

## CHAPTER 17.

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Article I. In General.Sec. 17-1. "Explosive" defined.

The term "explosive" whenever used in this chapter includes blasting caps or other detonating or fulminating caps or detonator or electric caps, gun powder, blasting powder, dynamite and every other explosive substance having a power equal to or greater than that of ordinary black powder, but does not include such substances in the form of fixed ammunition for small arms. (Mun. Code, Sec. 4300)

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<sup>1</sup>For state law as to explosives generally, see H. & S. C., Sec. 1200 et seq.  
As to fire protection, see Ch. 19 of this Code. As to fireworks, see Ch. 20.

Sec. 17-2. Limitations on storage generally; depositing lighted matches, cigarettes, etc., in proximity.

No person shall have, keep or store in any place, house or building in the city more than twenty pounds of explosive, unless such explosive is enclosed in tight metal or wooden receptacles or containers, and kept in a safe place and away from any fire or artificial light other than incandescent electric light. No person having any explosive in his possession shall allow or permit any grains, particles or portions thereof to be or remain on or about the receptacles or containers in which such explosive is contained. No person shall drop, throw or leave any lighted match, cigar, cigarette stub or pipe ashes within ten feet of any receptacle or container containing any explosive. (Mun. Code, Sec. 4301)

Sec. 17-3. Storage in excess of one hundred pounds.

No quantity of explosives in excess of one hundred pounds shall be stored or kept in any place, house or building in the city without a permit therefor from the city council, nor unless such explosives are contained in a magazine situated, constructed, operated and maintained in the manner described in section 17-6. (Mun. Code, Sec. 4304.)

Sec. 17-4. Storage in excess of five hundred pounds.

No quantity of explosives in excess of five hundred pounds shall be kept or stored at any place within a distance of one-quarter of a mile from any house used in whole or in part for the habitation of human beings or from any church, schoolhouse or other public building or building used as a place of public assembly, or from any highway used by the public for travel. (Mun. Code, Sec. 4302)

Sec. 17-5. Storage in excess of two thousand pounds.

No quantity of explosives in excess of two thousand pounds shall be kept or stored at any place within a distance of one-half mile from five or more houses used in whole or in part for the habitation of human beings, or from any church, schoolhouse or other public building or building used as a place of public assembly or from two or more highways used by the public for travel, unless between such place of storage and all such houses, churches, schoolhouses and other public buildings and buildings used as a place of public assembly and public highways there shall be natural or artificial barriers formed by hills or embankments of earth sufficient in height and thickness to deflect the force of any explosion and prevent serious injury to any such house, church, schoolhouse or other public building or building used as a place of public assembly, or to persons in or about the same, or to persons traveling upon such highways, in case of explosion of the whole quantity of explosives stored in such place. (Mun. Code, Sec. 4303)

Sec. 17-6. Magazines.

The magazine referred to in this chapter shall be an underground pit with a fireproof roof, or an underground tunnel with fireproof end wall, or a building detached from any other building and wholly constructed of brick, stone or other fireproof material; but no underground magazine shall be used for the storage of any explosive containing or manufactured in whole or in part from nitroglycerine. Such magazine shall have no openings except for ventilation and entrance, and when the entrances are not in use, they shall be closed with fireproof doors which shall be kept locked. Every such magazine shall have sufficient openings for the ventilation thereof, which openings shall be screened in such a manner as to prevent the entrance of sparks or fire through the same. Upon every such magazine there shall be conspicuously posted a sign with the words "MAGAZINE OF EXPLOSIVES -- DANGEROUS" legibly printed thereon, in letters not less than six inches high. No fire or light of any kind shall be permitted in any such magazine except an incandescent electric light. No package of explosives shall be opened in any such magazine, nor shall any opened package of explosives be kept therein. (Mun. Code, Sec. 4305)

Sec. 17-7. Storage of caps and detonators.

No blasting caps or other detonating or fulminating caps or detonators or electric fuses shall be stored or kept in the same magazine or place in which any other explosive is kept or stored. (Mun. Code, Sec. 4306)

Sec. 17-8. Transportation--Generally.

No explosive shall be transported, carried or conveyed upon any car or other vehicle operated by a common carrier, which car or vehicle is carrying passengers for hire. No explosive shall be transported in any wagon or vehicle that does not have side and end boards; nor shall any explosive be piled in or on any wagon or vehicle in which the same is to be transported above the level of the side and end boards of the wagon or vehicle, or in such manner that the same shall be free to slide or roll within such wagon or vehicle. No person shall transport any explosive that is piled above the level of the side and end boards of the wagon or vehicle in which the same is to be transported, or that is not blocked or fastened in such manner as to prevent the same from sliding or rolling within such wagon or vehicle. (Mun. Code, Sec. 4307)

Sec. 17-9. Same--Identification cards of transporters.

Each person, municipal or public corporation or district transporting explosives from magazines controlled by them shall apply to the sheriff for an identification card for each employee engaged in such transportation. Such identification cards shall be issued by the sheriff and shall be valid for one year unless sooner revoked for misconduct. They shall be numbered serially and a record thereof kept by the sheriff. (Mun. Code, Sec. 4308)

Sec. 17-10. Records of sales.

Every person selling, giving away or delivering explosives within the area of this city shall keep the record of sale of explosives required by law in quadruplicate on forms to be furnished by the sheriff. In addition to the information required by law in such record such persons shall record the make and license number of the truck or car used in transporting such explosives. Two copies of such record shall be immediately mailed to the sheriff of the county, one copy shall be delivered to the purchaser or his agent and one copy retained by the seller. The purchaser shall keep his copy stored with the explosives at all times until completely used. (Mun. Code, Sec. 4309)

Sec. 17-11. Explosives in transit.

Nothing contained in sections 17-4 to 17-6 or article II of this chapter shall apply to any explosive in transit in railway cars or other vehicles, or to any explosive awaiting transportation in or delivery from a railway car or other vehicle, or to the transfer of any such explosive from a car of one railway company to a car of a connecting railway company; provided, that the car or other vehicle in which the explosive is being transported or is awaiting transportation or delivery shall be kept locked or guarded; and provided further, that the time during which such explosive is kept waiting transportation or delivery shall not exceed twenty-four hours. (Mun. Code, Sec. 4310)

Article II. Permits.Sec. 17-12. Application; fee.

Any person proposing to keep or store any quantity of explosives in excess of one hundred pounds in any place, house or building in the territory of the city, shall file a request for a permit with the city planning commission, accompanied by a fee of ten dollars. (Mun. Code, Sec. 4320)

Sec. 17-13. When issuance is matter of course.

If an application to store any quantity of explosives is accompanied by an affidavit in writing to the effect that no house used in whole or in part for the habitation of human beings, no church, schoolhouse or building used as a place of public assembly and no highway used for travel by the public is within a distance of one-half mile from the proposed location, or if an application for a permit to store not over one hundred thousand pounds of explosives is accompanied by an affidavit in writing to the effect that the proposed location is a magazine situated, constructed, operated and maintained in the manner described in section 17-6, and located at a place not less than one quarter of a mile distant from any house, used in whole or in part for the habitation of human beings or from any church, schoolhouse or other public building or building used as a place of public assembly, or from any highway used for travel by the public, and separated from all such houses, churches, schoolhouses, public buildings and buildings used as places of public assembly, and highways within two miles thereof by natural or artificial barriers formed by hills or embankments of earth sufficient in height and thickness to deflect the force of any explosion and prevent serious injury to any house, church, schoolhouse or other public building or building used as a place of public assembly or to persons in or about the same, or to persons traveling upon any such highway, in case of explosion of the whole quantity of explosives stored at such place, and the truth of the affidavit is verified by the planning commission, a report thereof shall be referred by the commission to the city council. Upon receiving such report, the city council shall issue, as of course, a permit to store the amount of explosives requested in the application in the magazine specified in the affidavit. (Mun. Code, Sec. 4321)

Sec. 17-14. Investigation of storage location.

If an application is for a permit to store explosives for not more than three months and there is no permit in force for that location, or if the application is to renew an existing permit granted before the effective date of this section or granted after a hearing, the city planning commission may investigate the place where it is proposed to keep the explosives, and the location of all buildings in the vicinity thereof, and make its recommendation without a public hearing. (Mun. Code, Sec. 4322)

Sec. 17-15. Deposit of costs.

If an application under this article is for the renewal of an existing permit, which permit was granted after the effective date of this section without a hearing, or for a new permit for a period exceeding three months, or for a new permit for storage and sale of explosives, and no affidavit has been filed pursuant to section 17-13 or the city planning commission finds such affidavit to be in error, the applicant shall deposit with the city planning commission such sum as the commission estimates is ample to defray the cost of publication and mailing as provided for in this chapter. (Mun. Code, Sec. 4323)

Sec. 17-16. Public hearing--Establishing time and place.

Where a deposit is made, pursuant to section 17-15, the planning commission shall fix a time not over thirty days after the making of such deposit and place for a public hearing thereon before the commission. (Mun. Code, Sec. 4324)

Sec. 17-17. Same--Notice.

Not less than five days prior to a public hearing under this article, the city planning commission shall publish a copy of a notice of the time and place of the hearing at least once in a newspaper designated by the city council. The commission shall also, not less than five days prior to the date of the hearing, mail a postcard notice to the owners of all property within a distance of five hundred feet from the exterior boundaries of the proposed location and the owners of such other property as in its judgment might be affected thereby. (Mun. Code, Sec. 4325)

Sec. 17-18. Same--Findings of planning commission.

At the time and place fixed for the hearing on the application the city planning commission shall hear the same and any protests thereto, and upon the evidence and other matters brought to its attention during the hearing, including the sheriff's report, shall make findings determining whether or not explosives in the amounts and kinds mentioned in the application can be kept at the place proposed without danger of serious injury to persons other than those employed in or about the magazine, or to property other than that of the applicant.

Where no hearing is required, the commission shall make similar findings based upon its investigation or the investigation of its staff of the place where it is proposed to keep the explosives, and upon the report of the sheriff. (Mun. Code, Sec. 4330)

Sec. 17-19. Notice to sheriff--Upon receipt of applications.

The planning commission shall notify immediately the sheriff of every application for a permit to keep or store explosives. Such notification shall state the contents of any affidavit filed pursuant to section 17-13. (Mun. Code, Sec. 4326)

Sec. 17-20. Same--Time and place of public hearings.

Where a public hearing is to be held, the city planning commission shall notify the sheriff of the time and place thereof. (Mun. Code, Sec. 4327)

Sec. 17-21. Notification by sheriff as to correctness of affidavit.

Where an affidavit has been filed pursuant to section 17-13, the sheriff, within ten days after receipt of notification of the contents thereof, if so requested by the city planning commission, shall notify the commission as to the correctness thereof. (Mun. Code, Sec. 4328)

Sec. 17-22. Report by sheriff.

Unless a permit is to be issued as of course pursuant to section 17-13, prior to the date set for public hearing on the granting of a permit if a public hearing is to be held, otherwise within ten days after receipt of a copy of the application for a permit, the sheriff shall furnish to the city planning commission a report thereon as to whether or not in his opinion explosives in the amounts and kinds mentioned in the application can be kept at the place proposed without danger of serious injury to persons other than those employed in or about the magazine, or to property other than that of the applicant. (Mun. Code, Sec. 4329)

Sec. 17-23. Recommendations of planning commission to city council.

The city planning commission shall report its findings and its recommendations based thereon to the city council.

The recommendation shall be accompanied, if a hearing has been held, by a transcript of the testimony received thereat. The city planning commission may recommend any one of the following:

- (a) That the permit be denied.
- (b) That the permit be granted.
- (c) That the permit be granted with such restrictions or conditions deemed necessary by the commission to prevent the storage of explosives from becoming dangerous to life or property.

(Mun. Code, Sec. 4331)

Sec. 17-24. Issuance.

Upon receiving the recommendation and transcript from the city planning commission, the city council shall determine whether or not explosives in the amounts and of the kinds mentioned in the application, or, if the commission has recommended the granting of a permit for the storage of a lesser amount, of such lesser amounts, can be kept at the place proposed without danger of serious injury to persons other than those employed in or about such magazine, or to property other than that of the applicant. If it determines that explosives can be so kept it shall grant to the applicant a permit to keep and store explosives of the kinds, to the amounts, and at the place mentioned in the application, or recommended by the city planning commission. Otherwise it shall refuse the permit.

The city council shall not grant any permit for the storage of explosives in violation of the provisions of sections 17-4 and 17-5. (Mun. Code, Sec. 4332)

Sec. 17-25. Disposition of deposits.

The city planning commission shall keep a permanent and accurate account of all deposits received under this chapter, giving the name of the applicant upon whose account the money was deposited, the date and amount thereof, together with the premises to which they relate. If the actual cost of publication and mailing provided for in this chapter is more than the amount which was deposited for that purpose, the applicant shall deposit the deficiency. If the cost is less than the amount which was deposited for that purpose, the applicant shall be entitled to a refund of the unused balance. A request for this refund shall be made to the commission on a form prepared and furnished to the commission by the city manager, which shall be completely filled in and signed by the applicant. Upon the presentation of such a request the commission shall determine the right of the applicant to a refund, and such refund shall then be paid in the same manner as provided by law for the repayment of trust money. (Mun. Code, Sec. 4333)

Sec. 17-26. Fees or deposits to be in addition to others required by statute or this Code.

All fees and deposits required by this chapter are in addition to any license fees which may now or hereafter be required by any statute or other provision of this Code. (Mun. Code, Sec. 4334)

Sec. 17-27. Revocation of permits; compliance with permit.

The city council may for good cause revoke any permit granted by it under this chapter, after giving the holder thereof not less than five days' written notice of such proposed revocation, and an opportunity to appear before the council or in the discretion of the council, before the city planning commission in opposition thereto. If the hearing is before the commission it shall recommend to the council the revocation, suspension or retention of the permit, in the same manner as provided for recommendations on applications for permits. No person having a permit for the storage of explosives at any place shall keep or store at such place any greater amount or other kind of explosives than are authorized by such permit. (Mun. Code, Sec. 4335)

(Mun. Code, Secs. 4300, 4301, 4302, 4303, 4304, 4305, 4306, 4307, 4308, 4309, 4310, 4320, 4321, 4322, 4323, 4324, 4325, 4326, 4327, 4328, 4329, 4330, 4331, 4332, 4333, 4334, 4335)

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