

## Chapter 5.16

### FIREWORKS SALES AND USE

#### Sections:

- 5.16.010** Definition of terms.
- 5.16.020** License required for retail sale fireworks.
- 5.16.030** License required for wholesale sale of fireworks.
- 5.16.040** Duration and display of license.  
(Amended May, 2011)
- 5.16.050** Safety requirements.
- 5.16.060** Elimination of nonconforming structure.
- 5.16.070** Time of sale.  
(Amended May, 2011)
- 5.16.080** License fees.
- 5.16.090** State licenses.
- 5.16.100** Public displays.
- 5.16.110** Discharge of fireworks.  
(Amended May, 2011)  
(Amended February, 2014)
- 5.16.120** Time frame for discharge of fireworks.  
(Amended May, 2011)  
(Amended February, 2014)
- 5.16.130** Reckless discharge.
- 5.16.140** Post or designated areas.
- 5.16.150** Public areas.
- 5.16.160** Discharge limitations.
- 5.16.170** Violation--Penalty.

#### **5.16.010** Definition of terms.

As used in this chapter unless the context otherwise requires:

"Permissible fireworks" means any fireworks which can be legally sold in the state of South Dakota as now provided by SDCL 34-

37-5, or as provided by any subsequent amendments to said statute.

"Retail sales" means the sale of fireworks to any person not licensed to sell fireworks or for any purpose other than for resale.

"Retailer" means any person engaged in the business of making sales of fireworks at retail to consumers.

"Sale" means any transfer, exchange or barter, conditional or otherwise in any manner or by any means whatsoever for a consideration.

"Wholesale" means any person engaged in the business of making sales of fireworks to retailers for resale to consumers. (Ord. 364 § 1, 2002)

#### **5.16.020** License required for retail sale fireworks.

It is unlawful for any person to sell, hold for sale or offer for sale as a retailer within the city limits any permissible fireworks unless such person has first obtained a retail fireworks license from the city. Application forms for such license shall be obtained upon request from the city finance officer and shall be presented when completed to the city finance officer not later than the commencement of the regular meeting of the city council on the first Monday of June. The application form shall be accompanied by a certified check or bank draft payable to the city, in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00) for each retail fireworks license. (Ord. 364 § 2, 2002)

#### **5.16.030** License required for wholesale sale of fireworks.

It is unlawful for any person to sell, hold for sale or offer for sale as a wholesaler within the city limits any permissible fireworks unless such person has first obtained a wholesale fireworks license from the city. Application

forms for such license may be obtained upon request from the city finance officer and shall be presented when complete to the city finance officer not later than the commencement of the regular meeting of the city council on the first Monday of June. The application form shall be accompanied by a certified check or bank draft payable to the city, in the amount of one thousand two hundred fifty dollars (\$1,250.00) for each wholesale fireworks license. (Ord. 364 § 3, 2002)

#### **5.16.040 Duration and display of License.**

The wholesale and retail license shall be good only for the calendar year in which issued and January first of the following year, and shall at all times be displayed at the place of business of the holder thereof. (Ord. 364 § 4, 2002) (Amended May, 2011)

#### **5.16.050 Safety requirements.**

A. No person shall sell or distribute fireworks of any kind within the following minimum distances:

1. Three hundred (300) feet from any gasoline petroleum products, pump or tank or other flammable materials;

2. Two hundred (200) feet from the lot line of any real property upon which is located any station, facility or business establishment dispensing petroleum products or other flammable materials.

B. No licensee may have on his or her premises any device, apparatus, receptacle or burner from which an open flame is emitted.

C. Each licensee shall keep and maintain upon his or her premises a fire extinguisher.

D. No person under the age of eighteen (18) years shall be licensed under this chapter and no licensee shall employ or permit any individual under the age of eighteen (18) years

to sell, dispense or offer for sale any fireworks.

E. No licensee shall sell fireworks from any motor vehicle, or solicit sales on public streets or sidewalks.

F. All buildings or structures wherein fireworks are sold shall have at least two separate door exits which shall be equipped with panic devices and kept unlocked at all times when fireworks are being offered for sale.

G. Signs must be prominently displayed on all displays of fireworks offered for sale which shall read in red letter not less than three inches high "NO SMOKING WITHIN 25 FEET".

H. All buildings or structures wherein fireworks are being offered for sale must have a sign prominently posted stating that no fireworks can be ignited or discharged within three hundred (300) feet of the premises.

I. No licensee shall sell fireworks from under or within any tarpaulin, tent, or canopy.

J. All weeds and grasses growing on the licensed premises shall be cut to a height not to exceed eight inches for such lesser height as directed by the fire chief for the Dakota Valley fire district during the period of time that fireworks are sold or distributed on the premises. A violation of this section by a retail licensee or wholesale licensee or any of its employees, agents or assigns subjects the licensee to a fine in the maximum amount of two hundred dollars (\$200.00) and an immediate loss of licensee's retail or wholesale fireworks license. (Ord. 364 § 5, 2002)

#### **5.16.060 Elimination of nonconforming structure.**

A. The use of a structure in violation of Section 5.16.050(A)(1), (2) or (I) after January 1, 2002, is expressly prohibited and is

deemed a violation of this chapter pursuant to Section 5.16.170(B).

B. Whenever the use of a premises in violation of Section 5(a)(1), 5(a)(2) or 5(i) becomes a nonconforming use through a change in the zoning ordinance or district boundaries, such use may not be continued.

C. If no structural alterations or additions are made, the use of a structure in violation of Section 5.16.050(A)(1), (2) or (I) may be changed to another use.

1. If the proposed use is a permitted use;

2. If the proposed use is a conditional use, and a conditional use permit has been obtained.

D. The use of a structure in violation of Section 5.16.050(A)(1), (2) or (I) shall not be enlarged, extended, converted, reconstructed or structurally altered, unless such use is changed to a use that does not violate Section 5.16.050(A)(1), (2) or (I) and the use is permitted in the district in which the premises is located.

E. When the use of a structure is in violation of Section 5.16.050(A)(1), (2) or (I) as defined by this chapter and the structure is damaged by fire, explosion, act of God, or vandalism to the extent of more than fifty (50) percent of its fair market value, it shall not be restored except in conformity with the provisions of this ordinance or sued for a purpose which does not violate Section 5.16.050(A)(1), (2) or (I).

F. In the event that the use of the structure in violation of Section 5.16.050(A)(1), (2) or (I) is discontinued for more than one year, then in that event, the structure may not thereafter be used for any purpose which would violate Section 5.16.050(A)(1), (2) or (I).

G. Nothing in this chapter shall be interpreted as authorization for, or approval of, the continuance of the use of a premises in viola-

tion of zoning regulations in effect immediately prior to the effective date of the ordinance codified in this chapter. (Ord. 364 § 5.1, 2002)

#### **5.16.070 Time of sale.**

Retail and wholesale sales may be made by license holders only at such time as allowed by the laws of the state of South Dakota, including SDCL Chapter 34-37. (Ord. 364 § 6, 2002) (Amended May, 2011)

#### **5.16.080 License fees.**

All funds received from the license fee imposed upon wholesale or retail license holders as prescribed in this chapter shall be deposited in the general fund of the city. (Ord. 364 § 7, 2002)

#### **5.16.090 State licenses.**

All holders of retail licenses or wholesale licenses as set out above must also obtain a license as a retailer or as a wholesaler from the state of South Dakota. (Ord. 364 § 8, 2002)

#### **5.16.100 Public displays.**

Nothing in this chapter shall prohibit the use or public display of fireworks of any description provided that any individual or group of individuals, associations or organization making such public display of fireworks shall first secure a written permit so to do from the common council of the city and shall have purchased fireworks for such display from a licensed wholesaler or licensed retailer licensed under the laws of the state of South Dakota. (Ord. 364 § 9, 2002)

#### **5.16.110 Discharge of fireworks.**

A person may shoot, discharge or explode or cause to be shot, discharged or exploded any firecrackers, skyrockets, blank cartridges,

fireworks or other explosives used for fireworks or fireworks display within the city limits, only during the period beginning June twenty-seventh and extending through the end of the first Sunday after July fourth; and during the period beginning December twenty-eighth and extending through January first of the following year. (Ord. 364 § 10, 2002) (Amended May, 2011) (Amended February, 2014)

**5.16.120 Time frame for discharge of fireworks.**

A person may shoot, discharge or explode or cause to be shot, discharged or exploded any firecrackers, skyrockets, blank cartridges, fireworks or other explosives used for fireworks or fireworks display within the city limits, only between the hours of seven a.m. and 12:01 a.m. from the period beginning June twenty-seventh and extending through the end of the first Sunday after July fourth and during the period beginning December twenty-eighth and extending through the first day of January. (Ord. 364 § 11, 2002) (Amended May, 2011) (Amended February, 2014)

**5.16.130 Reckless discharge.**

No person may discharge any fireworks within the corporate limits of the city, carelessly, recklessly and heedlessly in disregard of the rights of safety of others, or without due caution and circumspection or in a manner so as to endanger or be likely to endanger any person or property. (Ord. 364 § 12, 2002)

**5.16.140 Post or designated areas.**

No person may discharge any fireworks within any private or public area within the corporate limits of North Sioux City, South Dakota, that is posted or designated by signs

prohibiting the discharge. (Ord. 364 § 13, 2002)

**5.16.150 Public areas.**

Unless authorized by the city council, no individual, firm partnership or corporation shall use, discharge or cause to be discharged on any city streets and on any city property any pyrotechnics (commonly known as fireworks), except toy pistols and toy caps. (Ord. 364 § 14, 2002)

**5.16.160 Discharge limitations.**

At every purchase point of any retail establishment covered under this chapter, signs shall be prominently displayed informing the purchaser of the discharge limitations as set forth in Sections 5.16.080 through 5.16.120 and the penalties for violation thereof. (Ord. 364 § 15, 2002)

**5.16.170 Violation--Penalty.**

A. Any person convicted in violation of this chapter shall be punished by a fine of up to Five Hundred Dollars (\$500.00).

B. A violation of Section 5.16.120 by a retail licensee or wholesale licensee or any of its employees, agents or assigns is a violation of this chapter and subjects the licensee to a fine in the maximum amount of Five Hundred Dollars (\$500.00) and an immediate loss of their retail or wholesale license. (Ord. 364 §§ 16, 17, 2002) (Amended 2007)