

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 17, 2008 AGENDA**

Subject:	Type:	Submitted By:
AMEND MUNICIPAL CODE SECTION 119.19	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	PAMELA A. BUETHE CITY CLERK

SYNOPSIS

An ordinance has been prepared to amend Section 119.19 of the Municipal Code to change the times of discharge of permissible fireworks on July 3 and July 4 of each year.

FISCAL IMPACT

None.

RECOMMENDATION

Approval.

BACKGROUND

This item has been placed on the agenda at the request of Mayor Kindig who has been contacted by a number of residents urging a change. Some have stated that they have their fireworks celebrations on July 3 and have requested to have the time lengthened from 10:00 p.m. to 11:00 p.m. He has also received requests to shorten the hours of discharge on July 4 from midnight to 11:00 p.m. for those residents who have to work on July 5. As a result it is being recommended that on July 3 and 4 the discharge of permissible fireworks is between the hours of 7:00 a.m. and 11:00 p.m. No change is recommended for June 25 – July 2 which hours are 7:00 a.m. to 10:00 p.m.

Persons permitted to sell fireworks are permitted to do so only between the hours of 8:00 a.m. and 11:00 p.m. from June 25 through July 4.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 111.19 OF THE LA VISTA MUNICIPAL CODE PERTAINING TO DISCHARGE OF PERMISSIBLE FIREWORKS REGULATED; TO REPEAL SECTION 111.19 AS PREVIOUSLY ENACTED, TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. AMENDMENT OF SECTION 111.19. Section 111.19 of the La Vista Municipal Code is hereby amended to read as follows:

§ 111.19 DISCHARGE OF PERMISSIBLE FIREWORKS REGULATED.

(A) *Prohibition as to time of discharge.* Except as may be otherwise provided herein or authorized by special permit approved by the City Council, no person shall ignite or discharge any permissible fireworks except between the hours of 7:00 a.m. to 10:00 p.m. from June 25 through July 3-2 inclusive and between the hours of 7:00 a.m. and ~~midnight~~ 11:00 p.m. on from July 3 through July 4 inclusive of each year.

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

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

- (1) In or from any motor vehicle;
- (2) On any street, highway, or sidewalk;
- (3) Near any person or group of persons;
- (4) In any building;
- (5) In any public park, except as may be authorized by special permit;
- (6) In any public building;
- (7) In any school or on any school grounds; and
- (8) In any other manner or place that is likely to inflict or increase the risk of property damage or bodily harm to any person or persons or place any of them in danger of bodily harm.

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

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

(2) The permit holder shall obtain the required approval of the State Fire Marshal. By way of specification and not of limitation, as a condition of any permit hereunder, the permit

holder shall obtain and maintain in effect, for the maximum limitations and repose periods under any and all products liability or tort laws in the State of Nebraska, insurance for any and all liabilities arising out of or resulting from any permitted fireworks or fireworks display, written by an insurer authorized to do business in the state, in such amount and upon such other terms as satisfactory to the city in its sole discretion. The city shall be an additional named insured on each such policy provided.

SECTION 2. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 17TH DAY OF JUNE 2008.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk