

FIRE PREVENTION GUIDELINE

Title: FIREWORKS SALES AND STORAGE REQUIREMENTS		
Number: FPG-27	Effective Date: 01/01/2023	Revised Date: 04/1/2023
Code References: California Fire Code (CFC), California Code of Regulations (CCR) Title 19, Merced Municipal Code (MMC)		
Note: <i>This guideline is a summary of Fire Department clarifications and interpretations of City and State Codes and nationally recognized standards in accordance with the currently adopted edition of the Fire Code. Information contained herein applies to typical circumstances and may not address all situations.</i>		

Scope

This Guideline has been developed to assist organizations interested in qualifying to sell fireworks in the city limits of Merced and with the inspection, documentation, licenses and requirements to obtain a fire permit for sales and storage of safe and sane fireworks in the City of Merced.

Codes and Guidelines

This guideline shall apply to all safe and sane fireworks, approved party poppers or snap caps bearing the State Fire Marshal’s seals of registration, which may be sold in accordance with the California Fire Code, California Code of Regulations Title19 and the Merced Municipal Code.

Eligibility Requirements

‘Eligible organization’ means an organization which has met all of the following criteria for a continuous period of not less than one full year preceding submittal of an application for a fire permit for the sales and storage of safe and sane fireworks.

1. The organization must be exempt from federal income tax pursuant to the provisions of Internal Revenue Code Sections 501 (c)(3), (4), (6), (7), (8), (10), (19), (23), or (26), or Section 501 (d), or Section 501 (e);
2. The organization must be headquartered within and clearly affiliated or identified with Merced;
3. The organization must be one which provides direct and regular community services and benefits to the citizens of the City; and,
4. The organization must hold its regularly scheduled meetings within the City.

‘Eligible organization’ also means any for-profit organization that obtained a permit to sell safe and sane fireworks and actually operated a fireworks stand in the City during the 2013 season with future eligibility being contingent upon obtaining successive, annual permits, and operating each successive season. A for-profit shall become permanently ineligible if the organization fails to obtain a permit and/or to operate a fireworks stand in any given year.

Fireworks Sales/Storage Permit Application

All applications for permits shall be in writing and delivered to the City of Merced Fire Department on forms supplied by the Fire Department, and shall include all documentation and proof required by the rules and regulations established by the California State Fire Marshal and the Fire Chief.

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Applications may be filed beginning the first regular business day of February of each year up to and including five p.m. on the 1st day of May of the same year. No applications shall be received after five p.m. on the 1st day of May, unless that day falls on a holiday or weekend – then the deadline shall be five p.m. on the next business day.

An application fee is required to be submitted at the time of the application. There is a non-refundable application fee established by Resolution of the City Council and set forth in the Master Fee Schedule.

Specific Requirements

NOTICE: All state laws and requirements of the State Fire Marshal's office and the City of Merced Fire Department, concerning fireworks sales and storage, must be complied with at all times. Failure to comply with these laws and regulations could result in revocation of sales and storage permits issued by the fire department and confiscation of all fireworks.

1. Only safe and sane fireworks, approved party poppers or snap caps bearing the State Fire Marshal's seals of registration may be sold.
2. An executed Indemnification and Hold Harmless Agreement, as required by the City's Risk Manager or the Risk Manager's designee, shall be provided to the City of Merced Fire Department (see page 7).
3. Throughout the life of the permit, the applicant shall pay for and maintain in full force and effect policies of insurance as required by the City's Insurance Department. The policies of insurance shall name the City, its officers, officials, agents, employees and authorized volunteers as additional insured. The applicant shall submit proof of insurance to the City of Merced Fire Department (see page 8).
4. You must possess a valid and current retail sales license for the sale of safe and sane fireworks issued by the State Fire Marshal. Bring the original document to the Fire Department as proof of possession of the original license, with sticker is required.
5. For profit organizations must obtain a business license. The business address is the location of the fireworks booth. The State Sales Tax number (temporary seller's permit number from the California State Board of Equalization) must be on the business license application. Business license can be obtained at the finance department at 678 W. 18th Street.
6. All retailers must attend a mandatory fireworks safety workshop. The workshop will cover fireworks identification, safety and use of portable fire extinguishers. All persons planning on working in the booth should attend. Any person working in the booth who has not attended a workshop must sign a roster to be posted in the booth stating they have read and understand all the general requirements on pages 9 and 10 of this guideline.

Note: If the fireworks applicant or an adult representative from your organization fails to attend one of the two scheduled training sessions, your eligibility will be revoked for this calendar year.

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7. You must possess a valid and current retail sales and storage permit(s) for fireworks issued by the City of Merced Fire Department. Fees are as follows: Application Fee - \$260, Sales and/or Storage Fee - \$240 for each storage and/or sales site.
8. The fire permit inspection fees must be paid prior to the inspection. The fees and required documents are to be submitted to the City of Merced Fire Department located at 99 E. 16th Street between the hours of 8:00-11:30 AM and 1:00-4:30 PM. Permits will be issued on site, by the Fire Inspector, when all requirements have been met.
Note: If additional inspections are required due to storage sites or booths not being set-up, missing paperwork, fire extinguishers needing to be serviced, etc. an inspection fee will be charged.
9. You must provide written documentation that the fireworks storage site and/or stand location is permitted by the property owner. It is your responsibility to ensure the person allowing you permission to use a location is authorized to do so.
10. You must provide a copy of a current Temporary Seller's Permit from the State Board of Equalization. The Temporary Seller's Permit must also be posted in the sales booth.
11. If erecting a tent over 400 square feet, an additional fire permit for Temporary Membrane Structures and Tents is required (Please see the Master Fee Schedule for the cost of the permit). FPG #F-22 - Fire Prevention Guideline for Temporary Membrane Structures and Tents is available by going to the City of Merced website: cityofmerced.org/depts/fire/fire_prevention_guidelines.asp or contacting the Fire Prevention Division.
12. If you are planning an event that includes tents, food vendors, etc., obtain a copy of the Fire Prevention Guideline FPG #F-09 for Special Outdoor Events rules and regulations. The policy is available by contacting the Fire Prevention Division or going to the City of Merced website: cityofmerced.org/depts/fire/fire_prevention_guidelines.asp. A site inspection may be required by the Fire Department prior to the event proceeding.

To obtain a firework sales and/or storage permit(s); the following conditions must be met. An inspection of the sales and storage locations must be conducted by the Fire Department. Inspections will not be scheduled until the sales and storage permit fees have been paid and all required documentation has been received and approved by the City of Merced Fire Department. Inspections will be scheduled on a first come, first serve basis; 24-hour notice is required. The Fire Inspector will call and schedule the inspection once all documents have been approved.

Site Plan

Provide a dimensioned site plan (does not need to be to scale) of the fireworks stand and storage container. The site plan shall indicate the following:

- Locations of any adjacent property lines, buildings, streets, sidewalks or other public ways.

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- Distance in feet to any adjacent streets or property lines.
- Distance in feet to the nearest buildings.
- Distance in feet to the nearest location where flammable liquids (gasoline, propane, etc.) are stored or used.
- NO PARKING is allowed within 25 feet of the storage and booth. Must show how the no parking area will be secured against traffic.
- Location of tents, fans, bounce houses, slides, barbeque grills, generators etc. and distances from fireworks booth and storage container.

Note: Once the site plan has been approved – any additions to the site must be approved 48 hours in advance.

Sales & Storage Requirements

1. Fireworks sales booth and storage containers must be at least 50 feet from inhabited buildings, including those on adjacent properties.
2. Fireworks sales booth and storage containers must be at least 100 feet from locations where flammable liquids are used, stored or dispensed.
3. Fireworks sales booth and storage containers must be at least 25 feet from property lines.
4. Generators must be located at least 25 feet away from stands or storage areas.
5. No cooking allowed within 50 feet of the fireworks booth or storage container.
6. Smoking is prohibited where fireworks are stored, handled or sold. "No Smoking" signs - 10 in total shall be posted:
 - 4 = on all four sides of the fireworks booth
 - 2 = within fireworks booth
 - 4 = on all four sides of the storage container

The sign shall read: "NO SMOKING". The lettering shall be red in color on a white background, be at least two inches in height, with a stroke of not less than ½-inch.

7. Electrical fans are not allowed to be blocking the doorways. Fans must be a minimum of 5' from the doorway. Battery operated fans are allowed inside the booth.
8. A minimum of one 2-A rated water type and one 2A 10BC rated dry chemical type fire extinguisher with a current State Fire Marshal service tag attached must be available at the fireworks booth.
9. The use of enclosed trucks or trailers may be permitted for storage of safe and sane fireworks. The truck or trailer must be inspected by the Fire Department for approval.

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10. Storage is permitted in buildings classified as an explosives warehouse or approved temporary storage building/container(s). Storage is prohibited in all other buildings, which includes all dwellings, attached garages, educational facilities, assembly occupancies (churches, theaters, malls, etc.), and institutional or social care facilities.
11. Hazard Class 1 “1.4 Explosives” placards in compliance with Department of Transportation specifications must be placed on all four sides of the storage container. They should be available at your local fire extinguisher companies.



12. It is prohibited to sleep inside or within 50 feet of any booth or storage site that contains safe and sane fireworks. This includes sleeping in trailers, campers or other vehicles.
13. Addresses of storage sites located outside the city limits must be provided with written approval of the fire authority having jurisdiction at the storage site prior to issuance of retail sales permits within the city.
14. A clearance of 50 feet must be maintained between all combustible materials (weeds, rubbish, etc.) and the firework stands or storage areas. This includes the empty boxes that the fireworks were shipped in.
15. An inspection of all stock for sale shall be made by the Fire Department prior to any fireworks sales.
16. All unsold stock of fireworks must be returned to the wholesaler prior to the 15th day of July the same calendar year.
17. All tents, canopies, or ez-ups without a CA State Fire Marshal Label indicating flame resistive material must be at least 10 feet from the fireworks booth and are not allowed to be attached to the booth. They must be secured in place.
18. Stand Construction: Stands shall be constructed in a manner approved by the Fire Marshal.
 - a. Each stand must have a minimum of two exits. Exit doors must swing in the direction of egress and shall be operable from the inside without the use of a key or special knowledge.
 - b. Fireworks stands shall be secured and enclosed so that fireworks displays and storage is out of reach of customers.
 - c. No stand shall have a floor area in excess of 300 square feet.
 - d. No stand shall be constructed which has a depth of more than 12 feet.

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19. The City of Merced Fire Department must approve all temporary electrical wiring, including portable generators.
 - a. Over-current devices at their rated capacity must protect all conductors.
 - b. Electrical receptacles for conductors must be grounded.
 - c. Disconnecting switches or plugs must be installed to permit disconnection of all underground conductors (supplied by portable generators).
 - d. All electrical cords must be UL approved, heavy-duty grounded and protected from physical damage, including vehicular traffic. If supported overhead the cords must be at least 7 feet above grade in open areas.

20. The following items must be posted inside the stand:
 - a. A copy of pages 9-10 of the Fire Prevention Guideline FPG #27-Fireworks Sales and Storage Requirements, which must be read and signed by all persons working the booth
 - b. A copy of the State Fire Marshal Retail Sales License
 - c. The original City of Merced Business License Tax Receipt
 - d. Current, original City of Merced Fire Department fire permits
 - e. Temporary Sellers Permit (State Board of Equalization)
 - f. A copy of the site plan, with the City of Merced Fire Department approved stamp/dated/signed will be provided to the applicant by fire department personnel.

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INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

In consideration for the issuance of a Permit for the sale, storage and/or display of Safe and Sane fireworks, and to the furthest extent followed by law, Applicant and Wholesaler/Retailer do hereby agree to indemnify, hold harmless and defend the City of Merced and each of its officers, officials, employees, agents and volunteers (hereinafter referred to as "City") from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Applicant, Wholesaler/Retailer or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of the issuance or use of the Permit. Applicant's and Wholesaler's/Retailer's obligations under the preceding sentence shall apply regardless of whether City is negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City.

Throughout the life of this Agreement, Applicant and Wholesaler/Retailer shall pay for and maintain in full force and effect all insurance as required, which is incorporated into and part of this Agreement, or as may be authorized or required in writing by City's Risk Manager or his/her designee at any time and in his/her sole discretion.

Applicant and Wholesaler/Retailer shall conduct all defense at his/her/its sole cost. The fact that insurance is obtained by Applicant and Wholesaler/Retailer shall not be deemed to release or diminish the liability of Applicant and Wholesaler/Retailer, including, without limitation, liability assumed under this Agreement. The duty to indemnify shall apply to all claims regardless of whether any insurance policies are applicable. The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend exists regardless of any ultimate liability of Applicant and Wholesaler/Retailer. The policy limits do not act as a limitation upon the amount of defense and/or indemnification to be provided by Applicant and Wholesaler/Retailer. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Applicant, Wholesaler/Retailer and each of their officers, officials, employees, agents, volunteers, distributors, contractors, subcontractors, vendors or invitees.

Applicant and Wholesaler/Retailer shall furnish City with copies of the actual policies upon the request of City's Risk Manager or his/her designee and this requirement shall survive the expiration or termination of this Permit.

City shall be reimbursed for all costs and attorney's fees incurred by City in enforcing this Agreement.

This Indemnification and Hold Harmless Agreement shall survive the expiration or termination of this Permit.

The undersigned acknowledges that he/she (i) has read and fully understands the content of this Indemnification and Hold Harmless Agreement; (ii) is aware that this is a contract between the City, Applicant and Wholesaler/Retailers; (iii) has had the opportunity to consult with his/her attorney, in his/her discretion; (iv) is fully aware of the legal consequences of signing this document; and (v) is the Applicant, Wholesaler/Retailer or his/her/its authorized signatory.

Signed, sealed and delivered this _____ day of _____ 20_.

Witness Signature (Fireworks Vendor)

Applicant Signature (Organization)

Witness Signature (Organization)

Wholesaler/Retailer Signature (Fireworks Vendor)

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INSURANCE REQUIREMENTS FOR FIREWORKS PERMIT

In consideration for the issuance of a Permit for the sale and/or display of Safe and Sane fireworks, Applicant and Wholesaler/Retailer shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by City's Risk Manager or his/her designee. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) Form CG 00 01 and shall include insurance for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, products and completed operations and contractual liability with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury and property damage, \$1,000,000 per occurrence for personal and advertising injury and \$2,000,000 aggregate for products and completed operations.

Applicant and Wholesaler/Retailer shall be responsible for payment of any deductibles contained in any insurance policies required hereunder. Applicant and Wholesaler/Retailer shall also be responsible for payment of any self-insured retentions.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice by certified mail, return receipt requested, has been given to the City. Upon issuance by the insurer, broker or agent of a notice of cancellation, non-renewal or reduction in coverage or limits, Applicant and Wholesaler/Retailer shall furnish City with a new certificate and applicable endorsements for such policy(ies). **In the event any policy(ies) are due to expire during the Permit, Applicant and Wholesaler/Retailer shall provide a new certificate and all applicable endorsements evidencing renewal of such policy(ies) not less than 15 calendar days prior to the expiration date of the expiring policy(ies).**

The General Liability insurance policy shall name the City of Merced and its officers, officials, employees, agents and volunteers as additional insureds. Applicant's and Wholesaler/Retailer's insurance shall be primary as respects to the City and its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City and its officers, officials, employees, agents and volunteers shall be excess of the Applicant's and Wholesaler/Retailer's insurance and not contribute with it. Applicant and Wholesaler/Retailer shall have furnished City with the certificate(s) and applicable endorsements for ALL required insurance prior to the issuance of the Permit.

If at any time during the life of the Permit, Applicant and Wholesaler/Retailer fail to maintain the required insurance in full force and effect, the Permit shall be suspended immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City.

NOTE: A Certificate of Insurance is not acceptable, in lieu of the additional insured and primary insurance endorsements required above. The Certificate of Insurance must be accompanied by the additional insured and primary insurance endorsements.

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General Requirements

1. The fire permit and the City of Merced Business License Tax Receipt must be posted at the sales location and be in plain view of the public.
2. Operating Hours: Fireworks stands may be operated only from the hours of 6:00 a.m. until 10:30 p.m. on and between Sundays and Thursdays with the exception of the third and fourth day of July, and may be operated from 6:00 a.m. until 12:00 a.m. on Fridays, Saturdays and on the third and fourth day of July.
3. It shall be unlawful to sell fireworks in the city earlier than noon on the twenty-eighth day of June or later than noon on the sixth day of July.
4. No one under 18 years of age shall sell, or handle for sale any classification of fireworks.
5. It is prohibited to sleep inside or within 50 feet of any booth or storage site. This includes sleeping in trailers, campers or other vehicles.
6. It is unlawful for any person to sell or transfer any safe and sane fireworks to a person who is under 16 years of age.
7. Use of safe and sane fireworks within 50 feet of a fireworks stand is prohibited.
8. No cooking allowed within 50 feet of the fireworks booth or storage container.
9. Electrical fans are not allowed to be blocking the doorways. Fans must be at least 5' from the booth/storage. Battery operated fans are approved to be in the booth.
10. Smoking is prohibited where fireworks are stored, handled or sold.
11. All tents, canopies, or ez-ups without a CA State Fire Marshal Label indicating flame resistive material must be at least 10 feet from the fireworks booth and are not allowed to be attached to the booth. They must be secured in place.
12. No person shall use or handle fireworks while under the influence of intoxicating liquids or narcotics.
13. It is the responsibility of the employer to instruct his/her employees, who handle fireworks in any capacity, in the hazards of fireworks and explosives and with all rules of the City of Merced and the State Fire Marshal's office.
14. Generators must be located at least 25 feet away from stands or storage areas.
15. A clearance of 50 feet must be maintained between all combustible materials (weeds, rubbish, etc.) and the stands or storage areas. This includes the empty boxes that the fireworks were shipped in.

