



AGENDA ITEM NO. 1 S

COUNCIL MEETING 12-17-09

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

December 17, 2009

**FROM:** RANDY R. BRUEGMAN, Fire Chief  
Fire Department

**BY:** KERRI L. DONIS, Deputy Fire Chief  
Fire Prevention Division

**SUBJECT:** AMENDING SECTION 10-53302 OF THE FRESNO  
MUNICIPAL CODE RELATING TO FIREWORKS

## RECOMMENDATION

Staff recommends the adoption of the proposed amendments to Section 10-53302 of the Fresno Municipal Code (FMC) which would authorize the Fire Chief to promulgate administrative rules and procedures necessary for the successful and effective implementation of this Section including rules and procedures governing the submission of applications for permits to sell safe and sane fireworks, inspections of fireworks stands, operation of fireworks stands, and such regulations relating to the sale of safe and sane fireworks as may be necessary for the protection of life and property.

## EXECUTIVE SUMMARY

On October 22, 2009, staff brought this item before Council for consideration, at which time Council asked staff to address some issues with the City Attorney and return to Council at a later date. Since that time staff has worked with the City Attorney's Office to refine the language of the proposed ordinance, as well as met with fireworks vendors to gather input on editing the department's administrative language for its Fireworks Standard Operating Procedures Manual.

Staff continuously reviews the effectiveness of its operating procedures in relation to the requirements of the FMC. In this instance, staff has identified procedural improvements that have necessitated text amendments to the provisions of FMC Section 10-53302, commonly referred to as the Fireworks Ordinance. The proposed amendments would authorize the Fire Chief to promulgate administrative rules and procedures necessary for the successful and effective implementation of the Fireworks Ordinance. Such express authorization would alleviate the necessity of returning to Council for approval of procedural changes while ensuring that no substantive policy changes underlying the Fireworks Ordinances will be made without appropriate action by Council.

## BACKGROUND

Fire Prevention Division staff undertakes an exhaustive annual exercise in preparing, confirming, enforcing, and re-evaluating each step in the process relating to sale of safe and sane fireworks pursuant to FMC Section 10-53302. The division works closely with the safe and sane fireworks vendors to ensure communication is clear on the various rules and regulations required for each fireworks stand operator. This process

continuously reveals new areas for improvement. By explicitly authorizing the Fire Chief to promulgate administrative procedures necessary to ensure the effective implementation of the Fireworks Ordinance, staff can be more responsive to emerging procedural issues with respect to sale of safe and sane fireworks in the City of Fresno. For example, the proposed ordinance replaces the submission of interest cards under FMC section 10-53302.7 with submission of applications. This is the result of staff finding that submission of interest cards alone did not provide sufficient information.

The proposed ordinance would repeal existing procedural provisions dealing with procedures for operation of fireworks stands pursuant to FMC section 10-53302.11, temporary fireworks stands pursuant to FMC section 10-53302.12, and general requirements for permittees pursuant to 10-53302.13. Administrative rules and procedures pertaining to these subjects will be promulgated by the Fire Chief pursuant to authority granted under proposed FMC section 10-53302.6(b).

Provisions pertaining to necessity of a permit to sell or display safe and sane fireworks, prohibition on illegal fireworks, definition of organizations eligible to obtain permits to sell safe and sane fireworks, the number of organizations that may participate in selling safe and sane fireworks, and penalties and appeal rights for violations of the Section remain unchanged and will not be subject to modification pursuant to any administrative rules promulgated by the Fire Chief. These provisions reflect substantive city policy regarding fireworks and will not be modified or amended unless brought before the city council for such modification or amendment.

Additionally, on December 9, 2008, the City Council adopted FMC Section 10-53302 in order to comply with requirements of state law for local fireworks ordinances. The proposed amendment does not affect any of the provisions that were previously adopted in order to comply with state law. Those provisions are embodied in FMC section 10-53302.2.

## **FISCAL IMPACT**

There will be no fiscal impact to the City or the department.

## **OPTIONS**

Council may take the following action with respect to this item:

- 1) Adopt the ordinance;
- 2) Modify the ordinance;
- 3) Take no further action on this matter.

RRB:KLD:lf 101309:120909

## **Attachments**

Ordinance

Proposed Administrative Rules

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA  
AMENDING SECTION 10-53302 OF THE FRESNO MUNICIPAL  
CODE RELATING TO FIREWORKS

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 10-53302 of the Fresno Municipal Code is amended to read:

SECTION 10-53302.1 SHORT TITLE.

This Section shall be known and cited as the "Fireworks Ordinance." When used, "this Section" means the Fireworks Ordinance.

SECTION 10-53302.2 FINDINGS AND INTENT.

(a) This Section governs the imposition, enforcement, collection and administrative review of all administrative fines related to: the possession, use, storage, sale and or display of those fireworks classified as dangerous fireworks in California Health and Safety Code sections 125(H) et seq. or the possession, use, storage, sale and/or display of safe and sane fireworks on or at dates, times, and/or locations other than those permitted by this Section. The administrative fines are imposed under authority of Government Code section 53069.4, Health and Safety Code section 12557, and the police power of the City of Fresno.

(b) The issuance of an administrative citation to any person constitutes but one remedy of the City to redress violations of this Section. By adopting this Section, the City does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this Section which the City may otherwise pursue.

(c) The imposition of administrative fines under this Section shall be limited to persons who possess, use, sell and/or display, or the seizure of 25 pounds or less of dangerous fireworks or persons who possess, use, sell and or display safe and sane fireworks on or at the dates, times, and or locations other than those permitted by this Section.

(d) Administrative fines collected pursuant to this Section shall not be subject to Health and Safety Code section 12706. The administrative fines collected shall be allocated in compliance with Health and Safety Code section 12557, which requires the City to provide cost reimbursement to the State Fire Marshal for reimbursement of costs, including, but not limited to transportation, and disposal. Regulations are to be adopted by the State Fire Marshal setting forth this allocation. Unless and until such regulations have been adopted by the State [State] of California, the City shall hold in trust \$250.00 from any fine collected to cover the reimbursement to the State [State] Fire Marshal ~~tet~~ [for] the cost of transportation and disposal of the dangerous fireworks.

(e) Due to the serious threat of fire or injury posed by the use of dangerous fireworks or safe and sane fireworks on or at dates, times, and/or locations other than those permitted by this Section, this Section imposes strict civil liability upon the owners of residential real property for all violations of this Section existing on that property. Each contiguous use, display, and/or possession shall constitute a separate violation and shall be subject to a separate administrative fine.

#### SECTION 10-53302.3 DEFINITIONS.

(a) "Dangerous fireworks" shall include any items or materials listed as such in California Health & Safety Code section 12505.

(b) "Eligible organizations" means an organization or corporation which has met all of the following criteria continuously for a minimum of one year preceding the filing of the application for a permit to display for sale or sell safe and sane fireworks.

(1) The organization and/or corporation must be a duly organized non profit and tax-exempt charitable, religious, civic, patriotic, or community service organization or corporation with a current and valid [501(c)(3)-(19)] tax exemption letter from the Internal Revenue Service ~~or a current and valid business license certificate issued by the City of Fresno.~~

(2) The organization must be headquartered within and clearly affiliated or identified with the City of Fresno;

(3) The organization must be one which provides direct and regular community services and benefits to the citizens of the City of Fresno; and

(4) The organization must hold its regularly scheduled meetings within the City of Fresno.

(c) "Exempt fireworks" means any special item containing pyrotechnic compositions which the State Fire Marshal, with the advice of the State Fire Advisory Board, has investigated and determined to be limited to industrial, commercial, and agricultural use, or religious ceremonies when authorized by a permit granted by the authority having jurisdiction.

(d) "Fireworks" means any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. These items include, but are not limited to:

(1) Devices designated by the manufacturer as fireworks.

(2) Torpedoes, skyrockets, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and fireworks kits.

(e) "Safe and sane fireworks" means any fireworks which do not come within the definition of "dangerous fireworks" or "exempt fireworks." All safe and sane fireworks shall be labeled with the safe and sane fireworks seal as authorized by the California State Fire Marshall.

SECTION 10-53302.4 GENERAL PROHIBITION AGAINST POSSESSION, SALE, USE AND/OR DISPLAY OF FIREWORKS.

Except as otherwise provided in this Section, no person shall possess, sell, use, display, explode or discharge any fireworks within the City of Fresno.

SECTION 10-53302.5 SAFE AND SANE FIREWORKS-EXCEPTIONS.

(a) The sale and or display of sate [safe] and sane fireworks shall be permitted only during that period beginning at noon on June 27th [28<sup>th</sup>] and ending at 6:00 p.m. [noon] on July 6th of that same year.

~~(b) The use and discharge of safe and sane fireworks within the City of Fresno is permitted only on July 4th beginning at 8:00 p.m. and ending at midnight on July 4th of the same year. [Safe and sane fireworks shall not be sold to any person under the age of eighteen (18).]~~

~~[(c) The use and discharge of safe and sane fireworks within the City of Fresno is permitted only on July 4th beginning at 8:00 p.m. and ending at midnight on July 4th of the same year.]~~

SECTION 10-53302.6. SAFE AND SANE FIREWORKS-PERMITS REQUIRED.

[(a)] It is unlawful for any person to sell ~~safe~~ [safe] and sane fireworks within the City of Fresno without a permit issued by the Fire Chief or the Fire Chief's designee.

[(b)] The Fire Chief is authorized to promulgate administrative rules and procedures necessary for the successful and effective implementation of this Section including rules and procedures governing the submission of applications for permits to sell safe and sane fireworks, inspections of fireworks stands, operation of fireworks stands, and such regulations relating to the sale of safe and sane fireworks as may be necessary for the protection of life and property. Said administrative rules and procedures shall be in writing and subject to approval by the City Attorney.]

[(c)] The Fire Chief or the Fire Chief's designee shall be responsible for reviewing applications for permits to sell safe and sane fireworks.]

SECTION 10-53302.7 SAFE AND SANE FIREWORKS-~~INTEREST CARD~~.  
[APPLICATIONS]

(a) All organizations or corporations interested in obtaining a permit to sell safe and sane fireworks ~~must meet all the provisions set forth in this Section~~ [shall submit an application to the Fire Department on forms provided by the Fire Department.]

(b) ~~An interest card may be submitted beginning February 1st or the first business day thereafter, and ending the last business day of February.~~ [The Fire Chief or the Fire Chief's designee shall designate the time period when applications will be accepted.]

(c) No organization shall submit more than one ~~interest card~~ [application.] Submittal of more than one ~~interest card~~ [application] shall be grounds for denial of all ~~interest cards~~ [applications submitted by that organization].

(d) ~~Interest cards are~~ [Completed applications shall be] used to select 30 new participants for the upcoming fireworks season.

(e) Participants are selected by lottery which ~~takes place the first week of~~ Mareh [shall take place at a time and location determined by the Fire Chief or Fire Chief's designee.]

(f) The 30 newly selected participants, as well as the 30 "old" ~~participants~~ (second year permit holders) will then be ready to move to the permit application process [participants from the previous year shall submit additional information as required by the Fire Department which shall be reviewed prior to issuance of any permits to sell safe and sane fireworks for the upcoming fireworks season.]

SECTION 10-53302.8 SAFE AND SANE FIREWORKS ~~PREREQUISITE FOR~~  
ISSUANCE OF PERMITS.

(a) No permit to sell safe and sane fireworks shall be issued to any ~~person~~ [organization] except nonprofit and tax-exempt organizations or corporations organized primarily for charitable, religious, civic, patriotic, or community service [as defined in Section 10-53302.3(b) of this Section.]

(b) ~~Each such organization or corporation shall have its principal and permanent meeting place within the city limits and shall have been organized and established in an area which is presently within the city limits continuously for a minimum of one year preceding the filing of the application of the permit and shall have a bona fide membership of at least twenty (20) members. The membership list shall be provided upon request. [Upon notification that the organization has been selected by~~

lottery to participate in the upcoming fireworks season, each organization shall provide additional information as required by the Fire Department including, but not limited to:

(i) A nonrefundable application fee established by resolution of the city council and set forth in the Master Fee Schedule. This application fee shall be in addition to any fee or tax imposed by any other chapter or article of the Fresno Municipal Code;

(ii) An executed Indemnification and Hold Harmless Agreement as required by the City's Risk Manager or the Risk Manager's designee;

(iii) Throughout the life of the permit, the applicant shall pay for and maintain in full force and effect policies of insurance as required by the City's Risk Manager or Risk Manager's designee. The policies of insurance shall name the City, its officers, officials, agents, employees and authorized volunteers as additional insureds. The applicant shall submit proof of insurance in a manner authorized by the City's Risk Manager or Risk Manager's designee;

(iv) Other information as may be required by the Fire Department pursuant to administrative rules and procedures promulgated by the Fire Chief pursuant to Section 10-53302.6(b) ]

~~(c) No organization shall submit more than one application to sell safe and sane fireworks within the City of Fresno. Submittal of more than one application shall be grounds for denial of all applications. [Permits shall be issued upon review of all information submitted by the organization and inspection and approval of the organization's temporary fireworks stand.]~~

(d) ~~The organization shall have a current and valid tax exemption letter from the Internal Revenue Service or a current and valid business license certificate issued by the City of Fresno. [The Fire Department shall notify organizations of the denial of their permit applications within a reasonable time.]~~

SECTION 10-53302.9. SAFE AND SANE FIREWORKS-PERMIT APPLICATIONS.  
OPERATOR SAFETY SEMINAR.

(a) ~~All applications for permits to sell and/or display fireworks shall be in writing to the Fire Chief or the Fire Chief's designee on forms supplied by the City of Fresno Fire Department. Applications may be filed beginning the third Monday in March of each year, up to and including the second Monday in May of the same year, at which time the filing period for that year will close. Applications shall set forth the proposed location of the fireworks stand being applied for, and other information as may be required by the Fire Chief or the Fire Chief's designee. [Each year, one or more representatives from each organization that is granted a permit to sell or display fireworks shall attend a stand operator safety seminar conducted by the City of Fresno Fire Department or the fireworks industry. Failure of an organization to have a responsible individual attend the seminar shall result in the revocation of the permit.]~~

(b) ~~Every application for a permit shall be accompanied by a nonrefundable application fee established by resolution of the city council and set forth in the Master Fee Schedule. This application fee shall be in addition to any fee or tax imposed by any other chapter or article of the Fresno Municipal Code.~~

(c) ~~Each applicant shall execute an Indemnification and Hold Harmless Agreement as required by the City's Risk Manager or the Risk Manager's designee.~~

(d) ~~Throughout the life of the permit, the applicant shall pay for and maintain in full force and effect policies of insurance as required by the City's Risk Manager or Risk Manager's designee. The policies of insurance shall name the City, its officers, officials, agents, employees and authorized volunteers as additional insureds. The applicant shall submit proof of insurance in a manner authorized by the City's Risk Manager or Risk Manager's designee.~~

(e) ~~Applicants shall be notified on June 1st or the next business day of each calendar year by the Fire Chief or the Fire Chief's designee of the disapproval of the applications for a permit. The actual permit shall be issued once the organization has had an inspection and received approval for the fireworks stand.~~

SECTION 10-53302.10 ~~OPERATOR SAFETY SEMINAR.~~ [REVOCAION OF PERMITS]

~~Each year, one or more representatives from each organization or corporation that is granted a permit to sell and/or display fireworks shall attend a stand operator safety seminar conducted by the City of Fresno Fire Department and/or the fireworks industry. Failure of an organization or corporation to have a responsible individual attend the seminar shall result in the revocation of the permit to sell and/or display fireworks~~

[The Fire Chief or the Fire Chief's designee may revoke the permit of any organization that violates the provisions of this Section or any rules or regulations promulgated pursuant to Section 10-53302.6(b). Notice of revocation shall immediately be made in writing by the Fire Department to the organization. The Fire Chief or the Fire Chief's designee may reinstate a permit upon proof that the permit holder is in compliance with all provisions and rules pertaining to this Section.]

SECTION 10-53302.11 OPERATION OF FIREWORK STAND. [ADMINISTRATIVE  
FINES]

~~(a) — No person shall sell fireworks to any person under the age of eighteen (18).~~

[In addition to any other remedy available at law, any person or entity who possesses, uses, stores, sells and/or displays dangerous fireworks or any person or entity who possesses, uses, sells and/or displays safe and sane fireworks on or at dates, times, and, or locations other than those permitted by this Section are subject to an administrative fine of not less than one-thousand two-hundred fifty dollars (\$1,250.00) for each such offense.]

~~(b) — The sale of safe and sane fireworks shall begin no earlier than noon on June 28th and shall not continue after 6:00 p.m. on July 6th of the same year. The sale of safe and sane fireworks shall be permitted only from 9:00 a.m. to 10:00 p.m. daily, except June 28th when the hours shall be twelve noon to 10:00 p.m. and July 6th when the hours shall be 9:00 a.m. to 6:00 p.m.~~

~~(c) — No person other than the permittee organization or corporation shall operate the stand for which the permit 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 permittee organization or corporation or the wives, husbands, parents or adult children of such members shall sell or otherwise participate in the same and or display of safe and sane fireworks at such stand.~~

~~(e) — No person under the age of eighteen (18) shall sell or participate in the sale of fireworks or be in the fireworks stand.~~

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

SECTION 10-53302.12 ~~TEMPORARY FIREWORKS STAND.~~ [SEIZURE OF FIREWORKS]

~~All retail sales of safe and sane fireworks shall be permitted only from within a temporary fireworks stand. The sale from any other building or structure is prohibited. Temporary stands shall be subject to the following provisions: [The Fire Chief or the Fire Chief's designee shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of this Section.]~~

~~(a) — No fireworks stand shall be located within thirty (30) feet of any adjacent buildings or property lines, burnable materials, grass, paper, or vegetation, or within one hundred (100) feet of any gasoline pump or distribution point. Stands are preferred on paved surfaces; however, unpaved surfaces are acceptable. A ten (10) foot area surrounding the stand must be cleared of dried vegetation and maintained. No other items, such as food or drinks shall be sold in conjunction with or within thirty (30) feet of a fireworks stand. No firework stand shall be located more than ten (10) feet from any public roadway, public sidewalk, or in any location which does not otherwise meet with the approval of the Fire Department.~~

~~(b) — Fireworks stands need not comply with the provisions of the building code of the City of Fresno or State of California; provided, however, all stands shall be erected~~

~~under the supervision of the firework vendor, who shall require that stands be constructed in a manner which will reasonably insure the safety of attendants and patrons.~~

~~(c) — If stands are operated at night, only electric lights may be used and the wiring must be installed by a licensed electrical contractor and shall meet the minimum requirements of the California Electrical Code and the Fresno Municipal Code. Open splices are prohibited and all wiring must be protected from physical damage and weather. No "Christmas" lights shall be used in or around the fireworks stands. Exposed light bulbs shall be protected with covers, cages or screens.~~

~~(d) — No stand shall have a floor area in excess of seven hundred fifty (750) square feet.~~

~~(e) — Each stand shall have at least two exits. Each stand in excess of forty (40) feet in length shall have at least three exits spaced approximately equidistant apart; provided: however, that in no case shall the distance between exits exceed twenty (20) feet apart. Exit doors shall be not less than twenty four (24) inches wide and six feet in height and shall swing in the direction of exit travel.~~

~~(f) — Each stand shall be provided with one approved 2A:10BC, multipurpose ABC fire extinguisher with an up to date inspection tag that shows the fire extinguisher has been serviced within the past year.~~

~~(g) — All temporary fireworks stands shall be disassembled and removed no later than July 8th at 5:00 p.m.~~

~~(h) — Firework stands shall be located on currently developed commercial zoned parcels. The approved zone designations are as follows: Zoning code: C1-C6 and CP.~~

SECTION 10-53302.13. GENERAL REQUIREMENTS FOR PERMITTEES.

[APPEALS]

(a) ~~Stands shall not be located closer than six hundred (600) feet apart, unless separated by a principal arterial roadway. [A citation issued for failure to comply with the provisions of this Section shall be appealed pursuant to Chapter 1, Article 4 of the Fresno Municipal Code.]~~

(b) ~~All weeds and combustible material shall be cleared from the location of the stand, including a distance of at least thirty (30) feet surrounding the stand. [The denial of an application for a fireworks permit shall be appealed pursuant to Chapter 1, Article 4 of the Fresno Municipal Code. If no appeal is filed within the time prescribed, the action of the Fire Chief or the Fire Chief's designee shall be final.]~~

(c) ~~"NO SMOKING" signs shall be prominently displayed on all sides of the fireworks stand, in both English and Spanish. Each sign shall have the words "NO SMOKING" in red letters not less than two (2) inches in height with a minimum one-half (1/2) inch stroke on a white background. [A minor and the parent(s) or guardian(s) having custody and control of said minor, are jointly and severally liable to the City for any administrative citation and or penalty issued for failure to comply with the provisions of this Section.]~~

(d) ~~No fuel-powered generator or similar equipment shall be allowed within ten (10) feet of a fireworks stand. [The administrative citation penalty may become a special assessment or a lien against the property of any person who is issued a citation for violation of the provisions of this Section. This shall include the property of a minor who is issued a citation and/or the property of the parent(s) or guardian(s) having custody and~~

control of the minor. The procedures set forth in Section 1-506 shall be followed for the imposition of a special assessment or lien.]

~~(e) — Permits are valid for two (2) years and organizations that receive a permit shall not re-submit an interest card until their current permit has expired.~~

~~(f) — Permits are not transferable to any other organization.~~

~~(g) — On site storage of fireworks shall be permitted in approved metal carge style containers only, at a distance of no less than thirty (30) feet from the firework stand. Storage of fireworks in trucks or vans will be permitted during hours of sale only. The truck or van carrying or storing the fireworks shall be removed from the sales area and placed at a pre-approved and secure location. The pre-approval of such location will be by the California State Fire Marshal or the Fire Chief or the Fire Chiefs designee.~~

SECTION 2. Section 10-53302.14 of the Fresno Municipal Code is repealed.

SECTION 3. Section 10-53302.15 of the Fresno Municipal Code is repealed.

SECTION 4. Section 10-53302.16 of the Fresno Municipal Code is repealed.

SECTION 5. Section 10-53302.17 of the Fresno Municipal Code is repealed.

SECTION 6. Severability. If any section or portion of this ordinance shall be determined invalid or unconstitutional, that section or portion shall be deemed severable and all remaining sections or portions shall remain in full force and effect.

SECTION 7. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

\* \* \* \* \*

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the day of \_\_\_\_\_, 2009.

AYES :  
NOES :  
ABSENT:  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2009

Mayor Approval/No Return: \_\_\_\_\_, 2009

Mayor Veto: \_\_\_\_\_, 2009

Council Override Vote: \_\_\_\_\_, 2009

REBECCA E. KLISCH  
City Clerk

BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

JAMES C. SANCHEZ  
City Attorney

BY:  \_\_\_\_\_  
Michael G. Vigilia, Deputy

MGV:sn [51307sn/ORD] 12/12/09



This document represents streamlining the old fireworks document into new documents. The ~~red strikethrough~~ portions are portions which will be deleted. The **blue** are items which will be added. New documents have been created.

**CITY OF FRESNO FIRE DEPARTMENT  
2009 APPLICATION FOR PERMIT TO SELL "SAFE AND SANE"  
FIREWORKS**

I/We \_\_\_\_\_

Hereby make application for a permit to sell, at retail, "Safe and Sane" fireworks at the location hereafter set forth:

Location: \_\_\_\_\_

I/We would like our fireworks stand to be inspected by the Fire Department as indicated below: (circle one date and one time)

Organization will now call to make more specific appointment.

~~June 26, 2009~~ June 28, 2010 or June 29, 2010 or June 30, 2010, July 1, 2010  
(circle one)

8:00 a.m.-12:00 p.m. or 1:00 p.m.-4:00 p.m. (circle one)

I/We will stop selling "Safe and Sane" fireworks at the end of the designated sales time on:

July 4, 2009 @ 10:00 p.m. or July 5, 2009 @ 10:00 p.m. or July 6, 2009 @ ~~6:00~~  
p.m. 12 noon per new state requirements

**Inspection appointment: ORGANIZATION RESPONSIBILITY**

1. The organizations which have successfully submitted approved documentation, will be responsible for calling Terri Meiss at the Fresno Fire Prevention Division (559) 621-4146 to schedule the date and time of their organizations initial fireworks stand inspection. The organization may ONLY call Inspector Meiss on the fourth Wednesday in May, between the hours of 8:00 a.m. and 5:00 p.m. the same day.

- These appointments are limited and will be assigned on a first come first service basis;
- Appointments will be scheduled as follows:  
June 28<sup>th</sup> 8:00 a.m. - 4:00 p.m.  
June 29<sup>th</sup> 8:00 a.m. - 4:00 p.m.



June 30<sup>th</sup> 8:00 a.m. - 4:00 p.m.  
July 1<sup>st</sup> 8:00 a.m. - 12:00 p.m.

- **Appointments will be available every half hour.**

### **Fireworks Stand Inspection:**

1. The initial inspection will be conducted on the day and time the organization has previously **agreed to**. If the organization is not at the fireworks stand or is not prepared for the initial inspection at the previously **agreed to** time, the organization will be responsible for rescheduling an inspection time and date with the Fresno Fire Prevention contact person within the approved inspection dates and times listed above;

### **IMPORTANT:**

- Re-Inspections will be conducted on a first come first serve basis.
- If an organization needs to request a re-inspection, but has waited until all appointments are past or taken, the organization will **not** have an initial inspection and will **not** be granted a permit to sell Safe and Sane fireworks for the fireworks season.
- **If for any reason the Fire Prevention Division has to return to the fireworks stand for the initial inspection (Due to product not being delivered, “No show”, not ready for initial inspection, etc.) there will be a re-inspection fee charged in the amount of \$74.00.**
- This fee is payable to the City of Fresno, FIREWORKS, and must be submitted to the Fresno Fire Department, Fire Prevention Fireworks Coordinator prior to rescheduling the initial inspection.
- If the fee is not paid and/or if a new appointment is not scheduled during the approved dates and times listed above, the organization will not receive a permit for this fireworks season.

**The Fresno Fire Prevention Department will not call organizations or vendors to schedule appointments. It is the organizations responsibility to schedule an initial inspection or a re-inspection.**

2. See **Appendix D** for a list of items which will be verified at the time of the initial inspection and during the daily inspections conducted by Fire Personnel;
3. Permits are only effective after the City of Fresno Fire Prevention Division has conducted the initial inspection confirming compliance with all requirements (Engine companies are not authorized to conduct initial inspections and issue permits);
4. Once the permit is issued, it must be posted in a conspicuous location inside the fireworks stand during times of operation along with the following:
  - State Fire Marshal’s license.



- Temporary Seller's Permit from the State Board of Equalization.
  - Certificate of Insurance.
  - Name and contact information of at least two people responsible for the operation of the fireworks stand.
5. Permits are not transferable to any other organization;
  6. It is unlawful for any person to sell Safe and Sane fireworks within the City of Fresno without a permit issued by the Fire Chief or the Fire Chief's designee. If an organization is selling Safe and Sane fireworks without a permit the individual or organization could face a fine of up to One-Thousand Two-Hundred Fifty Dollars (\$1250.00) and will no longer be eligible to sell Safe and Sane fireworks in the City of Fresno for the current fireworks season;
  7. If the same organization sells Safe and Sane fireworks a second time without a permit the organization will be eliminated from the participation of selling Safe and Sane fireworks for two (2) calendar years;
  8. All officers, agents and employees of the eligible organization shall be responsible for compliance with all provisions of these standards.

Permits to sell "Safe and Sane" fireworks shall be issued by the Fire Chief or his/her designee, upon application therefore, only to eligible organizations and only after those organizations have met all the applicable requirements set forth in this section and within the Fresno Municipal Code:

1. Any eligible organization desiring to sell "Safe and Sane" fireworks in the City shall pick up their permit application on or after Monday, ~~March 16, 2009~~ **January 1<sup>st</sup> or the first business day thereafter** between the hours of 8:00 a.m. and 5:00 p.m., and return **on the third Wednesday of February** ~~no later than May 11, 2009 at 12:00 p.m.~~, to the Fresno Fire Department Headquarters, Fresno Prevention Division, 911 H Street, Fresno, California 93721. **This will include all returning non-profit organizations that will be participating in their second year. No extensions will be granted.**
2. Should permission to operate a fireworks stand be granted to an organization, applications shall be signed by a bonafied officer of the eligible organization, wherein the officer on behalf of the organization and its agents, agrees to abide by State Law and Administrative Regulations, regulations adopted under the authority of the Health and Safety Code, Section 12500, and all the stipulations of the adopted City Code.

**To ensure acceptance of the application, the following must be provided and approved:**

1. **Name of Organization:** Provide the complete title of the organization. Do not use abbreviations;



2. **Organizations headquarter address:** Provide the physical address of the organization's headquarters. This address must be located within the City limits of Fresno (no P.O Boxes);
3. **Contact Persons:** List two officers of the organization and provide a minimum of two contact phone numbers for each officer;
4. **Federal Tax ID Number:** Fill in the organization's Federal Tax ID number. Organizations must have a **current** and valid tax exemption status with the Internal Revenue Service as a 501 (c)(3)-(19). Any organization wishing to participate in the lottery shall have a non-profit tax exemption status from the IRS, including churches and religious organizations.

All Federal Tax ID numbers will be verified through the IRS web site at: <http://www.irs.gov/taxstats/charitablestats/article/0,,id=97186,00.html>. Scroll down to the box which contains the excel tables for California. If the name of the organization or corporation and the tax ID number are not listed on this data base your application will not be accepted.

If an organization is not listed on the IRS web site, it is the responsibility of that organization to inquire with the IRS as to why they are not listed. If an organization is not on the IRS web site, by the application due date, they will not be considered for the current year's lottery drawing.

All organizations which were allowed to purchase a business license for the 2009 fireworks season and who are in their second permit year in the 2010 fireworks season will be allowed to operate with the business license for 2010 **only**. If these organizations wish to participate in the fireworks season after 2010, the organization will have to obtain 501(c)(3)- (19) status from the IRS.

5. **Purpose of the Organization:** Describe the services this organization provides to the community of the City of Fresno;

An "eligible organization" shall mean an organization which has met all of the following criteria for a continuous period of not less than one (1) full year preceding submittal of an application and shall have a bona fide membership of at least twenty (20) members;

- Must be a duly organized not for profit charitable, religious, civic, patriotic, or community service organization.
- Must be headquartered within and clearly affiliated or identified with the City of Fresno.
- Must be one which provides direct and regular community services and benefits to the citizens of the City of Fresno.



- Must have its principal and permanent meeting place within the City limits and shall have been organized and established in an area which is presently within the City limits.
  - The organization must have a current and valid 501(c)(3)-(19) status with the IRS.
6. **Identify the services or benefit provided to the citizens of Fresno by your organization:** Fill in the services or benefit your organization provides for the citizens of the City of Fresno;
  7. The application must be accurately completed, legible, signed and submitted no later than the due date above;
  8. All organizations or corporations interested in obtaining a permit to sell Safe and Sane fireworks must meet all the provisions set forth in this entire Section and the provisions in the Fresno Municipal Code;
  9. No organization shall submit more than one application per permitting season. Submittal of more than one application shall be grounds for denial of all applications;
    - Once all lottery numbers are issued, verification will be conducted to ensure that duplicate tax id numbers have not been submitted. If a duplicate tax id number is found, the organization with the lowest lottery number will remain in the lottery. All others will be disqualified from the drawing.
  10. Vendors will bring the applications to be reviewed on a first come first serve basis on the **third Wednesday of February** starting at 7:30 a.m. and ending at 4:00 p.m. All applications submitted prior to 4:00 p.m. on the **third Wednesday in February** will be reviewed for approval within 24 hours. Vendors will then be notified as to the approval or denial of the application by 5:00 p.m. the **third Thursday in February**;
  11. If the fireworks stand application is denied for any reason, the organization will not be entered into that years lottery drawing;
  12. Once an application has been successfully submitted and approved, the organization will be assigned a number for the lottery drawing;
  13. Not meeting all requirements in this section or in the Fresno Municipal Code, by the due date and time, will be grounds for denial of the application;
  14. The final decision for denial or approval of a fireworks application will be up to the Chief and/or her/his designees.



## **LOTTERY:**

1. Each year the lottery drawing will result in up to 30 new fireworks stand participants who may become eligible for a two year fireworks stand permit;
2. The lottery will take place at the City of Fresno, Fire Prevention Division conference room, on the ***first Wednesday in March at 10:00 a.m.***;
3. Fresno Fire Prevention personnel will place the cards with the participants' assigned numbers in the "Squirrel Cage" for the drawing. A representative from the City of Fresno, Fire Prevention Division will then spin the cage and select 30 new participants (all numbers will be selected in order to establish an alternate list.);
4. On the day of the drawing, the vendors, as well as the Fire personnel, will receive a list of organizations and their corresponding numbers;
5. Once the 30 organizations are drawn, the fireworks vendors will contact all the organizations and assist completing all necessary documents in order to obtain a permit to sell Safe and Sane fireworks.
6. Supplemental documentation and requirements will be available to be picked up on the day of the drawing.

## **RULES AND REGULATIONS**

### **PERMITS:**

1. When all the application requirements have been completed, and the fireworks stand location has been approved, the Fire Department shall authorize erection of a fireworks stand.
2. Permits will be effective and delivered after the Fire Department has conducted an initial inspection of the fireworks stand confirming compliance with all requirements of these regulations.
3. Permits are effective for two (2) years and organizations receiving a permit are not required to submit an interest card in the second permitted year.
4. Permits are not transferable to any other organization.
5. Once the permit is issued, it must be posted in a conspicuous location inside the fireworks stand during times of operation.



## FIREWORKS STANDS:

1. Fireworks stands are preferred on paved surfaces; however, unpaved surfaces are acceptable. A ~~10'~~ 30' area surrounding fireworks stands must be cleared and/or maintained of dried vegetation.
2. No fireworks stand shall be located less than 10' from any public roadway, public sidewalk, or in any location which does not otherwise meet with the approval of the Fire Department.
3. No fireworks stand shall be located within 30' of any adjacent buildings, property line, burnable materials, grass, paper, etc. No parking of any storage vehicle or containers shall be allowed within 30' of fireworks stands.
4. Fireworks stands may **not** obstruct any handicapped parking stall. Private vehicles may **not** be parked within 10' of a fireworks stand. Provide cones or blockage to indicate a "NO PARKING" area within 10' of the fireworks stand.
5. Each fireworks stand will have a minimum of two (2) exits and shall be located and provided on opposite sides. Each exit shall be at least 32" wide. Fireworks stands with three (3) sides and open from the back will not require exits. The maximum fireworks stand length is 32'. (Appendix A)
6. "NO SMOKING" signs shall be located on ALL sides of the fireworks stand. (In both English and Spanish) Each sign shall have the words "NO SMOKING" in red letters not less than 2" in height with a minimum 1/2" stroke no less than 2" in height with a minimum of 1/2" stroke on white background.
7. One approved multipurpose ABC fire extinguisher must be provided in the fireworks stand sale area. It must be in operating condition with an up-to-date inspection tag indicating that the fire extinguisher has been serviced within the past year. Permit may be revoked if the fire extinguisher requirement is not in full compliance at all times.
8. Fireworks signs shall be limited, and affixed to the fireworks stands. These signs shall not be placed on public sidewalks, landscape setbacks, or create a traffic hazard. (Due to a possible traffic hazard, sales/advertising representatives will not be allowed on traffic medians.)

No signs (including but not limited to sandwich boards) shall be placed on public sidewalks, landscape setbacks, or create a traffic hazard. The City of Fresno prohibits the use of sandwich boards and other types of signs. There could be a fine of \$200.00-\$500.00 issued if this Municipal Code is violated. (FMC Section 12-1810)



9. Rotating beacons, strobe lights or similar devices will not be allowed.
10. No advertising, emblems, flags, etc., shall rise above the roof line of a fireworks stand. EXCEPTION: Pennant flags supplied by the vendors are accepted.
11. No tarp or canopy shall be attached to or placed within **2'** of a fireworks stand.
12. Sales or displays of fireworks will be allowed inside approved temporary fireworks stands only. No other items, food or drinks shall be sold in conjunction with or within **30'** of a fireworks stand.
13. Fireworks will not be displayed or moved into the fireworks stands until the morning of the first day of allowed sales on June 28, 2009; **the only exception will be if your initial inspection is prior to June 28, 2009. If your inspection is prior to June 28, 2009, product shall be removed immediately after the inspection.**
14. The sale of "Safe and Sane" fireworks shall commence not earlier than 12:00 p.m., noon on June 28, 2009, and shall terminate at ~~6:00 p.m.~~ noon on July 6, 2009.
15. Firework stands are allowed to operate June 29, 2009 from 9:00 a.m. to 10:00 p.m. daily.
16. All fireworks stands must be removed from the property by 5:00 p.m. on July 8, 2009.

#### **ELECTRICAL REQUIREMENTS:**

1. If fireworks stands are operated at night, only electrical lights may be used and the wiring shall meet the minimum requirements of the California Electrical Code and be installed by a licensed electrical contractor.
2. Open splices are prohibited and all wiring must be protected from physical damage and weather.
3. No "Christmas" light shall be used in or around the fireworks stands.
4. Exposed light bulbs shall be protected with covers, cages or screens.
5. Any generators or associated fuel supplies shall be located a minimum of **10'** from the fireworks stand.



## **GENERAL REQUIREMENTS:**

1. The person responsible for the fireworks stands shall instruct all workers who handle fireworks in any capacity of the hazards and with the rules and safety precautions governing fireworks.
2. Workers shall be trained in emergency procedures including use of the fire extinguisher (and may be tested at random.)
3. No person shall use or handle fireworks while under the influence of intoxicating liquids or narcotics. Alcohol and narcotics are prohibited within fireworks stands.
4. All persons within the fireworks stand or employed in the sale of "Safe and Sane" fireworks shall be at least 18 years of age. Proof must be shown at any time when requested by Fire officials. Failure to produce valid picture identification upon request may result in fireworks sales permit revocation for the remainder of the daily sales periods **or a one-thousand two-hundred fifty dollar (\$1250.00) fine.**
5. No person under 18 years of age shall purchase or sell "Safe and Sane" fireworks.
6. Smoking shall be prohibited where fireworks are stored or handled.
7. No sleeping inside a fireworks stand will be permitted at any time.
8. The premises shall be maintained in a clean, neat and orderly condition at all times and be free from any condition that would create a fire hazard.
9. No person shall sell or offer for sale any fireworks within a distance of **100'** of any pump, dispensing device, or fill location for flammable and combustible liquids or gasses.
10. Any violation of these regulations or any City ordinances, or the terms and conditions of the permit, or State Law or Administrative Regulation, or safety rules of the Fire Department shall be grounds for immediate revocation of the permit.
11. The officers, agents and employees of the eligible organization shall be responsible for compliance within all provisions of these regulations.

## **Safety Flyers:**

1. **All vendors will be required to supply the Fresno Fire Prevention Division with least 200 safety flyers per fireworks stand in which they are sponsoring.**



All eligible organizations shall obtain and submit to the Fire Department as part of the completed **application supplemental documentation** the following items:

1. ~~Completed, signed and dated application;~~ Application is due prior to supplemental documentation.
2. The currently dated property owner's release form signed by the property owner giving permission to erect a fireworks stand on their property. ~~Any changes in location must be submitted prior to May 22, 2009. No changes will be allowed after that date (Appendix B);~~
3. The State Fire Marshal's license to sell safe and sane fireworks;
4. A copy of the temporary seller's permit issued by the State Board of Equalization;
5. A statement of organization eligibility and accompanying documentation ~~(Appendix C);~~
6. A dimensioned site plan of the parcel or portion thereof that indicates an area within **100'** of the proposed fireworks stand. This plan shall include adjacent public streets, sidewalks, on the site parking lot layout, and building locations. **SPECIFIC DIMENSIONS MUST BE INCLUDED;**
7. Fireworks stands will be allowed only on property in the City which is currently developed and zoned for commercial use C-1 thru C-6 & CP. Public safety, ingress, egress and adequate parking will be additional factors considered by the Fire Department before approving any site for fireworks sales;
8. A copy of 501(c)(3)-(19) letter from the IRS **or** a valid business license certificate issued by the City of Fresno. There are only two (2) types of 501(c)(3)-(19) letters which will be accepted. (See examples attached) Tax ID numbers will be verified with the IRS;
9. A **check or money order only**, the day the application is submitted, in the amount of ~~Four Hundred and Eighteen Dollars (\$418 or current fee)~~ **Six Hundred and Seventy One Dollars (\$671.00 or current fee)** made payable to the "City of Fresno" (with the words "Fireworks Stand" written on the memo line);

**This is a non-refundable sum.** Each permit shall be for only one (1) fireworks stand per eligible organization. This fee will increase by 20% each year, for four (4) additional years to capture the accurate cost of service;



10. The location and method of the storage of “Safe and Sane” fireworks. On-site storage of fireworks shall be permitted on-site in approved metal cargo style containers **only**, at a distance no less than 30’ from the fireworks stand. Storage of fireworks product in trucks or vans will be permitted during **hours of sale only**. The truck or van carrying the fireworks products shall be removed from the sales area and placed at a secure location approved by the Fire Marshal. (Appendix **D A**).
11. Signed and dated Indemnification and hold harmless agreement. (Appendix F). Which shall also include the appropriate insurance documentation as stated in Appendix F, Exhibit A.
12. Each fireworks vendor shall submit all applicants’ supplemental documentation between the hours of 7:30 a.m. and 4:00 p.m. on the **first Wednesday in May**. Fire Prevention coordinators will audit the supplemental documentation on the same day. All supplemental documentation turned in will be reviewed within 24 hours;
13. All vendors will be notified via email or phone call no later than 4:00 p.m. the **first Thursday in May** regarding any incorrect or incomplete supplemental documentation;
14. Any supplemental documentation which is incorrect or incomplete must be resubmitted by the **second Wednesday in May** by 4:00 p.m. Supplemental documentation will be reviewed within 24 hours. The vendor will be notified via email or telephone whether the supplemental documentation has been approved or denied;
15. If any other changes or corrections are required after the **second Wednesday in May**, fireworks coordinators will accept additional changes or corrections on the **third Wednesday in May** from 7:30 a.m. to 4:00 p.m. for a \$54.00 consultation fee, per application. This fee will be due with the submittal of the documents;
16. There will be no corrections or changes accepted after 4:00 p.m. on the **third Wednesday in May**. If there is any incorrect or missing documentation at this time the permit will be denied;
17. When all application requirements have been completed, the fireworks stand location has been approved and Risk Management has approved the insurance certificate, the Fire Department shall authorize erection of a fireworks stand.

#### **The use of alternates:**

1. If one of the 30 newly selected organizations or 30 previous organizations resigns or loses their position to sell Safe and Sane fireworks, an alternate may



be chosen. It will be the vendor's responsibility to contact Fresno Fire Prevention Division if an alternate position becomes available. If the Fresno Fire Prevention Division is not notified or the due dates have passed, the slot will remain vacant for the fireworks season;

2. The alternate's application and supplemental documentation will be due the first Wednesday in May and must adhere to all other due dates as stated in this section.

~~I/We have read and understand the above and will comply with these regulations.~~

|   |                      |
|---|----------------------|
| <del>Signature: (Officer of Organization)</del> | <del>Date:</del>     |
| <del>Address:</del>                             | <del>Phone No:</del> |

These requirements are written into the standard instead of being an appendix

### ~~APPENDIX "A"~~

### ~~FIREWORK STAND CONSTRUCTION~~

~~Fireworks stands must be constructed to the following specifications:~~

~~Frame: — Can be wood or metal~~

- ~~A. The lower half of the fireworks stand shall be constructed of plywood, metal or material approved by the local fire department;~~
- ~~B. The area above the display counter can be wire mesh with solid sides or wire mesh all around;~~
- ~~C. The structure must be enclosed on at least three (3) sides. If the back is enclosed, two (2) exits a minimum of 32" in width, and 6'8" in height, and shall be present at opposite sides. Thresholds shall be covered or beveled to prevent a trip hazard. The maximum fireworks stand length is 32';~~



~~D. Front counter area open for sales shall be located 4' from the bottom edge of the fireworks stand and continue for no more than 18" in height for open area. The lath wire will continue to the roof.~~

**This will be a letter supplied by the vendor from the property owners. The vendors have different contracts with property owners and have documents signed well in advance.**

**APPENDIX "B"**

**PROPERTY OWNER'S PERMISSION TO ERECT A FIREWORKS STAND**

|   |  |
|---|--|
| <b>Organization Name:</b>               | <b>Location of Proposed Fireworks Stand:</b> |
| <b>Assessor's Parcel Number (APN#):</b> | <b>Zoning: (For Official Use Only)</b>       |

~~The above named organization has informed me of its plan to erect a fireworks stand for the retail sale of fireworks at the above location. As the owner of the above property, I understand that the organization must obtain my written permission before they can be issued a permit to sell fireworks.~~

~~To receive this permit, the organization must comply with all the rules and regulations for selling fireworks. The fireworks stand must also conform to the standards set by the local jurisdiction.~~

~~The above listed organization agrees to abide by all rules set forth by the local jurisdiction for the retail sale of fireworks.~~

|   |              |
|---|--------------|
| <b>Signature: (Officer of Organization)</b> | <b>Date:</b> |
|---|--------------|

~~With regard to the above, I, the property owner, give my permission for the erection of a fireworks stand on this property.~~

|                                     |                                       |
|-------------------------------------|---------------------------------------|
| <b>Owner's Name: (please print)</b> | <b>Contact No. to Property Owner:</b> |
|-------------------------------------|---------------------------------------|



This information is now being asked for in a simpler form.

**APPENDIX "C"**

**STATEMENT OF ORGANIZATION ELIGIBILITY**

~~Only eligible organizations may be issued a permit to operate a fireworks stand in the City of Fresno.~~

~~An "eligible organization" shall mean an organization which has met all of the following criteria for a continuous period of not less than one (1) full year preceding submittal of an application and shall have a bona fide membership of at least twenty (20) members, for the permit required by this chapter (and which continues to do so thereafter):~~

- ~~1. The organization must be duly organized not-for-profit charitable, religious, civic, patriotic, or community service organization;~~
- ~~2. The organization must be headquartered within and clearly affiliated or identified with the City of Fresno;~~
- ~~3. The organization must be one which provides direct and regular community services and benefits to the citizens of the City;~~
- ~~4. The organization must hold its regularly scheduled meetings within the City;~~
- ~~5. The organization must hold a letter issued by the IRS, for 501(c)(3)-(19). There are only two (2) types of 501(c)(3)-(19) letters which will be accepted (attached here for reference) OR the organization must hold a valid business license certificate issued by the City of Fresno.~~

~~Please complete, sign, and return this form with your packet.~~

|  |  |
|--|--|
| <del>Name of Organization:</del>   | <del>Address of organization headquarters:</del> |
| <del>Identify the purpose of your organization. (Use the statement in the organization bylaws or Articles of Incorporation-Non-profit.):</del> |  |
| <del>Identify the services or benefit provided to the citizens of Fresno by your organization:</del>   |  |



~~APPENDIX "C" con't~~

~~I, the undersigned, do swear that the above information is true and accurate to the best of my knowledge and that I am an officer of the organization authorized to sign for same.~~

|                      |                        |
|----------------------|------------------------|
| <b>Name: (print)</b> | <b>Position/Title:</b> |
| <b>Signature:</b>    | <b>Date:</b>           |



APPENDIX "D A"

STORAGE OF "SAFE AND SANE" FIREWORKS

Indicate the location where the fireworks will be stored when NOT in the fireworks stand.

Check one

|                          |   |                   |
|--------------------------|---|-------------------|
| <input type="checkbox"/> | On Site in Approved Storage Container: The following are approved containers: C-Train; PODs; U-Haul Truck or similar container; Recreational vehicles, or garages. Storage of Safe and Sane Fireworks are not allowed in homes.   |                   |
| <input type="checkbox"/> | Other (Indicate Address Below): List the type of storage the fireworks will be secured in and the location where they will be stored. If a U-Haul type vehicle or other type vehicle is used to store fireworks and is removed from the fireworks stand location, provide the location in which the vehicle will be located below. This information will be provided to the first in fire station.<br><table border="1" data-bbox="363 970 1430 1045"><tr><td>Storage Location:</td></tr></table> | Storage Location: |
| Storage Location:        |   |                   |

Failure to provide approved storage would be grounds to revoke the approval to sell "Safe and Sane" fireworks.



## APPENDIX "E"

### WHAT TO EXPECT THE DAY OF THE INITIAL INSPECTION

~~On June 26, 2009, Fire Prevention Inspectors will begin inspecting firework stands starting at 8:00 a.m. The date and time period you have indicated at the beginning of the application (page 1) will be the date and the time period your fireworks stand will be inspected. If you are scheduled from 8:00 a.m. - 12:00 p.m. please have your fireworks stand and sale items ready for inspection at 8:00 a.m. If the fireworks stand is not ready for inspection, lacks specific items to comply, or there is no Responsible present, the inspector has the option to either reschedule the inspection for a later time that day or reschedule on a future date/time.~~

~~Each fireworks stand shall display at least one product from each box for the initial inspection.~~

~~The sale of "Safe and Sane" fireworks shall commence not earlier than 12:00 p.m. on June 28, 2009, and NO FIREWORKS STAND may open prior to the initial inspection. Fireworks stands inspected and approved prior to 12:00 p.m. must wait until 12:00 p.m. to begin selling fireworks products.~~

~~Once the initial fireworks stand inspection is complete and approved a permit will be issued. Each day Fire Department personnel will inspect the fireworks stand and sign the inspection card which is left and shall be posted inside the fireworks stand.~~

~~**The following information MUST be posted in the firework stand prior to the initial inspection and each day the fireworks stand is open for operation:**~~

- ~~A. State Fire Marshal's license;~~
- ~~B. Temporary Seller's Permit from the State Board of Equalization;~~
- ~~C. Certificate of Insurance;~~
- ~~D. Name and contact information of at least two people who are responsible for the operation of the fireworks stand;~~
- ~~E. 2009 fireworks stand inspection record (once issued);~~
- ~~F. Special Hazard Permit (once issued).~~

~~If you have any questions, please contact Senior Fire Prevention Inspector Leslie Forshey at (559) 621-4144 or Fire Prevention Inspector Mark Guardado (559) 621-4045, Monday through Friday, between the hours of 7:00 a.m. and 5:30 p.m.~~

This page has been removed and replaced with a checklist below



## APPENDIX "D" 2010 FIREWORKS STAND INITIAL INSPECTION RECORD

Each fireworks stand must have the following posted:

- State Fire Marshal's license
- Temporary Seller's Permit from the State Board of Equalization
- Certificate of Insurance
- Name and contact information of two people responsible for the operation of the fireworks stand

The fireworks stand must be at least 10 feet from the following:

- Parking
- Public sidewalk or roadway
- Generators or associated fuel supplies

The fireworks stand must be at least 30 feet from the following:

- Any adjacent buildings
- Property line or burnable materials including dry vegetation
- Fireworks storage container

The fireworks stand must be at least 100 feet from the following:

- Any pump, dispensing device, or fill location for flammable and/or combustible liquids and/or gases.

### Other fireworks stand requirements:

- Each stand will have a minimum of two exits on opposite sides, each with a minimum 32" wide clear width.
- Only electric lights may be used and the wiring shall meet the minimum requirements of the California Electrical Code. Open splices are prohibited and all wiring must be protected from physical damage and weather. (bulb cages) NO "Christmas" lights shall be used in or around the fireworks stands.
- Red lettered "NO SMOKING" signs shall be located on all sides of the stand. (In both English and Spanish.)
- One approved 2A:10B:C portable fire extinguisher must be in the stand sale area and must be serviced within the last year.
- Fireworks signs shall be limited, and affixed to the fireworks stands. These signs shall not be placed on public sidewalks, landscape setbacks, or create a traffic hazard. Pennant flags are the only acceptable decorations approved for above and attached to the firework stands. SANDWICH BOARDS ARE NOT ALLOWED.
- All persons within the fireworks stand or employed in the sales must be at least 18 years of age.
- Stands may not obstruct any handicapped parking stall.
- Tarps and canopies shall not be within 2 feet of a fireworks stand.



## APPENDIX "F C"

### INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

In consideration for the issuance of a Permit for the sale and/or display of safe and sane fireworks and to the furthest extent allowed by law, Applicant does hereby agree to indemnify, hold harmless and defend the City of Fresno (hereinafter referred to as "City") and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Applicant or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of the issuance or use of the Permit. Applicant's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or authorized volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City or any of its officers, officials, employees, agents or authorized volunteers.

Throughout the life of this Agreement, Applicant shall pay for and maintain in full force and effect all insurance as required in Exhibit A, which is incorporated into and part of this Agreement, or as may be authorized or required in writing by City's Risk Manager or his/her designee at any time and in his/her sole discretion.

Applicant shall conduct all defense at his/her/its sole cost. The fact that insurance is obtained by APPLICANT shall not be deemed to release or diminish the liability of APPLICANT, including, without limitation, liability assumed under this Agreement. The duty to indemnify shall apply to all claims regardless of whether any insurance policies are applicable. The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend exists regardless of any ultimate liability of Applicant. The policy limits do not act as a limitation upon the amount of defense and/or indemnification to be provided by Applicant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Applicant, its officials, officers, employees, agents, volunteers or invitees.

Applicant shall furnish City with copies of the actual policies upon the request of City's Risk Manager or his/her designee and this requirement shall survive the expiration or termination of this Permit.

City shall be reimbursed for all costs and attorney's fees incurred by City in enforcing this Agreement.

This Indemnification and Hold Harmless Agreement shall survive the expiration or termination of this Permit.

**The undersigned acknowledges that he/she (i) has read and fully understands the content of this Indemnification and Hold Harmless Agreement; (ii) is aware that this is a contract between the City and Applicant; (iii) has had the opportunity to consult with his/her attorney, in his/her discretion; (iv) is fully**



aware of the legal consequences of signing this document; and (v) is the Applicant or his/her/its authorized signatory.

Signed, sealed and delivered this \_\_\_\_\_ day of \_\_\_\_\_ 2009.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Applicant

Form/Indemnification and Hold Harmless Agreement for Fireworks Permit.doc



**EXHIBIT A**  
**APPENDIX "B"**

**INSURANCE REQUIREMENTS FOR FIREWORKS PERMIT**

In consideration for the issuance of a Permit for the sale and/or display of safe and sane fireworks, Applicant shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by CITY'S Risk Manager or his/her designee. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include insurance for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, products and completed operations and contractual liability with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury and property damage. , \$1,000,000 per occurrence for personal and advertising injury and \$2,000,000 aggregate for products and completed operations.

Applicant shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Applicant shall also be responsible for payment of any self-insured retentions.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar day written notice by certified mail, return receipt requested, has been given to the City. Upon issuance by the insurer, broker or agent of a notice of cancellation, non-renewal or reduction in coverage or limits, Permittee shall furnish City with a new certificate and applicable endorsements for such policy(ies). **In the event any policy(ies) are due to expire during the Permit, Permittee shall provide a new certificate and all applicable endorsements evidencing renewal of such policy(ies) not less than 15 calendar days prior to the expiration date of the expiring policy(ies).**

The General Liability and Automobile Liability insurance policies shall name the City of Fresno and its officers, officials, agents, employees and authorized volunteers as an additional insureds. Applicant's insurance shall be primary as respects to the City and its officers, officials, employees, agents and authorized volunteers. Any insurance or self-insurance maintained by the City and its officers, officials, employees, agents and authorized volunteers shall be excess of the Applicant's insurance and not contribute with it. Applicant shall have furnished City with the certificate(s) and applicable endorsements for ALL required insurance prior to the issuance of the Permit.



If at any time during the life of the Permit, Applicant fails to maintain the required insurance in full force and effect, the Permit shall be suspended immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City.

**NOTE:** A Certificate of Insurance is not acceptable, in lieu of the additional insured endorsement required above. The certificate of insurance **must** be accompanied by the additional insured endorsement.



FIRE PREVENTION AND INVESTIGATIVE SERVICES DIVISION  
2010 FIREWORKS STAND APPLICATION-FRESNO

1. Name of Organization (No abbreviations): \_\_\_\_\_
2. Organization headquarter address (No P.O. Box): \_\_\_\_\_
3. Contact Persons (Officer of Organization):  
 Contact #1: Name: \_\_\_\_\_ Phone Nos.: \_\_\_\_\_  
 Contact #1: Name: \_\_\_\_\_ Phone Nos.: \_\_\_\_\_  
 Federal Tax No.: \_\_\_\_\_

Attach a copy of the 501(c)(3)-(19) letter from the IRS. There are only two (2) types of 501(c)(3)-(19) letters which will be accepted (See examples attached). Tax ID numbers will be verified with the IRS. If your organization is not listed on the IRS data base you will not be eligible to participate. Verify your Federal Tax ID number using the following web site: <http://www.irs.gov/taxstats/charitablestats/article/0,,id=97186,00.html>. Scroll down to the box which contains the excel tables for California.

4. Purpose of Organization (Service provided to the community): \_\_\_\_\_  
 \_\_\_\_\_
5. Identify the services or benefit provided to the citizens of Fresno by your organization:

I have read and I understand the Fresno Municipal Code Fireworks Ordinance and the Fresno Fire Department Standard Operating Procedures; Should permission to operate a fireworks stand be granted to an organization, applications shall be signed by a bonafide officer of the eligible organization, wherein the officer, on behalf of the organization and its agents, agree to abide by State Law and Administrative Regulations, regulations adopted under the authority of the Health and Safety Code, Section 12500, and all the stipulations of the adopted City Code and Fresno Fire Department Standard Operating Procedures.

I certify that the information provided above is true and correct.

Signature: \_\_\_\_\_

NOTE: Failure to provide true and correct information may result in denial of the application. Once the above information has been confirmed and the organization has met all of the Fresno Fire Standard requirements, the organization will be entered into the lottery drawing. If your organization is selected in the lottery the following paperwork will be due on the **first Wednesday in May**:

1. Firework Booth Location (See the Fresno Fire Department's Standards for form)
2. Property Owner's Written Permission to erect a fireworks stand
3. Proof of Insurance (See the Fresno Fire Departments Standards for requirements)
4. Site Plan (Including the storage container if storing on site and all dimensions)
5. State Fire Marshal's License
6. Seller's Permit
7. Hold Harmless Agreement (See the Fresno Fire Department's Standards for agreement)
8. Check or money order for \$671.00 (Make check payable to City of Fresno, FIREWORKS)

**For official use only**

Date Application approved: \_\_\_\_\_ Approved by: \_\_\_\_\_ Lottery # \_\_\_\_\_



## STANDARD OPERATING PROCEDURES #

### FIREWORKS STAND

**Subject:** FIREWORKS STAND REQUIREMENTS/ ILLEGAL FIREWORKS

**Scope:** Possession, use, storage, sale and/or display of Safe and Sane and/or Illegal fireworks.

**Purpose:** To outline and clarify the Fresno Fire Departments policy regarding the possession, sale, use and/or display of Safe and Sane and/or Illegal fireworks.

**Reference:** California Health and Safety Code, Section 12500; Government Code, Section 53069.4; Health and Safety Code, Section 12557; Health and Safety Code, Section 12706; and Health and Safety Code, Section 12505; City of Fresno Municipal Code, Section 10-53302.

#### Definitions:

**Fireworks Vendors** = TNT, Phantom or California Fireworks

**Organization** = The non-profit entity which is coordinating and selling the fireworks.

**NO PERSON SHALL MISREPRESENT, ACT UNETHICALLY OR CONDUCT BUSINESS IN AN ILLEGAL MANNER REGARDING THIS STANDARD. IF AN INDIVIDUAL, ORGANIZATION OR VENDOR ACTS IN THIS MANNER THEY WILL NO LONGER CONDUCT BUSINESS WITH OR IN THE CITY OF FRESNO.**

#### SAFE AND SANE FIREWORKS

An organization or corporation interested in selling Safe and Sane fireworks within the City of Fresno must first obtain a current Fresno Fire Department fireworks stand application from the fireworks vendor of their choice, listed above.

The fireworks stand application will be available to the fireworks vendors beginning **January 1<sup>st</sup>**, or the first business day thereafter, at the Fresno Fire Department Prevention Division, 911 H Street Fresno, CA 93721.

The completed applications and a **current** copy of the organizations 501(c)(3)-(19) letter issued by the IRS shall be returned to the Fresno Fire Department Prevention Division, by the vendors, starting at 7:30 a.m. on the **third Wednesday of February**, and ending at 4:00 p.m. the same day.



## STANDARD OPERATING PROCEDURES #

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This will include all returning non-profit organizations that will be participating in their second year.

**Note:** *We will not provide copies of any documentation. If copies are required, make them prior to submittal.*

To ensure acceptance of the application, the following must be provided and approved:

1. **Name of Organization:** Provide the complete title of the organization. Do not use abbreviations;
2. **Organizations headquarter address:** Provide the physical address of the organization's headquarters. This address must be located within the City limits of Fresno (no P.O Boxes);
3. **Contact Persons:** List two officers of the organization and provide a minimum of two contact phone numbers for each officer;
4. **Federal Tax ID Number:** Fill in the organization's Federal Tax ID number. Organizations must have a **current** and valid tax exemption status with the Internal Revenue Service as a 501 (c)(3)-(19). Any organization wishing to participate in the lottery shall have a non-profit tax exemption status from the IRS, including churches and religious organizations.

All Federal Tax ID numbers will be verified through the IRS web site at: <http://www.irs.gov/taxstats/charitablestats/article/0,,id=97186,00.html>. Scroll down to the box which contains the excel tables for California. If the name of the organization or corporation and the tax ID number are not listed on this data base your application will not be accepted.

If an organization is not listed on the IRS web site, it is the responsibility of that organization to inquire with the IRS as to why they are not listed. If an organization is not on the IRS web site, by the application due date, they will not be considered for the current year's lottery drawing.

All organizations which were allowed to purchase a business license for the 2009 fireworks season and who are in their second permit year in the 2010 fireworks season will be allowed to operate with the business license for 2010 **only**. If these



## STANDARD OPERATING PROCEDURES #

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organizations wish to participate in the fireworks season after 2010, the organization will have to obtain 501(c)(3)- (19) status from the IRS.

5. **Purpose of the Organization:** Describe the services this organization provides to the community of the City of Fresno;

An “eligible organization” shall mean an organization which has met all of the following criteria for a continuous period of not less than one (1) full year preceding submittal of an application and shall have a bona fide membership of at least twenty (20) members;

- Must be a duly organized not for profit charitable, religious, civic, patriotic, or community service organization.
- Must be headquartered within and clearly affiliated or identified with the City of Fresno.
- Must be one which provides direct and regular community services and benefits to the citizens of the City of Fresno.
- Must have its principal and permanent meeting place within the City limits and shall have been organized and established in an area which is presently within the City limits.
- The organization must have a current and valid 501(c)(3)-(19) status with the IRS.

6. **Identify the services or benefit provided to the citizens of Fresno by your organization:** Fill in the services or benefit your organization provides for the citizens of the City of Fresno;

7. The application must be accurately completed, legible, signed and submitted no later than the due date above;
8. All organizations or corporations interested in obtaining a permit to sell Safe and Sane fireworks must meet all the provisions set forth in this entire Section and the provisions in the Fresno Municipal Code;
9. No organization shall submit more than one application per permitting season. Submittal of more than one application shall be grounds for denial of all applications;
- Once all lottery numbers are issued, verification will be conducted to ensure that duplicate tax id numbers have not been submitted. If a duplicate tax id



## STANDARD OPERATING PROCEDURES #

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number is found, the organization with the lowest lottery number will remain in the lottery. All others will be disqualified from the drawing.

10. Vendors will bring the applications to be reviewed on a first come first serve basis on the **third Wednesday of February** starting at 7:30 a.m. and ending at 4:00 p.m. All applications submitted prior to 4:00 p.m. on the **third Wednesday in February** will be reviewed for approval within 24 hours. Vendors will then be notified as to the approval or denial of the application by 5:00 p.m. the **third Thursday in February**;
11. If the fireworks stand application is denied for any reason, the organization will not be entered into that years lottery drawing;
12. Once an application has been successfully submitted and approved, the organization will be assigned a number for the lottery drawing;
13. Not meeting all requirements in this section or in the Fresno Municipal Code, by the due date and time, will be grounds for denial of the application;
14. The final decision for denial or approval of a fireworks application will be up to the Chief and/or her/his designees.

### LOTTERY:

1. Each year the lottery drawing will result in up to 30 new fireworks stand participants who may become eligible for a two year fireworks stand permit;
2. The lottery will take place at the City of Fresno, Fire Prevention Division conference room, on the **first Wednesday in March at 10:00 a.m.**;
3. Fresno Fire Prevention personnel will place the cards with the participants' assigned numbers in the "Squirrel Cage" for the drawing. A representative from the City of Fresno, Fire Prevention Division will then spin the cage and select 30 new participants (all numbers will be selected in order to establish an alternate list.);
4. On the day of the drawing, the vendors, as well as the Fire personnel, will receive a list of organizations and their corresponding numbers;



## STANDARD OPERATING PROCEDURES #

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5. Once the 30 organizations are drawn, the fireworks vendors will contact all the organizations and assist completing all necessary documents in order to obtain a permit to sell Safe and Sane fireworks.
6. Supplemental documentation and requirements will be available to be picked up on the day of the drawing.

### Additional supplemental documentation required:

The following list of supplemental documentation is due the **first Wednesday in May** between the hours of 7:30 a.m. to 4:00 p.m. **Vendors** are to bring the following completed supplemental documents to the Fresno Fire Department Prevention Division:

1. "Fireworks Stand Location and Fireworks Storage Location Sheet"; **(Appendix A)**
  - Fireworks stands will be allowed only on property in the City which is currently developed and zoned for commercial use C-1 thru C-6 & CP. Public safety, ingress, egress and adequate parking will be additional factors considered by the Fire Department before approving any site for fireworks sales.
2. A currently dated "Property Owner's Release Form", signed by the property owner, giving permission to erect a fireworks stand on their property. This form shall include the following:
  - The organization to which permission is being granted.
  - The property address for which permission is being granted.
  - Verbiage stating the organization has permission to use the property for the location of a fireworks stand.
  - Property owner's name and address.
  - Property owner's signature and current date signed.
3. Throughout the life of the permit, the applicant shall pay for and maintain in full force and effect, policies of insurance as required by the City's Risk Manager or Risk Manager's designee. The policies of insurance shall name the City, its officers, officials, agents, employees and authorized volunteers as additional insures. The applicant shall submit current proof of insurance in a manner authorized by the City's Risk Manager or Risk Manager's designee **(Appendix B)**;
4. A dimensioned site plan (not to scale) containing all of the following;



## STANDARD OPERATING PROCEDURES #

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- Drawing that indicates all areas within one hundred feet (**100'**) of the proposed fireworks stand.
  - Drawing that indicates all areas within one hundred feet (**100'**) of the proposed and storage container (If storage is located at the same location as the fireworks stand).
  - Drawing that indicates all adjacent buildings, property lines; burnable materials, grass or vegetation is not within thirty feet (**30'**) of the fireworks stand.
  - Drawing that indicates any gasoline pump or distribution point is at least one hundred feet (**100'**) from the fireworks stand.
  - Drawing that indicates the fireworks stand location is at least ten feet (**10'**) from any public roadway, or public sidewalk.
  - Drawing that indicates the storage container is at least thirty feet (**30'**) from the fireworks stand.
5. Every fireworks stand application for permit shall be accompanied by an Office of the State Fire Marshal Retail Fireworks Application (with current year's sticker);
  6. Each applicant shall submit a Temporary Seller's Permit valid through the end of the organizations sales date;
  7. Each applicant shall execute an Indemnification and Hold Harmless Agreement as required by the City's Risk Manager or the Risk Manager's designee (**Appendix C**);
  8. Every application for a permit shall be accompanied by a nonrefundable application fee established by resolution of the City Council and set forth in the Master Fee Schedule. This application fee shall be in addition to any fee or tax imposed by any other chapter or article of the Fresno Municipal Code or within this Section. The 2010 fireworks season the permit will be Six Hundred Seventy One Dollars (\$671.00 or current fee) made payable to the City of Fresno. This is a non-refundable sum. Each permit shall be for only one (1) fireworks stand per eligible organization. This fee could increase by 20% each year, for four (4) additional years to capture the accurate cost of service;
  9. Each fireworks vendor shall submit all applicants' supplemental documentation between the hours of 7:30 a.m. and 4:00 p.m. on the **first Wednesday in May**. Fire Prevention coordinators will audit the supplemental documentation on the same day. All supplemental documentation turned in will be reviewed within 24 hours;



## STANDARD OPERATING PROCEDURES #

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10. All vendors will be notified via email or phone call no later than 4:00 p.m. the **first Thursday in May** regarding any incorrect or incomplete supplemental documentation;
11. Any supplemental documentation which is incorrect or incomplete must be resubmitted by the **second Wednesday in May** by 4:00 p.m. Supplemental documentation will be reviewed within 24 hours. The vendor will be notified via email or telephone whether the supplemental documentation has been approved or denied;
12. If any other changes or corrections are required after the **second Wednesday in May**, fireworks coordinators will accept additional changes or corrections on the **third Wednesday in May** from 7:30 a.m. to 4:00 p.m. for a \$54.00 consultation fee, per application. This fee will be due with the submittal of the documents;
13. There will be no corrections or changes accepted after 4:00 p.m. on the **third Wednesday in May**. If there is any incorrect or missing documentation at this time the permit will be denied;
14. When all application requirements have been completed, the fireworks stand location has been approved and Risk Management has approved the insurance certificate, the Fire Department shall authorize erection of a fireworks stand.

### The use of alternates:

1. If one of the 30 newly selected organizations or 30 previous organizations resigns or loses their position to sell Safe and Sane fireworks, an alternate may be chosen. It will be the vendor's responsibility to contact Fresno Fire Prevention Division if an alternate position becomes available. If the Fresno Fire Prevention Division is not notified or the due dates have passed, the slot will remain vacant for the fireworks season;
2. The alternate's application and supplemental documentation will be due the first Wednesday in May and must adhere to all other due dates as stated in this section.

### Operator safety seminar:



## STANDARD OPERATING PROCEDURES #

1. Each year, one or more representatives from each organization or corporation that is granted a permit to sell and/or display fireworks, shall attend a stand operator safety seminar conducted by the City of Fresno Fire Prevention Division and/or the fireworks industry. **Failure of an organization or corporation to have a responsible individual attend the seminar shall result in the revocation of their permit to sell and/or display fireworks;**

### Inspection appointment: **ORGANIZATION RESPONSIBILITY**

1. The organizations which have successfully submitted approved documentation, will be responsible for calling Terri Meiss at the Fresno Fire Prevention Division (559) 621-4146 to schedule the date and time of their organizations initial fireworks stand inspection. The organization may **ONLY** call Inspector Meiss on the **fourth Wednesday in May, between the hours of 8:00 a.m. and 5:00 p.m. the same day.**
  - These appointments are limited and will be assigned on a first come first service basis;
  - Appointments will be scheduled as follows:
    - June 28<sup>th</sup> 8:00 a.m. - 4:00 p.m.
    - June 29<sup>th</sup> 8:00 a.m. - 4:00 p.m.
    - June 30<sup>th</sup> 8:00 a.m. - 4:00 p.m.
    - July 1<sup>st</sup> 8:00 a.m. - 12:00 p.m.
  - Appointments will be available every half hour.

### Fireworks Stand Inspection:

1. The initial inspection will be conducted on the day and time the organization has previously **agreed to**. If the organization is not at the fireworks stand or is not prepared for the initial inspection at the previously **agreed to** time, the organization will be responsible for rescheduling an inspection time and date with the Fresno Fire Prevention contact person within the approved inspection dates and times listed above;

### IMPORTANT:

- Re-Inspections will be conducted on a first come first serve basis.
- If an organization needs to request a re-inspection, but has not waited until all appointments are past or taken, the organization will **not** have an initial



## STANDARD OPERATING PROCEDURES #

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inspection and will **not** be granted a permit to sell Safe and Sane fireworks for the fireworks season.

- **If for any reason the Fire Prevention Division has to return to the fireworks stand for the initial inspection (Due to product not being delivered, “No show”, not ready for initial inspection, etc.) there will be a re-inspection fee charged in the amount of \$74.00.**
- This fee is payable to the City of Fresno, FIREWORKS, and must be submitted to the Fresno Fire Department, Fire Prevention Fireworks Coordinator prior to rescheduling the initial inspection.
- If the fee is not paid and/or if a new appointment is not scheduled during the approved dates and times listed above, the organization will not receive a permit for this fireworks season.

**The Fresno Fire Prevention Department will not call organizations or vendors to schedule appointments. It is the organizations responsibility to schedule an initial inspection or a re-inspection.**

2. See **Appendix D** for a list of items which will be verified at the time of the initial inspection and during the daily inspections conducted by Fire Personnel;
3. Permits are only effective after the City of Fresno Fire Prevention Division has conducted the initial inspection confirming compliance with all requirements (Engine companies are not authorized to conduct initial inspections and issue permits);
4. Once the permit is issued, it must be posted in a conspicuous location inside the fireworks stand during times of operation along with the following:
  - State Fire Marshal’s license.
  - Temporary Seller’s Permit from the State Board of Equalization.
  - Certificate of Insurance.
  - Name and contact information of at least two people responsible for the operation of the fireworks stand.
5. Permits are not transferable to any other organization;
6. It is unlawful for any person to sell Safe and Sane fireworks within the City of Fresno without a permit issued by the Fire Chief or the Fire Chief's designee. If an organization is selling Safe and Sane fireworks without a permit the individual or organization could face a fine of up to one-thousand two-hundred fifty dollars



## STANDARD OPERATING PROCEDURES #

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(\$1250.00) and will no longer be eligible to sell Safe and Sane fireworks in the City of Fresno for the current fireworks season;

7. If the same organization sells Safe and Sane fireworks a second time without a permit the organization will be eliminated from the participation of selling Safe and Sane fireworks for two (2) calendar years;
8. All officers, agents and employees of the eligible organization shall be responsible for compliance with all provisions of these standards.

### Temporary fireworks stand:

1. All retail sales of Safe and Sane fireworks shall be permitted only from within a temporary fireworks stand. The sale from any other building, structure or vehicle is prohibited;
2. No fireworks stand shall be located within thirty feet (30') of any adjacent buildings or property lines, burnable materials, grass, paper, or vegetation;
3. No fireworks stand shall be located within one hundred feet (100') of any gasoline pump or distribution point;
4. Stands are preferred to be on paved surfaces, however, unpaved surfaces may be approved;
5. A thirty foot (30') area surrounding the stand must be cleared of dried vegetation and maintained;
6. No other items, such as food or drinks shall be sold in conjunction with, inside or within thirty feet (30') of a fireworks stand;
7. No fireworks stand shall be located within ten feet (10') of any public roadway, public sidewalk, or in any location which does not otherwise meet with the approval of the Fire Department;
8. Fireworks stands may not obstruct any handicapped parking stall;
9. Vehicles may not be parked within ten feet (10') of a fireworks stand. Provide cones or blockage to indicate a "NO PARKING" area within ten feet (10') of the fireworks stand;



## STANDARD OPERATING PROCEDURES #

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10. Fireworks stands need not comply with the provisions of the California Building Code; however, all stands shall be erected under the supervision of the fireworks vendor, who shall require that stands be constructed in a manner which will reasonably insure the safety of attendants and patrons;
11. If stands are operated at night, only electric lights may be used and the wiring must be installed by a licensed electrical contractor and shall meet the minimum requirements of the California Electrical Code and the Fresno Municipal Code. Open splices are prohibited and all wiring must be protected from physical damage and weather. No "Christmas" lights shall be used in or around the fireworks stands. Exposed light bulbs shall be protected with covers, cages or screens;
12. No fireworks stand shall have a floor area in excess of seven hundred fifty square feet (750);
13. Each fireworks stand shall have at least two exits. The exits shall be located and provided on opposite sides. Each exit shall be at least 32" wide, 6' 8" in height, shall swing in the direction of exit travel and shall be clear at all times;
14. Fireworks stands with three (3) sides and open from the back will not require exits;
15. The frame of a fireworks stand and the lower half can be wood or metal;
16. The area above the display counter can be wire mesh with solid sides or wire mesh all around. The front counter area open for sales shall be located 4' from the bottom edge of the fireworks stand and continue for no more than 18" in height for open area. The lath wire will continue to the roof;
17. The maximum fireworks stand length shall be no longer than thirty two feet (32');
18. One approved multipurpose 2A:10BC portable fire extinguisher must be provided in the fireworks stand sale area. It must be in operating condition with an up-to-date inspection tag indicating that the fire extinguisher has been serviced within the past year;
19. Fireworks stands shall be located on currently developed commercial zoned parcels or a location approved by the Fire Chief or his/her designee. The approved zone designations are: Zoning code C1-C6 and CP;



## STANDARD OPERATING PROCEDURES #

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20. Fireworks signs shall be limited and can only be affixed to the fireworks stands;
21. **No** signs (including but not limited to sandwich boards) shall be placed on public sidewalks, landscape setbacks, or create a traffic hazard. The City of Fresno prohibits the use of sandwich boards and other types of signs. There could be a fine of \$200.00-\$500.00 issued if this Municipal Code is violated. (FMC Section 12-1810);
22. Due to a possible traffic hazard, sales/advertising representatives will not be allowed on traffic medians;
23. Rotating beacons, strobe lights or similar devices are not allowed;
24. No advertising, emblems, flags, etc., shall rise above the roof line of a fireworks stand or any area surrounding the fireworks stand within one hundred feet (100'). Exception: Pennant flags supplied by the vendors are accepted attached to the fireworks stand and used to restrict parking. Pennant flags are not allowed to be strung on any other building, pole or area within one hundred feet (100') of the fireworks stand;
25. No tarp or canopy shall be attached to or placed within two feet (2') of a fireworks stand;
26. Fireworks shall not be displayed or moved into the fireworks stand until the first day of allowed sales on **June 28 at 12:00 p.m.** or just prior to the initial inspection;
27. All temporary fireworks stands shall be disassembled and removed no later than **July 8<sup>th</sup> at 5:00 p.m.**

### Operation of fireworks stand:

1. No fireworks stand shall operate prior to being issued a permit by the Fresno Fire Prevention Division. If operation starts prior to issuance of the permit, there could be fines involved and/or the organization could be eliminated from selling fireworks in the City of Fresno;
2. No person shall sell fireworks to any person under the age of eighteen (18);



## STANDARD OPERATING PROCEDURES #

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3. The sale of Safe and Sane fireworks shall begin no earlier than **noon on June 28th** and shall not continue after **noon on July 6th** of the same year. The sale of Safe and Sane fireworks shall be permitted only from 9:00 a.m. to 10:00 p.m. daily, except June 28th when the hours shall be 12:00 p.m. to 10:00 p.m. and July 6th when the hours shall be 9:00 a.m. to noon;
4. No entity other than the permitted organization or corporation shall operate the stand for which the permit is issued or share or otherwise participate in the profits of the operation of such stand;
5. No persons other than the individuals (volunteers) who are members of the permitted organization or corporation or the wives, husbands, parents or adult children of such members shall sell or otherwise participate in the sale and or display of Safe and Sane fireworks at such stand;
6. No person shall be paid any consideration by the permitted organization or any wholesale distributor of Safe and Sane fireworks for selling or otherwise participating in the sale of fireworks at such stand, provided, however, that compensation may be paid for security personnel during non-sale hours and to the party authorizing location of the stand on their property;
7. The person responsible for the fireworks stands shall instruct all workers who handle fireworks in any capacity of the hazards and with the rules and safety precautions governing fireworks;
8. Workers shall be trained in emergency procedures including use of the fire extinguisher (may be tested at random);
9. No person shall use or handle fireworks while under the influence of intoxicating liquids or narcotics. Alcohol and narcotics are prohibited within fireworks stand;
10. All persons within the fireworks stand or involved in the sale of Safe and Sane fireworks shall be at least 18 years of age. Proof must be shown at any time when requested by Fire officials. Failure to produce valid picture identification upon request may result in fireworks sales permit revocation for the remainder of the daily sales period, or a one-thousand two-hundred fifty dollars (\$1250.00) fine;
11. Smoking shall be prohibited where fireworks are stored, handled or sold;
12. No sleeping inside a fireworks stand will be permitted at any time;



## STANDARD OPERATING PROCEDURES #

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13. The premises shall be maintained in a clean, neat and orderly condition at all times and be free from any condition that would create a fire hazard;

### General requirements for permittees:

1. Stands shall not be located closer than six hundred feet (600') apart, unless separated by a principal arterial roadway;
2. "NO SMOKING" signs shall be prominently displayed on **all sides** of the fireworks stand, in both English and Spanish. Each sign shall have the words "NO SMOKING" in red letters not less than two inches (2") in height with a minimum one-half inch (1/2") stroke on a white background;
3. No fuel-powered generator or similar equipment shall be allowed within ten feet (10') of a fireworks stand;
4. Permits are valid for two years (2) and organizations that receive a permit shall not re-submit an application until their current permit has expired;
5. On site storage of fireworks shall be permitted in approved metal cargo style containers only, at a distance of no less than thirty feet (30') from the fireworks stand. Storage of fireworks in trucks or vans will be permitted during hours of sale only. The truck or van carrying or storing the fireworks shall be removed from the sales area and placed at a pre-approved and secure location. The pre-approval of such location will be by the California State Fire Marshal or the Fire Chief or the Fire Chiefs designee;
6. No person under 18 years of age shall purchase or sell Safe and Sane fireworks.

### Revocation of permit:

1. The Fire Chief or the Fire Chiefs designee may revoke, immediately and without notice or hearing, the permit of any permittee who violates any section within this Standard or the Fresno Municipal Code.

### Safety Flyers:

1. All vendors will be required to supply the Fresno Fire Prevention Division with least 200 safety flyers per fireworks stand in which they are sponsoring.



## STANDARD OPERATING PROCEDURES #

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### Administrative fines:

1. In addition to any other remedy available at law, any person or entity who possesses, uses, stores, sells and/or displays dangerous fireworks or any person or entity who possesses, uses, sells and/or displays Safe and Sane fireworks on or at dates, times, and or locations other than those permitted by this Section are subject to an administrative fine of not less than one-thousand two-hundred fifty dollars (\$1,250.00) for each such offense;
2. Any violation of these regulations or any City ordinance, or the terms and conditional of the permit, or State Law or Administrative Regulations, or safety rules of the Fire Department shall be grounds for immediate revocation of the permit;
3. The officers, agents and employees of the eligible organization shall be responsible for compliance within all provision of these regulations.

### Seizure of fireworks:

The Fire Chief or the Fire Chief's designee shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of this standard operating procedure.

### Appeal:

1. A citation issued for failure to comply with the provisions of this Section may be appealed pursuant to Chapter 1, Article 4 of the Fresno Municipal Code;
2. The denial of an application for a fireworks permit may be appealed pursuant to Chapter 1, Article 4 of the Fresno Municipal Code. If no appeal is filed within the time prescribed, the action of the Fire Chief or the Fire Chief's designee shall be final;
3. The administrative citation penalty may become a special assessment or a lien against the property of any person who is issued a citation for violation of the provisions of this Section. This shall include the property of a minor who is issued a citation and/or the property of the parent(s) or guardian(s) having custody and control of the minor. The procedures set forth in Section 1-506 shall be followed for the imposition of a special assessment or lien;



## STANDARD OPERATING PROCEDURES #

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4. A minor and the parent(s) or guardian(s) having custody and control of said minor, are jointly and severally liable to the City for any administrative citation and or penalty issued for failure to comply with the provisions of this Standard.

### 2011 FIREWORKS SEASON

The intent of the 2011 fireworks season is to move all due dates up one month.

DRAFT



## APPENDIX "A"

### STAND LOCATION AND STORAGE OF "SAFE AND SANE" FIREWORKS

**FIREWORKS STAND LOCATION:** \_\_\_\_\_

Indicate the location where the fireworks will be stored when NOT in the fireworks stand.

|  |  |
|--|--|
| <p>Check one</p> <p><input type="checkbox"/></p> | <p>On Site in Approved Storage Container: The following are approved containers: C-Train; PODs; U-Haul Truck or similar container; Recreational vehicles, or garages. Storage of Safe and Sane Fireworks are not allowed in homes. (Storage must be a minimum of thirty (30) feet from the fireworks stand).</p>   |
| <p><input type="checkbox"/></p>                  | <p>Other (Indicate Address Below): List the type of storage container or facility the fireworks will be secured in and the location where they will be stored. If a U-Haul type vehicle or other type vehicle is used to store fireworks and is removed from the fireworks stand location, provide the location in which the vehicle will be located below. This information will be provided to the first in fire station.</p> <p>Storage Location: _____</p> |

Failure to provide approved storage will be grounds to revoke the approval to sell "Safe and Sane" fireworks.



## APPENDIX "B"

### INSURANCE REQUIREMENTS FOR FIREWORKS PERMIT

In consideration for the issuance of a Permit for the sale and/or display of safe and sane fireworks, Applicant shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by CITY'S Risk Manager or his/her designee. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include insurance for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, products and completed operations and contractual liability with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury and property damage. , \$1,000,000 per occurrence for personal and advertising injury and \$2,000,000 aggregate for products and completed operations.

Applicant shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Applicant shall also be responsible for payment of any self-insured retentions.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar day written notice by certified mail, return receipt requested, has been given to the City. Upon issuance by the insurer, broker or agent of a notice of cancellation, non-renewal or reduction in coverage or limits, Permittee shall furnish City with a new certificate and applicable endorsements for such policy(ies). **In the event any policy(ies) are due to expire during the Permit, Permittee shall provide a new certificate and all applicable endorsements evidencing renewal of such policy(ies) not less than 15 calendar days prior to the expiration date of the expiring policy(ies).**

The General Liability and Automobile Liability insurance policies shall name the City of Fresno and its officers, officials, agents, employees and authorized volunteers as an additional insureds. Applicant's insurance shall be primary as respects to the City and its officers, officials, employees, agents and authorized volunteers. Any insurance or self-insurance maintained by the City and its officers, officials, employees, agents and authorized volunteers shall be excess of the Applicant's insurance and not contribute with it. Applicant shall have furnished City with the certificate(s) and applicable endorsements for ALL required insurance prior to the issuance of the Permit.

If at any time during the life of the Permit, Applicant fails to maintain the required insurance in full force and effect, the Permit shall be suspended immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City.

**NOTE:** A Certificate of Insurance is not acceptable, in lieu of the additional insured endorsement required above. The certificate of insurance **must** be accompanied by the additional insured endorsement.



## APPENDIX "C"

### INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

In consideration for the issuance of a Permit for the sale and/or display of safe and sane fireworks and to the furthest extent allowed by law, Applicant does hereby agree to indemnify, hold harmless and defend the City of Fresno (hereinafter referred to as "City") and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Applicant or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of the issuance or use of the Permit. Applicant's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or authorized volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City or any of its officers, officials, employees, agents or authorized volunteers.

Throughout the life of this Agreement, Applicant shall pay for and maintain in full force and effect all insurance as required in Exhibit A, which is incorporated into and part of this Agreement, or as may be authorized or required in writing by City's Risk Manager or his/her designee at any time and in his/her sole discretion.

Applicant shall conduct all defense at his/her/its sole cost. The fact that insurance is obtained by APPLICANT shall not be deemed to release or diminish the liability of APPLICANT, including, without limitation, liability assumed under this Agreement. The duty to indemnify shall apply to all claims regardless of whether any insurance policies are applicable. The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend exists regardless of any ultimate liability of Applicant. The policy limits do not act as a limitation upon the amount of defense and/or indemnification to be provided by Applicant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Applicant, its officials, officers, employees, agents, volunteers or invitees.

Applicant shall furnish City with copies of the actual policies upon the request of City's Risk Manager or his/her designee and this requirement shall survive the expiration or termination of this Permit.

City shall be reimbursed for all costs and attorney's fees incurred by City in enforcing this Agreement.

This Indemnification and Hold Harmless Agreement shall survive the expiration or termination of this Permit.

**The undersigned acknowledges that he/she (i) has read and fully understands the content of this Indemnification and Hold Harmless Agreement; (ii) is aware that this is a contract between the City and Applicant; (iii) has had the opportunity to consult with his/her attorney, in his/her discretion; (iv) is fully aware of the legal consequences of signing this document; and (v) is the Applicant or his/her/its authorized signatory.**

Signed, sealed and delivered this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Applicant (Organization)



## APPENDIX "D" 2010 FIREWORKS STAND INITIAL INSPECTION RECORD

Each fireworks stand must have the following posted:

- State Fire Marshal's license
- Temporary Seller's Permit from the State Board of Equalization
- Certificate of Insurance
- Name and contact information of two people responsible for the operation of the fireworks stand

The fireworks stand must be at least 10 feet from the following:

- Parking
- Public sidewalk or roadway
- Generators or associated fuel supplies

The fireworks stand must be at least 30 feet from the following:

- Any adjacent buildings
- Property line or burnable materials including dry vegetation
- Fireworks storage container

The fireworks stand must be at least 100 feet from the following:

- Any pump, dispensing device, or fill location for flammable and/or combustible liquids and/or gases.

### Other fireworks stand requirements:

- Each stand will have a minimum of two exits on opposite sides, each with a minimum 32" wide clear width.
- Only electric lights may be used and the wiring shall meet the minimum requirements of the California Electrical Code. Open splices are prohibited and all wiring must be protected from physical damage and weather. (bulb cages) NO "Christmas" lights shall be used in or around the fireworks stands.
- Red lettered "NO SMOKING" signs shall be located on all sides of the stand. (In both English and Spanish.)
- One approved 2A:10B:C portable fire extinguisher must be in the stand sale area and must be serviced within the last year.
- Fireworks signs shall be limited, and affixed to the fireworks stands. These signs shall not be placed on public sidewalks, landscape setbacks, or create a traffic hazard. Pennant flags are the only acceptable decorations approved for above and attached to the firework stands. **SANDWICH BOARDS ARE NOT ALLOWED.**
- All persons within the fireworks stand or employed in the sales must be at least 18 years of age.
- Stands may not obstruct any handicapped parking stall.
- Tarps and canopies shall not be within 2 feet of a fireworks stand.