

ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1120

AN ORDINANCE TO AMEND SECTION 111.17 OF THE LA VISTA MUNICIPAL CODE AS IT PERTAINS TO PERMIT, APPLICATION AND FEE REQUIREMENTS FOR THE SALE OF PERMISSIBLE FIREWORKS; TO REPEAL SECTION 111.17 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 111.17. Section 111.17 of the La Vista Municipal Code is hereby amended to read as follows:

111.17 SALE OF PERMISSIBLE FIREWORKS; PERMIT REQUIRED; APPLICATION; PERMIT FEE.

(A) Each year the City Council shall determine whether or not to allow fireworks stands to operate in the City. If the City Council determines that fireworks stands will be permitted, the Council shall, by resolution, establish the maximum number of permits to be issued.

(B) It shall be unlawful for any person to sell, hold for sale or offer for sale any permissible fireworks within the corporate limits of the city unless such person has first obtained a permit from the City Council to do so.

(C) Application for said permit shall be made in the following manner:

(1) Application shall be made on such form as shall be prescribed by the City Council and shall be filed with the City Clerk by noon on January 15 of the year for which the permit is sought. If January 15 falls on a weekend or a holiday when City offices are closed, the deadline will move to noon on the next business day. The City shall, by publication, give notice each November of the procedure and deadline for submitting a permit application.

(2) Only nonprofit organizations and associations using volunteer sales persons and which will use the net proceeds from the sale of fireworks for community betterment purposes within the city shall be eligible for a permit.

(3) If the applicant organization has held a permit in any of the three preceding years, it must file as part of the application a written statement of the income and expenses from the sale of its fireworks within the city for each of such years, together with a statement of its community betterment type expenditures made from the net proceeds from the sale of fireworks in each said year.

(4) The applicant shall state the nature of the community betterment purpose for which the net proceeds from the current year's sale of fireworks will be utilized if the permit be granted.

(5) The application organization must identify the proposed location for the retail fireworks stand in the permit application. A signed statement from the property owner granting the application organization permission to utilize the property must accompany the application.

(6) All applications for permits must be approved by the City Council. The City Clerk shall be responsible for reviewing applications, tallying points and making recommendations to the Council for permits. Applications will be evaluated on the following criteria/point system:

(a) Each year all applications will start out with a total of twenty (20) points.

(b) Applications shall be automatically disqualified if they are received after the application deadline of January 15; if they are incomplete based on the checklist that is included on the application form; or if the applicant organization is a prior-year permit holder that has displayed and/or sold or attempted to sell illegal fireworks or has otherwise violated the law regarding the operation of their fireworks stand.

(c) Applications that are not disqualified will be reviewed by the City Clerk and will lose points according to the following schedule:

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Point Deduction	Infraction
2	Information missing from the fireworks permit application
2	Information missing from the tent permit application
2	Information missing from the sign permit application
2	Information missing from the explosive materials storage permit application
2	Information missing from site plan
5	Lack of sufficient detail regarding proposed community betterment expenditures
5	Lack of sufficient detail regarding previous years income and expenditures
5-20	Concerns with proposed location based on recommendation from public safety personnel

In the event of a tie(s) after ranking, first preference shall be given to those eligible organizations that identify community betterment acquisitions, services or programs which will benefit the city as a whole. Those that benefit only particular areas or neighborhoods of the city shall have second preference. If all other application requirements are met, special consideration will be given to organizations agreeing to co-locate and operate a fireworks stand.

(7) Permits will be valid only for the period specified on the face of the permit and will automatically terminate on the specified ending date. Permit holders shall not have any right to or expectation of receiving a permit or operating a fireworks stand in the City in any future year or period. Notwithstanding anything herein to the contrary, permits are revocable at the will of the City, at any time, with or without cause.

(8) As used herein, the following terms shall have the following meaning:

(a) **COMMUNITY BETTERMENT** shall mean that which generally betters or enhances the community of the city, such as:

1. The acquisition, improvement and maintenance of parks and recreational facilities, public equipment and other items for community use and enjoyment or to be used by the city in service to the community;
2. The recruitment and attraction of new businesses and jobs to the city community;
3. Athletic programs for the community; and
4. Other acquisitions, services or programs of general benefit to the city community.

(b) **NET PROCEEDS** shall mean gross sales less the cost of fireworks, permit fee, rental or lease expense, advertising and similar costs of operation of the fireworks stand. Volunteer salespersons shall be used and any remuneration paid or given to persons performing services in connection with the sale of fireworks shall not be deemed a cost of operation.

(9) A permit fee to sell, hold for sale or offer for sale permissible fireworks in such amount as set from time to time by the Mayor and City Council and a current record of which shall be maintained by the City Clerk, shall be collected by the city. A permit application deposit of \$500 must accompany the permit application; and, if a permit is issued, the remaining balance shall be due and payable no later than June 25th of the year for which the permit has been issued. If the permit is denied, \$400 of the deposit will be refunded.

(10) Prior to issuance of the permit, applicant shall supply to the City a copy of a certificate of insurance issued by an insurance company in good standing, authorized to do business in Nebraska, providing combined liability coverage for bodily injury and property damage in a minimum amount of \$300,000 per occurrence and \$1,000,000 in aggregate coverage and naming the City of La Vista as an additional insured.

SECTION 2. Repeal of Section 111.17 as Previously Enacted. Section 111.17 of the La Vista Municipal Code as previously enacted is hereby repealed.

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Ordinance No. 1120

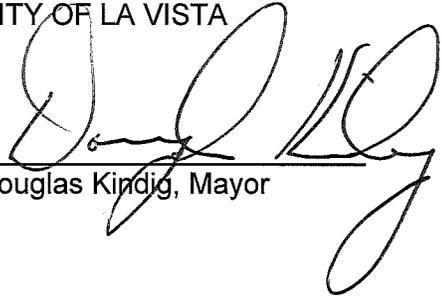
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SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining 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, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

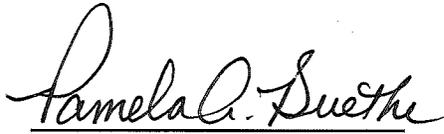
SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 6TH DAY OF APRIL 2010.

CITY OF LA VISTA


Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe, CMC
City Clerk

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