

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
SEPTEMBER 17, 2019 AGENDA

Subject:	Type:	Submitted By:
AMEND MUNICIPAL CODE SECTIONS 111.18 AND 111.19 - FIREWORKS	◆ RESOLUTION ◆ ORDINANCE ◆ RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

A public hearing has been scheduled and an ordinance prepared to Amend Municipal Code Sections 111.18 and 111.19 regarding rules for hours of selling and discharging fireworks in La Vista.

FISCAL IMPACT

N/A

RECOMMENDATION

N/A

BACKGROUND

During the June 18, 2019 City Council meeting, a discussion was held regarding the sale and discharge of fireworks and staff was subsequently directed to prepare an ordinance reducing the sale of fireworks from ten to seven days, the discharge from ten to three days and changing the hours of discharge from 7:00 a.m. – 10:00 p.m. to 12:00 p.m. (noon) – 11:00 p.m.

The Council also requested that feedback from residents regarding the proposed changes be solicited through the newsletter, social media and a public hearing when the ordinance is presented to the City Council for consideration.

To obtain public feedback, an informal online poll was conducted. One hundred seventy-two (172) responses were received. Of the respondents, approximately 63% support the proposed changes or some type of change, approximately 33% oppose the proposed changes and 5% responded in a neutral capacity. (*Comments received from the poll are available upon request in the City Clerk's office*).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTIONS 111.18 AND 111.19; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Section 111.18 of the La Vista Municipal Code is amended to read as follows:

§ 111.18 SALE OF PERMISSIBLE FIREWORKS REGULATED.

Persons holding a permit to sell permissible fireworks:

(A) May only sell the same beginning 12:01 a.m. June 25-28 and ending midnight at 11:00 p.m. on July 4 of the year for which the permit is issued. Within this period, permissible fireworks may be sold only between the hours of 8:00 a.m. and 11:00 p.m.

(B) Shall at no time sell within the city limits any fireworks or other pyrotechnics other than permissible fireworks.

(C) Shall during such times as fireworks are being sold have an adult in charge of his or her stand or retail outlet and shall display therein the required permit in a conspicuous manner and place.

(D) Shall at all times comply with all regulations passed by the City Council pertaining to the permissible size, location, equipping and operation of fireworks stands and retail outlets.

(E) Shall at no time sell any fireworks or other pyrotechnics to any person under 12 years of age.

('79 Code, § 10-314) (Am. Ord. 792, passed 10-19-99) Penalty, see § 10.99

SECTION 2. Section 111.19 of the La Vista Municipal Code is amended to read as follows:

§ 111.19 DISCHARGE OF PERMISSIBLE FIREWORKS REGULATED.

(A) *Prohibition as to time of discharge.* Except as may be otherwise provided herein or authorized by special permit approved by the City Council, no person shall ignite or discharge any permissible fireworks except between the hours of 712:00 ap.m. (noon) to 4011:00 p.m. from June 25July 2 through July 2-4 inclusive, and between the hours of 7:00 a.m. and 11:00 p.m. from July 3 through July 4 inclusive of each year.

(B) *Dangerous environmental conditions.* In the event that in the determination of the Fire Chief, general weather or ground cover conditions are such as create an unacceptable risk of fire should there be discharge of fireworks, including permissible fireworks, within the city limits, then in such event the Fire Chief shall advise the City Administrator and Mayor of such determination and shall communicate a recommendation to them for any preventative action or measures the Fire Chief deems necessary, including what limitations should be placed upon the time period for discharge of fireworks or the extent to which the discharge of fireworks should be prohibited. The Mayor, with the advice of the Council President, the City Administrator, the Fire Chief, and the Chief of Police, or such of them as may be readily available, shall order such action, if any, the Mayor shall deem necessary or appropriate in the situation, including partial or total bans on discharge of fireworks on such dates and during such times as the Mayor may determine necessary or appropriate. Should the Mayor determine that prohibitive or preventative action is required, the Mayor shall issue a proclamation to that effect and shall advise the City Administrator, who shall advise the members of the City Council, the Fire Chief, the Chief of Police, and the media of the Mayor's proclamation and shall cause same to be conspicuously posted throughout the city. Discharge of fireworks in violation of such proclamation shall constitute a violation of this section and shall be punishable as such. As used herein, references to the Mayor and other officials shall, in the case of their absence or inability to act, include persons empowered to act in their stead.

(C) *Prohibition as to manner and place of discharge.* In no event shall any person ignite or discharge any fireworks, even though same be permissible fireworks:

- (1) In or from any motor vehicle;
- (2) On any street, highway, or sidewalk;
- (3) Near any person or group of persons;
- (4) In any building;
- (5) In any public park, except as may be authorized by special permit;
- (6) In any public building;
- (7) In any school or on any school grounds; and

(8) In any other manner or place that is likely to inflict or increase the risk of property damage or bodily harm to any person or persons or place any of them in danger of bodily harm.

(D) *Special permit for community fireworks show.*

(1) The City Clerk may authorize the issuance of special permits for fireworks displays to be conducted by or under the auspices of the city or by or under the auspices of a nonprofit organization, organized for purposes of service to or betterment of the city, its businesses, or residents, for the purpose of putting on an admission-free public fireworks display for the benefit of the residents of the city at such place, during such times and under such terms, conditions, and security measures as the City Clerk may prescribe for such display.

(2) The permit holder shall obtain the required approval of the State Fire Marshal. By way of specification and not of limitation, as a condition of any permit hereunder, the permit holder shall obtain and maintain in effect, for the maximum limitations and repose periods under any and all products liability or tort laws in the State of Nebraska, insurance for any and all liabilities arising out of or resulting from any permitted fireworks or fireworks display, written by an insurer authorized to do business in the state, in such amount and upon such other terms as satisfactory to the city in its sole discretion. The city shall be an additional named insured on each such policy provided.

('79 Code, § 10-315) (Ord. 75, passed - -; Am. Ord. 340, passed 6-21-83; Am. Ord. 571, passed 8-17-93 Am. Ord. 792, passed 10-19-99; Am. Ord. 813, passed 7-18-00; Am. Ord. 1062, passed 6-17-08) Penalty, see § 10.99

SECTION 3. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 17TH DAY OF SEPTEMBER 2019

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk