman Rau, Crosby, Marino, Miller and Berthelot**

Nays: None

Absent: None

ADOPTED: OCTOBER 14, 2015

/S/ NORMA J. CRUZ
CITY CLERK
CITY OF GRETNA
STATE OF LOUISIANA

Ordinance presented to the
Mayor on October 15, 2015

/S/ NORMA J. CRUZ
CITY CLERK

APPROVED: OCTOBER 15, 2015

/S/ BELINDA C. CONSTANT
MAYOR
CITY OF GRETNA
STATE OF LOUISIANA

Ordinance returned from the
Mayor on October 15, 2015

/S/ NORMA J. CRUZ
CITY CLERK

A TRUE COPY:

/S/ NORMA J. CRUZ
CITY CLERK