



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043

(504) 278-4228 Fax (504) 278-4209

www.sbpj.net

#16

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, JANUARY 16, 2018 AT THREE O'CLOCK P.M.

On motion of Mr. McCloskey, seconded by Mr. Montelongo, it was moved to adopt the following ordinance:

ORDINANCE SBPC #2029-01-18

Summary No. 3553

Introduced by: Administration on 1/2/18

Public hearing held on 1/16/18

AN ORDINANCE TO AMEND CHAPTER 10, FIRE PROTECTION AND PREVENTION; ARTICLE I IN GENERAL; SECTION 10-2 FIREWORKS; SUBSECTION (C) OF THE ST. BERNARD PARISH CODE OF ORDINANCES.

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

SECTION 1. The Parish Council hereby amends Chapter 10, Fire Protection and Prevention; Article I In General; Section 10-2 Fireworks; Subsection (c) as attached in Exhibit "A".

SECTION 2. Effective Date. This Ordinance shall become effective immediately upon authorizing signature by the Parish President. In the event of a presidential veto, this Ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

SECTION 3. Severability. If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this Ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion this Ordinance with the invalid portions omitted.

Kerri Callais
*Councilmember
at Large*

Richard "Richie" Lewis
*Councilmember
at Large*

Gillis McCloskey
*Councilmember
District A*

Nathan Gorbaty
*Councilmember
District B*

Howard Luna
*Councilmember
District C*

Wanda Alcon
*Councilmember
District D*

**Manuel "Monty"
Montelongo III**
*Councilmember
District E*

Roxanne Adams
Clerk of Council



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Extract #16 continued
January 16, 2018

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at Large

Richard "Richie" Lewis
Councilmember
at Large

Gillis McCloskey
Councilmember
District A

Nathan Gorbaty
Councilmember
District B

Howard Luna
Councilmember
District C

Wanda Alcon
Councilmember
District D

**Manuel "Monty"
Montelongo III**
Councilmember
District E

Roxanne Adams
Clerk of Council

The above and foregoing having been submitted to a vote, the vote thereupon resulted as follows:

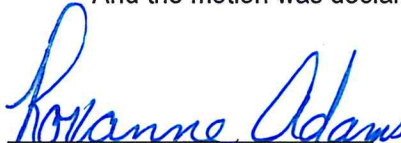
YEAS: McCloskey, Gorbaty, Luna, Alcon, Montelongo

NAYS: None

ABSENT: Callais

The Council Vice-Chair, Mr. Lewis, cast his vote as YEA.

And the motion was declared **adopted** on the 16th day of January, 2018.


ROXANNE ADAMS
CLERK OF COUNCIL


RICHARD LEWIS
COUNCIL VICE-CHAIR

Delivered to the Parish President

1-19-18 1:53pm
Date and Time

Received by _____

Approved 

Vetoed _____

Parish President


Guy McInnis

Returned to Clerk of the Council

1-22-18 9:15am
Date and Time

Received by

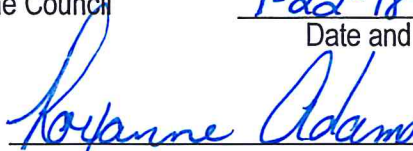


EXHIBIT "A"
SUMMARY NO. 3553
ORDINANCE SBPC #2029-01-18

Chapter 10 – Fire Protection and Prevention Section 10-2 - Fireworks

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- 1) *Retailer* means any person engaged in the business of making sales of fireworks at retail to persons other than a distributor or a jobber.
- 2) *Sale* means the sale, barter, exchanges or gift or offer therefore, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

(b) It shall be unlawful for any person to possess, sell or offer for sale or use within the parish any pyrotechnics (commonly known as fireworks) other than the permissible fireworks hereinafter enumerated. The permissible fireworks consist of ICC class "C" "common fireworks," and shall mean such articles of fireworks as are enumerated or may hereinafter be enumerated as ICC class "C" fireworks in the regulations of the interstate commerce commission for the transportation of explosives and other dangerous articles and shall include but not be limited to the following:

- 1) *Roman candles*. Total pyrotechnic composition not to exceed twenty (20) grams each in weight (10 ball).
- 2) *Skyrockets with sticks*. Total pyrotechnic composition not to exceed twenty (20) grams in weight (six (6) ounces). The rocket sticks must be securely fastened to the casing. However, two (2) ounce rockets and smaller are not allowed and penny rockets (bottle rockets) are specifically not allowed consistent with Louisiana Law.
- 3) *Helicopter type rockets*. Total pyrotechnic composition not to exceed twenty (20) grams each in weight.
- 4) *Cylindrical fountains*. Total pyrotechnic composition not to exceed seventy-five (75) grams each in weight. The inside tube diameter shall not exceed three-fourths ($\frac{3}{4}$) inch.
- 5) *Cone fountains*. Total pyrotechnic composition not to exceed fifty (50) grams each in weight.
- 6) *Wheels*. Total pyrotechnic composition not to exceed sixty (60) grams in weight for each driver unit, but there may be any number of drivers on any one (1) unit. The inside bore of driver tubes shall not be over one-half ($\frac{1}{2}$) inch.
- 7) *Illuminating torches and colored fire in any form*. Total pyrotechnic composition not to exceed one hundred (100) grams each in weight.
- 8) *Sparklers and dipped stocks*. Total pyrotechnic composition not to exceed one hundred (100) grams each in weight. Pyrotechnic composition containing any chlorate or per chlorate shall not exceed five (5) grams.
- 9) *Mines and shells*, of which the mortar is an integral part, total pyrotechnic composition not to exceed forty (40) grams each in weight.
- 10) *Firecrackers and salutes*, with castings, the external dimensions of which do not exceed one and one-half ($1\frac{1}{2}$) inches in length or one-quarter ($\frac{1}{4}$) inch in diameter and other items designed to produce an audible effect, total pyrotechnic composition not to exceed two (2) grains each in weight.

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- 11) *Combination of two (2) or more.* Items composed of a combination of two (2) or more articles or devices of the above-e numerated approved items.
- 12) *Whistles.* Domestic or imported whistles with report. No component of any device listed in this subsection, which is designed to produce an audible effect shall contain pyrotechnic composition in excess of two (2) grains in weight, excluding propelling or expelling charges.

(c) Permissible items of fireworks enumerated in subsection (b) of this section may be sold at retail and ignited or exploded from June 25 through July 5 and December 26 through January 1 of each year (R.S. 51:652) and then only as follows:

TABLE INSET:

| | |
|------------------|-------------------------|
| June 25--July 2 | 9:00 a.m. to 11:00 p.m. |
| July 3--July 4 | 9:00 a.m. to 11:00 p.m. |
| July 5 | 9:00 a.m. to 10:00 p.m. |
| Dec. 26--Dec. 28 | 9:00 a.m. to 11:00 p.m. |
| Dec. 29--Dec. 30 | 9:00 a.m. to 11:00 p.m. |
| December 31 | 9:00 a.m. to 2:00 a.m. |
| January 1 | 9:00 a.m. to 10:00 p.m. |

(d) It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of sixteen (16) years or to any intoxicated or irresponsible person. It shall be unlawful to explode or ignite fireworks within one thousand (1,000) feet of any church, gas station, hospital, asylum, public school or within one hundred fifty (150) feet of where fireworks are stored, sold or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle. Fireworks shall not be sold within two hundred (200) feet, of any filling station (gasoline, diesel, propane, etc.).

(e) It shall be unlawful to sell any items of fireworks as a retailer without first obtaining a license therefore to be issued by the parish as follows:

- 1) An applicant to engage in the sale of fireworks as a retailer must complete an application on a form provided by the parish, setting forth such facts and information as the parish may determine necessary and proper, such application shall include as affidavit by the applicant that the business will be operated by the applicant or a qualified individual or partner of the applicant under the responsibility of the applicant. Any fraudulent application will make the license null and void and may result in revocation of the applicant's occupational business license within the parish.

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- 2) All applications shall be accompanied by a copy of the previous year's sales tax return if applicable except for the first year of the enactment of this ordinance and certified copies of any lease agreement extract involving the property where the sales shall take place, any partnership agreement or incorporation charter for the business entity making the application. The applicant must pay all taxes and fees due to the parish.
 - 3) The applicant shall pay a license fee of one thousand five hundred dollars (\$1,500.00) for a license to engage in the sale of fireworks as a retailer. The license shall be valid for one (1) portable building or tent not to exceed thirty-two (32) linear feet of sales space per license. No building or tent can be moved from one (1) location to another after the license is issued. The portable building or tent in which the sale of fireworks is to take place cannot be within fifty (50) feet proximity to another building, stand is to be at least twenty-five (25) feet from public street or highway and shall be of commercial zoning. The operator of the retail outlet shall provide adequate trash containers or storage of disposable waste and shall be responsible for the cleanliness of the area around the retail outlet. Licenses are not transferable. Proceeds of all fireworks revenue is to be earmarked for the fire department.
 - 4) No more than two (2) permits per person or business entity shall be issued;
 - 5) No person convicted of a felony violation of any of the following laws: soliciting for prostitution, pandering, letting the premises for prostitution, contributing to the delinquency of a juvenile, keeping a disorderly place or illegal dealings in narcotics, in this state or any state in the United States, may hold a valid permit provided herein nor shall such person engage in the possession, sale or offering for sale of fireworks within the parish limits. No person under the age of eighteen (18) may engage in the sale or offering for sale of fireworks under a permit provided herein.
 - 6) Fireworks retail stands/tents shall pass an inspection by the fire department using the retail inspection check list, which shall be given to all licensed retailers.
- (f) Nothing in this section shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical or athletic events.
- (g)
- 1) Applicants for the retail sale of fireworks shall be permitted to install portable buildings or tent two (2) weeks before the opening dates for the sale of fireworks and shall be permitted two (2) weeks to remove the buildings or tent after the closing dates of the sale of the fireworks. All signs relating to the sale of fireworks shall be removed within five (5) days after the last day of the sale of fireworks. All trash shall be removed within twenty-four (24) hours.
 - 2) Fireworks retailers doing business within the Parish must store all portable buildings, signs and other materials related to the sale of fireworks behind sight-obscuring fences located in C-2 general commercial or 1-1 and I-2 industrial districts within five (5) days after the last day on which the sale of fireworks is permitted under this section. Failure to comply with the provisions of this section shall result in a citation. A finding of guilt for violation of this section shall result in a revocation of the retailer's permit to sell fireworks in the parish.
- (h) An informational sales tax return for each license issued respecting the sale of fireworks shall be furnished to the parish within two (2) weeks after the closing date for the sale of fireworks of each period.

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(i) Any person who sells or offers for sale any fireworks not permitted by this section shall, in addition to all other penalties provided for herein, forfeit his right to a permit for the sale of fireworks for all future years. Penalties for violation of any part: merchandise subject to seizure: subject to fine and imprisonment (R.S. 51:656).

(j) The following regulations are relative to the regulation of fireworks sales and related matters.

- 1) All fireworks licensees must provide a certificate of insurance in the amount of one million dollars (\$1,000,000.00) naming the parish as an additional insured. Said certificate shall be provided to the Parish prior to receiving a fireworks license.
- 2) Each fireworks license shall cost one thousand five hundred dollars (\$1,500.00) per year without regard to the linear feet of retail counter space. Must have original state and parish license posted.
- 3) All retail sales must take place behind a counter. Additionally, for safety reasons all inventory displayed for sale shall be stored or displayed behind a counter or table and shall not be in reach of customers.
- 4) No storage of any excess or unsold inventory will be allowed within the parish of St. Bernard at the expiration of the fireworks seasons. Any violation of the above shall be grounds for immediate revocation of the fireworks license. No on site storage trailers or containers shall be allowed, all fireworks on site shall be in retail space.
- 5) A off-duty St. Bernard Parish firefighter with radio link to fire communications must be hired to perform detail work at all fireworks stands for the price of thirty-five dollars (\$35.00) per hour for each hour worked and shall only be required for all operating hours on December 30th and 31st and July 3rd and July 4th. For each hour worked after twelve (12) consecutive hours, the detail pay shall be increased to fifty dollars (\$50.00) per hour.

(k)

- 1) *Violations.* Any person that does not act in conformity with the above rules and regulations established in any section is hereby in violation of this section and is subject to-the penalties contained herein.
- 2) *Penalty.* The parish fire chief has full authority by the governing body of this parish, to fine whomever is using fireworks prohibited by this section, with said fine to be imposed upon the owner of the property where said violation occurs. The parish fire chief may designate the appropriate personnel to perform these inspections. The fine shall be five hundred dollars (\$500.00) payable to the parish fire department when non compliance of this section takes place by issuing a citation via form of affidavit. Administration will process said fine and afford the opportunity for appeal prior to collection of said fine.

(l) Require license to be displayed in a conspicuous place at the retail location.