

## **Title 157 - STATE FIRE MARSHAL**

### **Chapter 4 - Licensing - Requirements & Penalties**

001. Scope. This chapter details procedures for obtaining distributor, jobber, retailer licenses for fireworks. This chapter also sets out obligations of license holders and procedures for license denial, suspension and revocation. Display and Public Display Operator license provisions are found in Chapter 3 of these regulations.

002. All applicants for fireworks licenses shall obtain forms for application from the State Fire Marshal's Office. Forms supplied by the State Fire Marshal shall be the only acceptable method of application.

003. All application forms shall be filled out completely and returned to the State Fire Marshal for approval.

003.01. License amount varies depending on the type of license applied for.

003.01A. Distributor's license shall be \$500.00.

003.01B. Jobber's license shall be \$200.00.

003.01C. Retailer's license shall be \$25.00.

003.02. Application forms shall include full payment, by check, payable to the Nebraska State Fire Marshal.

003.03. Applications shall be submitted for approval between January 1st and June 10th of each year. Retail applications postmarked later than June 10th shall be accompanied by an additional fee of \$50.00.

003.03A. Application forms shall be obtainable at any time of the year from the office of the State Fire Marshal during office hours.

003.03B. Retail Applications will not be accepted or issued after normal business hours on June 30th of each year.

004. General Obligations of Licensees.

004.01. Any person holding a fireworks license and all retail fireworks storage facilities shall comply with all provisions of the National Fire Protection Association's ("NFPA") Pamphlet No. 1124, Code for the Manufacture, Transportation and Storage of Fireworks, as adopted by the State Fire Marshal.

004.01A. Retail fireworks stands and sales areas shall be free from any condition that increases, or may cause an increase of, the hazard or menace of fire or explosion, or which may become the cause of any obstruction, delay or hindrance to the prevention, suppression or extinguishment of fire. The ground enclosed by any tent or stand and at least ten (10) feet outside the tent or stand shall be cleared of all flammable or combustible material or vegetation to the satisfaction of the authority having jurisdiction. The premises shall be kept free from such flammable or combustible materials during the period for which the public uses the premises.

004.01B. Smoking shall be prohibited and "No Smoking" signs posted in all portions of the premises or locations where fireworks or pyrotechnic devices are stored or handled.

004.01C. All fabric material used as a tent for the sale or storage of fireworks shall be flame-resistant in accordance with NFPA 701, *Standard Methods of Fire Tests for Flame-Resistant Textiles and Films*. Documentation of the flame-resistance shall be provided to the authority having jurisdiction upon request.

004.01D. Tents, stands or other temporary structures used for the sale or storage of fireworks shall be placed at least ten (10) feet from adjacent structures.

004.01E. At least one multipurpose portable fire extinguisher shall be furnished and maintained in all areas used for the sales and storage of fireworks. The extinguisher shall have a rating of at least 4-A for Class A fires. Two (2) stored pressure water extinguishers with a capacity of at least 2 ½ gallons each may be substituted for multipurpose extinguishers. The travel distance to reach an extinguisher shall not exceed 75 feet.

004.01E1. Employees shall be trained to operate fire extinguishing equipment and shall be required to exhibit their knowledge of operation when requested by the authority having jurisdiction.

004.01F. No portable fuel-fired heating equipment shall be permitted in a tent, stand or other temporary structure used for the sale or storage of fireworks.

004.01G. Every permanent building, temporary tent, stand or other structure used for the sale of fireworks where the public enters the structure shall have two (2) independent and widely spaced exits provided.

004.01H. When consumer (Class C) fireworks are sold or stored in a

building that is currently used for a purpose other than the sale or storage of fireworks, (not vacant) the building shall be protected throughout by a fire sprinkler system, and the area used for the sale or storage of fireworks shall be separated from the remainder of the building by one hour fire rated construction.

004.01J. When consumer (Class C) fireworks are stored in a building that is not currently used for a purpose other than the temporary storage of fireworks, (vacant) any area used solely for temporary fireworks storage and not intended for the sale of fireworks shall be separated from the remainder of the building by one hour fire rated construction.

004.02. Any electrical service used in any fireworks sales facility shall comply with all provisions of the National Electrical Code as adopted by the State Fire Marshal.

004.02A. Any electric heating appliance used in an area where fireworks are sold or stored shall be listed and approved. An electric heating appliance used in a tent, stand or other temporary structure where fireworks are sold or stored shall be listed and approved for outdoor use.

004.02B. The use of an extension cord in any in any area where fireworks are sold or stored is permitted only when the cord is designated as heavy-duty and has conductors of at least 14 (gauge) A.G. No electrical cord shall be used in a manner that would increase the potential for fire or electric shock.

004.02B1. A clear space of at least three (3) feet shall be maintained at the front and sides of any portable electric heating device.

004.02C. Any portable generator used to supply power to a tent, stand or other structure used for the sale or storage of fireworks shall be placed at least ten (10) feet from the tent, stand or structure.

004.03. Invoice copies for all fireworks in every license holder's possession shall be available for inspection. The invoice shall indicate the Nebraska distributor license number from whom the fireworks were obtained. If, in the case of a distributor, the fireworks were purchased from other than a licensed distributor, there shall be some other indication of the point of origin of the fireworks in possession.

004.04. All licenses shall be valid only for the calendar year in which it is issued.

004.05. Licensees shall, at all times, display their license in a conspicuous place at their place of business.

004.06. It shall be unlawful for any person not licensed as a distributor or as a jobber under the provisions of N.R.S. §§28-1241 to 28-1252 to bring any fireworks into this state.

004.07. No person licensed to sell fireworks at retail in this state shall make such sales or store fireworks within seventy-five (75) feet of any gasoline pumps, or aboveground gasoline tanks, a vent pipe or a fill pipe from any tank containing flammable liquids. Containers for liquefied petroleum gases (propane) shall not be placed within seventy-five (75) feet of a fireworks sales or storage structure.

004.08. Retail sales establishments shall, at all times, be supervised by a person of at least 16 years of age. Failure to comply with this regulation may result in immediate revocation of the retail license.

004.09. No license holder, except a retail license holder, shall make a sale or delivery of fireworks to any person in the State of Nebraska who does not hold a valid license as distributor, jobber or retailer.

004.10. All retail license holders shall notify the State Fire Marshal's Office if there is any change in the place of business used for the sale of fireworks from the location given on the approved license application form. Only one location change shall be allowed only within the city specified in the license application. A new retail application and fee will be required for additional location changes. Any location change will be completed on the "Fireworks License Application Change Form" provided by the State Fire Marshal's Office.

004.11. Notification of a location change of a retail stand shall be made in writing by using the "Fireworks License Application Change Form." This form can either be delivered, mailed or submitted through a fax transmission to the State Fire Marshal's Office in Lincoln. The agency's address is 246 South 14<sup>th</sup> Street, Lincoln, NE 68508-1804 and the fax number is (402) 471-3118. If possible, this notification shall occur before the move is completed. The new location shall be described with reasonable specificity, including a street address.

004.12. All other obligations imposed by the laws of Nebraska shall be complied with by all holders of fireworks licenses.

005. Denial of a license application may be made whenever statutory or regulatory provisions are not complied with by the applicant.

005.01. Application denial may also be based on any suspension or revocation of a fireworks license previously held by the applicant.

006. Failure to comply with state statutes and regulations regarding fireworks may result in suspension or revocation of a fireworks license. A license holder may request a hearing to appeal a suspension or revocation of his/her license.

006.01. Fireworks licenses shall be revoked immediately upon discovery of sale of non-permissible fireworks. All non-permissible fireworks shall be confiscated and held as evidence. Remaining firework inventory may be held by the State Fire Marshal and shall be sold or otherwise disposed of only under the supervision of the State Fire Marshal and in a manner consistent with all applicable regulations. Persons found selling non-permissible fireworks shall be ineligible to obtain a fireworks license for five years.

006.02. Persons selling permissible fireworks without a license shall immediately cease all retail and wholesale operations. Remaining firework inventory may be held by the State Fire Marshal and shall be sold or otherwise disposed of only under the supervision of the State Fire Marshal and in a manner consistent with all applicable regulations. Persons found selling permissible fireworks without a license shall be ineligible to obtain a firework license for two years.

006.03. An appeal of a license revocation or suspension must be made within ten days of notice of such revocation or suspension.

006.04. All appeals hearings shall conform generally to the Nebraska Administrative Procedures Act and to the Nebraska State Fire Marshal's Rules of Practice and Procedure, as adopted by the State Fire Marshal.

**Legal Citation: Title 157, Ch. 4, Nebraska State Fire Marshal.**