



staff report

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: Art Bashmakian, Director of Planning and Building Services

SUBJECT: Consideration and possible action to approve the 2016 Fireworks Permits.

DATE: April 25, 2016

EXECUTIVE SUMMARY

Bellflower Municipal Code (B.M.C.) Chapter 8.16 regulates the use and sale of fireworks in the City of Bellflower. Chapter 8.16 establishes the procedure for obtaining a permit. Each year a list of all qualified applicants is presented to the City Council for formal acceptance. Upon approval by the City Council, Fireworks Permits are issued.

RECOMMENDATION TO CITY COUNCIL:

- 1) Approve fourteen (14) Fireworks Permits; or
- 2) Alternatively, discuss and take other action related to this item.

FISCAL IMPACT

All fourteen (14) applicants have submitted the required fees of \$100.00 for the Fireworks Permit and \$150.00 for the Miscellaneous Permit for a total of \$3,500.00. A \$150.00 cash deposit was also collected from each applicant, for a total of \$2,100.00, to guarantee faithful performance of the terms and provisions of the B.M.C. The deposit is refundable upon expiration of the permit and removal of the stand, less any actual costs incurred by the City as a result of a permittee's failure to perform. The total of all funds collected is \$5,600.00. All funds were collected before April 1, 2016.

DISCUSSION

Per B.M.C. Chapter 8.16, the process in effect for applying for a Fireworks Permit is as follows:

- In December, an invitation letter from the City is mailed out to all previous Fireworks Permit Holders requesting they once again apply for a Fireworks Permit. This "Letter of Intent" is the first step in the application process.
- Upon receipt of the "Letters of Intent," a list is generated of those who wish to obtain a Fireworks Permit. Pursuant to B.M.C. Subsection 8.16.030(D), the maximum number of permits to be issued is fourteen (14).

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- Following the determination of the number of applications to be submitted, a letter is mailed in March to all eligible applicants indicating their current Fireworks Permit status and, depending on their status, may or may not contain a revised Fireworks Permit Application, Business License, Miscellaneous Permit, and Electrical Permit.
- All applications are due back to the City by April 1, 2016, and each application for a Fireworks Permit is required to include the following:
 - ❖ A copy of the rental agreement with the landowner;
 - ❖ A copy of the agreement with the fireworks supplier;
 - ❖ A diagram showing the exact location of the stand in relation to adjacent streets and any other structures on the lot or adjacent lots, and onsite traffic circulation;
 - ❖ A list containing a minimum of twenty (20) of the organization's members who either reside in the City, are employed in the City, or are owners or operators of a business or other establishment located in the City, including their names, addresses, and telephone numbers, as of the date of the application;
 - ❖ An application for a Miscellaneous Building Permit for location and erection of a temporary structure, accompanied by the requisite permit fees as determined by separate Resolution of the City Council;
 - ❖ An application for an Electrical Permit for any stand using an electrical power source other than a portable generator, accompanied by the requisite permit fees as determined by separate Resolution of the City Council; and
 - ❖ A \$150.00 cash deposit to guarantee faithful performance of the terms and provisions of B.M.C. Subsection 8.16.020(E)(7), refundable upon expiration of the permit and removal of the stand, less actual costs incurred by the City as a result of the permittee's failure to perform.
- The list of all qualified applicants is then presented to the City Council for formal acceptance (at the April 25, 2016, City Council meeting) and upon approval by the City Council, Fireworks Permits will be issued.
- Fireworks Stands are allowed to be erected starting on noon of June 21, 2016 and a City Inspector will then inspect all fourteen (14) stands.
- Fireworks Stands are permitted to sell merchandise from July 1 through July 4, 2016.
- By July 10, 2016, all Fireworks Stands are to be dismantled and the location cleaned of all debris.
- The \$150.00 cash bond will then be refunded provided the stand locations are returned to their previous state.

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Pursuant to B.M.C. Chapter 8.16, all fourteen (14) applicants have complied with the requirements by completing and submitting all required forms and documentation.

Waiting List - There are currently three (3) qualified applicants on the waiting list (refer to page 4). Youth Cultural Arts Foundation, Bellflower High School Instrumental Music Program, and Bethany Christian Reformed Church have made formal requests to remain on the waiting list for future consideration.

ATTACHMENTS

2016 List of Fireworks Permit Applicants/Waiting List.....	4
City Map of Fireworks Stand Locations	5
B.M.C. Chapter 8.16 (Regulating Fireworks).....	6

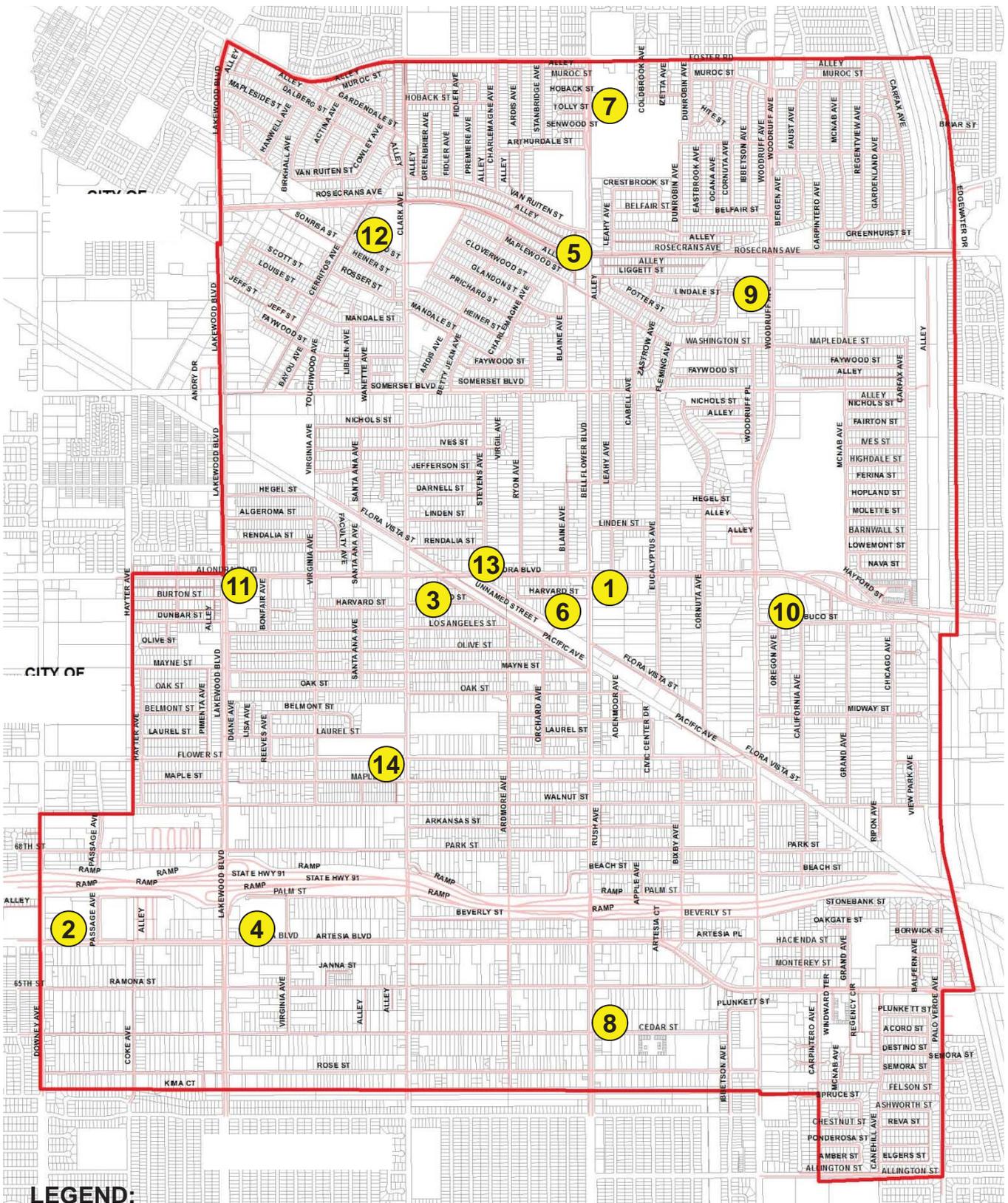
Eligible Firework Permit Applicants

<u>Permit Status</u>	<u>Booth Location</u>	<u>Organization</u>	<u>Contact</u>
1	15924 Bellflower Blvd.	Bellflower Long Beach Elks Lodge #888 16426 Bellflower Blvd. Bellflower, CA 90706	Pat Reilly
2	8533 Artesia Blvd.	Bellflower Kiwanis Club 9302 Laurel St. Bellflower, CA 90706	Ronald Schnablegger
3	9402 Alondra Blvd.	Bellflower Noon Lions 9320 Alondra Blvd. Bellflower, CA 90706	Larry Wehage
4	17220 Lakewood Blvd.	Bellflower High School Football 15301 McNab Ave. Bellflower, CA 90706	Michael Fithc
5	14225 Bellflower Blvd.	1 st United Methodist Church 14525 Bellflower Blvd. Bellflower, CA 90706	Precival Lehauli
6	16123 Bellflower Blvd.	Golden West Christian Academy 10248 Alondra Blvd. Bellflower, CA 90706	Kevin Morris
7	13400 Bellflower Blvd.	St. Dominic Savio Catholic Church 13400 Bellflower Blvd. Bellflower, CA 90706	Carlos Porras
8	14300 Bellflower Blvd.	United Pentecostal Church 10248 Alondra Blvd. Bellflower, CA 90706	Kevin Morris
9	10128 Rosecrans Ave.	Tres Rios Power Squadron 16437 Chicago Ave. Bellflower, CA 90706	Kenneth Voight
10	16000 Woodruff Ave.	Bellflower Boys Basketball Booster Club 15301 Mc Nab Ave. Bellflower, CA 90706	Chad Reuter
11	16100 Lakewood Blvd.	Bellflower Chamber of Commerce 16730 Bellflower Blvd Bellflower, CA 90706	Michelle Moore
12	9312 Rosecrans Ave.	Little House Bellflower, Inc. 9718 Harvard St. Bellflower, CA 90706	Samantha Salmeron
13	9611 Alondra Blvd.	The Full Gospel Tabernacle 9611 Alondra Blvd. Bellflower, CA 90706	Mike Cascia
14	16803 Clark Ave.	Bellflower Brethren Church 9405 Flower St. Bellflower, CA 90706	Amy Bellomo

Waiting List

<u>Permit Status</u>	<u>Booth Location</u>	<u>Organization</u>	<u>Contact</u>
Wait 1	N/A	Youth Cultural Arts Foundation 9831 Belmont St. Bellflower, CA 90706	Kathy Dietz
Wait 2	N/A	Bellflower High School Instrumental Music Program 15301 Mc Nab Ave. Bellflower, CA 90706	Claudia Torres
Wait 3	N/A	Bethany Christian Reformed Church 17054 Bixby Ave. Bellflower, CA 90706	Deanne Grachen

2016 FIREWORKS STAND LOCATIONS



LEGEND:

- | | | |
|---------------------------|---------------------------|--------------------------|
| 1. 15924 Bellflower Blvd. | 6. 16123 Bellflower Blvd. | 11. 16100 Lakewood Blvd. |
| 2. 8533 Artesia Blvd. | 7. 13400 Bellflower Blvd. | 12. 9312 Rosecrans Ave. |
| 3. 9402 Alondra Blvd. | 8. 14300 Bellflower Blvd. | 13. 9611 Alondra Blvd. |
| 4. 17220 Lakewood Blvd. | 9. 10128 Rosecrans Ave. | 14. 16803 Clark Ave. |
| 5. 14225 Bellflower Blvd. | 10. 16000 Woodruff Ave. | |

Chapter 8.16

REGULATING FIREWORKS

Sections:

- 8.16.010 **Fireworks.**
- 8.16.020 **Permits for Sale of Safe and Sane Fireworks.**
- 8.16.030 **Prerequisites to Issuance of Permits.**
- 8.16.040 **Operation of Stand.**
- 8.16.050 **Temporary Fireworks Stands.**
- 8.16.060 **General Requirements for Permittees.**
- 8.16.070 **Public Display of Fireworks.**

8.16.010 Fireworks.

This chapter shall govern the sale, offer for sale, use, discharge, firing or possession of fireworks. It is unlawful for any person to sell, offer for sale, have in his/her possession, fire, set off, discharge or use, or cause or permit to be sold, offered for sale, possessed by such person, fired, set off, discharged or used, any fireworks unless such fireworks are classified as "safe and sane" by the State Fire Marshal (referred to as "safe and sane fireworks" in this chapter) and unless in addition all terms and provisions of the State Fireworks Law contained in Part 2 of Division 11 of the Health and Safety Code of the State of California and all provisions of this chapter are complied with. Nothing herein contained shall prohibit the public display of fireworks as authorized by Section 8.16.070 of this Code subject to the terms and provisions of the State Fireworks Law.

- A. Notwithstanding the provisions of this Code or the Fire Code to the contrary, safe and sane fireworks may be sold within the City of Bellflower between the hours of 8:00 a.m. and 10:00 p.m. on the days of July 1, July 2, and July 3, and between the hours of 8:00 a.m. and 12:00 midnight on July 4 provided a permit has been first obtained pursuant to this chapter to do so and further provided that the terms and provisions of this Code and the State Fireworks Law are complied with at all times.
- B. It is unlawful for any person to fire, set off, discharge or use, or cause or permit to be fired, set off, discharged or used any fireworks except that safe and sane fireworks may be fired, set off, discharged or used during the period between 10:00 a.m. and 11:00 p.m. on the days of July 1, July 2, July 3, and July 5, and between the hours of 10:00 a.m. and 12:00 midnight on July 4.
- C. It is unlawful for any person to have in his/her possession any fireworks at any time of the year except from 8:00 a.m. on July 1 through 12:00 midnight on July 5, except that the storage within an enclosed structure of safe and sane fireworks for personal use which have been sold as a single retail package or portion thereof shall not constitute possession for purposes of this chapter. The provisions of this chapter are not applicable to public agencies or manufacturers or suppliers of fireworks for public display or storage. Organizations to which permits have been issued may accept delivery of fireworks for stocking purposes no more than twenty-four (24) hours prior to the time allotted for fireworks sales.
- D. Except as provided in Section 8.16.070 of this Code, no person shall possess, transport, buy, offer to buy, sell, offer to sell, give, receive, fire, set off, discharge or use any fireworks not classified as "safe and sane" by the State Fire Marshal.
- E. It is unlawful for any child under the age of sixteen (16) years to possess, transport, buy, offer to buy, sell, offer to sell, give, receive, fire, set off, discharge or use any fireworks classified as "safe and sane" by the State Fire Marshal, except in the presence of that child's parent, guardian or other adult person acting in loco parentis.
- F. No person shall possess, transport, buy, offer to buy, sell, offer to sell, give, receive, fire, set off, discharge or use any safe and sane fireworks in a manner likely to cause injury to life or property.

- G. No person acting as the parent, guardian or other adult person acting in loco parentis for a child under the age of sixteen (16) years shall permit that child to possess, transport, buy, offer to buy, sell, offer to sell, give, receive, fire, set off, discharge or use any safe and sane fireworks in a manner likely to cause injury to life or property.
- H. No person shall sell, offer to sell, give, or otherwise transfer any safe and sane fireworks to any child under the age of sixteen (16) years, except for a child accompanied by the parent, guardian or other adult person acting in loco parentis of that child. (Prior code § 12-3.1)

8.16.020 Permits for Sale of Safe and Sane Fireworks.

Commencing in 2003, all applications for permit to sell at retail safe and sane fireworks shall comply with and be governed by the provisions of the State Fireworks Law and, in addition, shall be governed by the following:

- A. The Director of Community Development shall solicit a letter of intent in accordance with Subsection (B) of this section from all prior year permit holders and those on the waiting list on or prior to the first day of January in each year. Such solicitation shall be by certified mail.
- B. Each interested party, including prior year permittees and those on the waiting list, shall provide a letter of intent to apply for a current year permit on or prior to the first day of February in each year. Only those parties that provide such a letter of interest are eligible to apply for a permit.
- C. All interested parties, who have previously submitted the required letter of intent, shall submit an application to sell at retail safe and sane fireworks on or prior to the first day of April in each year.
- D. Each application shall set forth:
 1. The proposed location of the fireworks stand.
 2. The total amount of any compensation required to be paid to a property owner or manager for the cost of renting a location for the fireworks stand.
 3. The principal and permanent meeting place of the applicant organization, the address of the meeting place and the day and time of the meeting.
 4. The details of the intended charitable use of the proceeds from the sale of fireworks in a form acceptable to the Director of Community Development.
 5. At or before the time of issuance of permit the applicant will deliver to the City public liability insurance and products liability insurance, bonds or riders, designating the City as an additional insured, in the minimum amount of one million dollars (\$1,000,000.00) per person, one million dollars (\$1,000,000.00) per accident, and one million dollars (\$1,000,000.00) property damage.
 6. The applicant's State Board of Equalization resale number.
 7. The applicant's retail fireworks license issued by the State Fire Marshal.
 8. Such other information as deemed appropriate by the Director of Community Development.
 9. The signature of an authorized representative of the applicant attesting under penalty of perjury that the information contained in the application is true and correct.
- E. Each application shall be accompanied by:
 1. An application-processing fee of one hundred dollars (\$100.00) that shall not be refundable.
 2. A copy of the agreement with the landowner and fireworks supplier.
 3. A diagram showing the exact location of the stand in relation to adjacent streets and any other structures on the lot or adjacent lots, and onsite traffic circulation.
 4. A list containing a minimum of twenty (20) of the organization's members who either reside in the City, are employed in the City, or are owners or operators of a business or other establishment

located in the City, including their names, addresses, and telephone numbers, as of the date of the application.

5. An application for a miscellaneous building permit for location and erection of a temporary structure, accompanied by the requisite permit fees as determined by separate resolution of the City Council.
6. An application for an electrical permit for any stand using an electrical power source other than a portable generator, accompanied by the requisite permit fees as determined by separate resolution of the City Council.
7. A one hundred fifty dollars (\$150.00) cash bond to guarantee faithful performance of the terms and provisions of this chapter, refundable upon expiration of the permit and removal of the stand, less actual costs incurred by the City as a result of the permittee's failure to perform. (Prior code § 12-3.2)

8.16.030 Prerequisites to Issuance of Permits.

Commencing in 2003, a permit to sell safe and sane fireworks may be issued or denied in the discretion of the City Council and subject to such other reasonable conditions as the City Council determines necessary to protect the public health, safety and welfare. The City Council does hereby declare its intention to issue only a limited number of permits in order to prevent an unsightly or undue or unsafe concentration of fireworks stands. The following qualifications must be met in addition to the other requirements set forth in this chapter or in the State Fireworks Law, before a permit may be issued:

- A. Upon receipt of the report of the Fire Department, the City Council may issue permits to those persons or organizations determined by it to be responsible, and organized and existing as nonprofit or tax exempt associations as recognized by the State of California or the Internal Revenue Code primarily for patriotic, veteran, civic betterment, religious, welfare, youth or charitable purposes. No permit shall be issued to other than adult persons.
- B. The applicant must be an organization which meets all of the following criteria: 1) it has its principal and permanent meeting place in the City; 2) it must have been organized and established in the City for a minimum of one year continually preceding the filing of the application for the permit, and; 3) such organization must have a bona fide membership of at least twenty (20) members who either reside in the City, are employed in the City, or are owners or operators of a business or other establishment located in the City.
- C. There shall be not more than one (1) stand per permittee. Only one (1) permit shall be issued for any parent, principal, or master group or organization unless the City Council finds in a given case, because of the circumstances of the stand location or other factors, the intent of this chapter will not be defeated by issuing more than one (1) permit. The intent of this requirement is to limit applicants, who otherwise qualify, to one (1) permit as to each such parent or principal group or organization and to eliminate any one (1) principal or parent group or association from having permits issued to associate, derivative, ancillary, subsidiary or support groups or entities. Nothing in this chapter shall prohibit more than one (1) group or organization meeting all qualifications specified in this chapter from jointly applying for a fireworks permit. In such case, however, only a single permit will be issued, and no organization not previously having obtained a permit in its own right shall derive any independent right to a separate permit or to its partner organization(s)' rights in the event a partner organization shall cease operating a stand.
- D. The maximum number of permits that may be issued pursuant to this chapter during any one (1) calendar year shall not exceed seventeen (17) in 2002 and fourteen (14) commencing in 2003. Applications for a permit shall be heard and considered by the City Council. Except for grandfathered permits pursuant to Subsection (E) of this section, if the City Council should determine that there are more than seventeen (17) applications in 2002 and fourteen (14) applications commencing in 2003 which are

qualified for permits, the vacancy will be filled by the next qualified applicant in the order received on the waiting list maintained by the Director of Community Development.

- E. Those organizations which obtained a permit in the year 2002 may, notwithstanding the provisions of Subsection (D) of this section, in the discretion of the City Council, be issued a permit until such time that said organization does not received a permit in a given year, or had such a permit revoked per Section 8.16.060(I) of this Code, provided that the organization is qualified and is in substantial compliance under all other sections of this chapter to hold a permit for a fireworks stand.
- F. The Director of Community Development shall establish and maintain a waiting list, in the order received, of those organizations that have expressed an interest in obtaining a permit for the sale of safe and sane fireworks when a permit becomes available. (Prior code § 12-3.3)

8.16.040 Operation of Stand.

- A. Every fireworks stand shall be staffed only by members of the permittee organization(s), members of their immediate families, or volunteers and no person below the age of eighteen (18) years shall at any time be or be permitted inside of said stand or to assist in the handling or sale of fireworks.
- B. No person shall be paid any consideration for selling or otherwise participating in the sale of fireworks at such stand.
- C. Every organization shall be responsible to make certain that every person selling fireworks from that organization's stand shall distribute with each sale a flier from the City containing information on laws and corresponding penalties concerning fireworks. It will be the responsibility of every organization to obtain a sufficient number of fliers from the City. (Prior code § 12-3.4)

8.16.050 Temporary Fireworks Stands.

All retail sales of safe and sane fireworks shall be permitted only from within a temporary fireworks stand, and the sale from any other building or structure is hereby prohibited. Temporary stands shall be subject to the following provisions:

- A. No fireworks stand shall be located within twenty-five (25) feet of any other building, or within fifteen (15) feet of any street curb line, or within one hundred (100) feet of any premises where flammable liquids are dispensed. For purposes of this section, "dispensed" shall mean the removal of a flammable liquid from one container and its transfer to another.
- B. Fireworks stands as temporary structures shall not be subject to the terms and provisions of the Building Code applicable to the construction of permanent structures or buildings, provided, however, that all such stands are erected under the supervision of the Building Official, who shall require such stands to be constructed in a manner which will reasonably insure the safety of attendants and patrons. All utilities shall be installed and maintained in accordance with the Building Code.
- C. No stand shall have a floor area in excess of four hundred (400) square feet.
- D. Each stand must have at least two (2) exits; and each stand in excess of twenty-four (24) feet in length must have at least three (3) exits, spaced approximately equal distant apart; provided, however, that in no case shall the distance between the exits exceed twelve (12) feet.
- E. Each stand shall be provided with two 2.5-gallon water-type fire extinguishers, in good working order and easily accessible for use in case of fire.
- F. No vehicle will be permitted to park within twenty-five (25) feet of the stand.
- G. Notwithstanding any other provisions of this Code, fireworks stands may be established only in the General Commercial (CG) and Light Industrial (MI) zones, as further described in Title 17 of this Code, and in no other zone even if the provisions of those zones are incorporated by reference, except that a permittee may establish a fireworks stand on that permittee's property provided that the property abuts

a primary arterial street as defined in the Circulation Element of the Bellflower General Plan, and the stand is located no closer than two hundred (200) feet from a residential dwelling.

- H. All fireworks stands shall be so located as to provide safe and reasonable ingress and egress thereto and to comply with the other provisions and terms of this section. Said stands shall be located substantially at that place indicated on the approved permit for such fireworks stand.
- I. Commencing in 2003, the total amount of any compensation paid by an organization to a property owner or manager for the cost of renting a location for placement of a fireworks stand shall not exceed one thousand dollars (\$1,000.00) in any one (1) year, whether paid in cash or merchandise and whether paid by the organization or other party, including a company distributing fireworks. Every five (5) years, a cost of living adjustment (COLA) equal to the change in the Consumer Price Index between the base year index and the fifth year following the base year index for All Urban Consumers in the Los Angeles-Riverside-Orange County area will be applied to increase the maximum allowed rent. The initial base year index will be June 2002, and will be revised every five (5) years thereafter to June of the year in which the most recent COLA was applied. The COLA in any five (5) year period will be rounded to the nearest multiple of twenty-five dollars (\$25.00), not to exceed fifteen percent (15%), and no negative COLA shall be applied. (Prior code § 12-3.5)

8.16.060 General Requirements for Permittees.

- A. Stands shall not be located closer than five hundred (500) feet apart, and no more than two (2) stands shall be located on the same parcel of property. Those persons or organizations having a continuous agreement with a property owner since the year 2001 for a site which does not comply with this distance requirement may, in the discretion of the City Council, continue to utilize such site until such time that the use has been suspended or discontinued in any given year.
- B. All weeds and combustible material, not including structures, shall be cleared from the location of the stand, and for a distance of at least one hundred (100) feet surrounding the stand.
- C. "No smoking" signs shall be prominently displayed in four (4) inch letters, both inside and outside the fireworks stand. No person shall smoke or burn any cigarettes, cigars, pipes or things within such stand or within a distance of twenty (20) feet surrounding such stand.
- D. A sign shall be posted on the outside of each fireworks stand stating "FIREWORKS SHALL NOT BE SOLD TO PERSONS UNDER 16 YEARS OF AGE." Letters shall not be less than three (3) inches in height.
- E. Each stand must have an adult, twenty-one (21) years of age or older, watchman or attendant in attendance and in charge thereof at all times while fireworks are stored therein. No cooking, living or sleeping facilities shall be established or maintained within any stand. No watchman or guard shall sleep inside any such stand.
- F. All unsold stock and accompanying litter shall be removed from the location by 12:00 noon on the fifth day of July.
- G. No fireworks stand shall be installed prior to 12:00 noon on June 21 and each such stand shall be removed from the temporary location by 12:00 noon on the tenth day of July and all accompanying litter, debris, building materials, utility connections, and other facilities or equipment or materials shall be cleared from said location by said time and date.
- H. All permits and licenses shall expire at 12:00 midnight on the fourth day of July each year.
- I. Any permit or license shall be subject to immediate suspension by order of the Director of Community Development if he/she or his/her duly authorized deputy has determined that any permittee has failed to comply with the terms and provisions of this Code or any condition of the permit. Within twenty-four (24) hours of the suspension, the City Manager or his/her designee shall hold a hearing to receive evidence from the Los Angeles County Sheriff's Department, Los Angeles County Fire Department, Director of Community Development or his/her designee and/or the permittee, and determine the facts of the

case. Any such permit or license may be revoked by the City Manager when it is found and determined that a permittee has failed to comply with the terms and provisions of this Code or with any of the conditions of said permit or where the City Manager has found and determined that the preservation of the public health, safety, peace and welfare demand revocation of said license or permit, or where a permit or license has been granted on false or fraudulent evidence, testimony or application. In all such cases, the decision of the City Manager will be final.

- J. No less than one hundred percent (100%) of the gross proceeds derived from the sale of fireworks in the City, less only expenses related to the cost of purchasing the fireworks actually sold and costs incurred in complying with this chapter, shall be spent to benefit patriotic, veteran, civic betterment, religious, welfare, youth or charitable purposes. An accounting of gross receipts, all expenditures and the use of the net profits, along with a copy of the corresponding State sales tax report, shall be presented to the Director of Community Development no later than April 1 of the following year. Said report must be in a format acceptable to the Director of Community Development. Organizations failing to submit an acceptable accounting, both as to form and content, may be denied a permit. (Prior code § 12-3.6)

8.16.070 Public Display of Fireworks.

Notwithstanding the provisions of Sections 8.16.010 through 8.16.060 of this Code, public display of fireworks, as defined in the State Fireworks Law, may be conducted subject to all of the terms and provisions therein contained provided that a permit therefor has been granted by the City Council. Such public displays, in addition, shall be subject to all rules and regulations contained in the Fire Code. (Prior code § 12-3.7)