

ORDINANCE NO. 967

**AN ORDINANCE AMENDING THE CODE OF
ORDINANCES OF THE CITY OF ATLANTIC, IOWA, BY
AMENDING SECTION 41.13 OF CHAPTER 90 ENTITLED
"FIREWORKS."**

BE IT ENACTED by the City Council of Atlantic, Iowa:

SECTION 1. AMENDED SECTION. Section 41.13 entitled "Fireworks Regulations" of the Code of Ordinances of the City of Atlantic, Iowa, is hereby adopted to read as follows:

41.13. FIREWORKS REGULATIONS. The sale and use of fireworks are regulated as follows:

1. Prior to any person engaging in fireworks sales, the following shall be provided to the fire chief:

A. Proof of valid permit issued from the state fire marshal.

B. Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000.

2. Any property, building, or premise whether it be permanent or temporary, intended for fireworks sales shall have an initial fire inspection completed by the fire chief prior to engaging in fireworks sales. The fire chief or their designee shall cause an annual inspection to occur meeting the requirements of the National Fire Protection Code 1124 (2006 edition) and the current fire code adopted by the City of Atlantic.

A. An annual inspection fee of \$100 shall be charged by the City of Atlantic for any permanent structure or building where fireworks are sold.

B. An annual inspection fee of \$200 shall be charged for any temporary or non-brick and mortar building used to sell fireworks.

3. Fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code.

A. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved permanent structure or building between June 1 and July 8 and from December 10 until January 3.

B. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between June 13 and July 8.

C. It shall be unlawful to sell fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates specified.

D. Fireworks shall not be sold from a motor vehicle or trailer required to be licensed for travel on a public roadway.

4. The City may, upon application in writing, grant a permit for the display of fireworks on public property by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

A. Personal Injury: \$250,000 per person.

B. Property Damage: \$1,000,000

C. Total Exposure: \$1,000,000

(Code of Iowa, Sec. 727.2)

5. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes. (Code of Iowa, Sec. 727.2)

6. Fireworks Sales and Safety Requirements. The following safety requirements shall be adopted for all locations where fireworks are sold:

A. Not more than 100 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a commercial business with other mercantile products for sale. *Exception: sparkers, snakes, snaps, cap gun caps, or smoke bombs shall not be considered when figuring weight.*

B. Not more than 500 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a building where fireworks are the primary business. *Exception: sparkers, snakes, snaps, cap gun caps, or smoke bombs shall not be considered when figuring weight.*

C. Not more than 1000 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located in a temporary structure used primarily for

fireworks sales. *Exception: sparkers, snakes, snaps, cap gun caps, or smoke bombs shall not be considered when figuring weight.*

- D. Any permanent structure used primarily for the purpose of fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway; and 70 feet from an inhabited building. *Exception: Where a person owns the adjacent property or written permission is granted, the property line distance requirement can be reduced to 15 feet.*
- E. Any temporary structure having between 500 and 1000 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.
- F. Smoking, open flame source, or matches shall not be located within 50 feet where fireworks are sold. NO SMOKING signs shall be posted in conspicuous locations throughout the sales area.

Exception: 1) Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where fireworks are not the primary business.

2) Locations who engage in fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.

- G. All electrical wiring shall meet NFPA 70 National Electrical Code. Permanent structures or buildings used primarily for fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.
- H. All fireworks sales locations shall maintain 48 inch clear aisles between fireworks display shelves.
- I. Any location where fireworks are sold shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; except that, exit signs shall be illuminated in permanent structures.
- J. Fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.
- K. All locations shall have a minimum of two 10 pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher. Nothing in this ordinance prevents a temporary sales location from having emergency water barrels positioned in

the sales area for use during a small fire; except that fire extinguishers are still required.

- L. All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are required as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within 8 seconds and the delay device is not affixed to the primary egress door.
- M. No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where fireworks are sold as a primary business.
- N. No more than one conex container or approved explosive magazine shall be located on site for short term storage of extra product. All containers shall be properly placarded and equipped with tamper proof locking devices. It is permitted to place containers in a security fenced area.
- O. Individual fireworks devices or opened fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.
- P. Leftover fireworks shall be removed from sales locations by July 9 and January.
- Q. The Fire Chief or designated inspector shall have the authority to reduce or eliminate requirements under Section 6 of this Ordinance for permanent structures, when, in his or her opinion, safety of the structure and general public will not be compromised, in order to ensure property owners a reasonable right to pursue firework sales.

7. Sales allowed, location: Fireworks sales shall only be allowed in areas zoned for commercial or Industrial use.

- A. Any person engaged in sales in any other zone other than commercial or industrial zoned areas shall not be approved for sales within the city limits.
- B. No person shall sell a DOT 1.4 class firework to a person under the age of 18.
- C. Fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.

8. Fireworks Sales penalties:

- A. A person or entity who violates the provision of this fireworks sales ordinance shall be assessed a municipal infraction cost not exceeding \$500 plus court costs.
- B. In circumstances where a flagrant or intentional violation of these provisions occurs, a peace officer shall issue a misdemeanor charge with a scheduled fine of \$750 in addition to established court costs.
- C. Persons violating the provisions of this chapter shall be reported to the state fire marshal to cause revocation of permit hearings to commence.

9. Fireworks use and discharge, general requirements:

- A. No person under the age of 18 shall discharge a DOT 1.4 class fireworks without adult supervision.
- B. A person shall only discharge a fireworks device on real property they own or on property where consent has been given.
 - (1) *Exceptions: Snakes, sparklers, or caps can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.*
- C. Fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.
- D. Any person discharging a fireworks device assumes all responsibility for its operation, flight, and the consequences thereof.
- E. No person shall discharge a fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.
- F. No person shall discharge a fireworks device outside the following dates and hours:
 - 1) July 2, 3 and 4 from the hours of Noon until Midnight.
 - 2) New Year's Eve starting at 6 p.m. and ending on New Year's Day at 12:15 a.m.
- G. It shall be unlawful to alter, remove, or discharge components of a fireworks device from its intended method of discharging.
- H. Sky lantern open flame devices are not permitted to be released within the city limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.

I. Buffer zone: No fireworks of any time shall be discharged within 300 ft. of any Public school building, assisted living facility, or hospital

10. Fireworks use and discharge, Penalties:

A. Any person who violates the provisions of the fireworks discharging ordinance or without reckless intent causes injury, property damage or a fire shall be guilty of a scheduled municipal infraction punishable by a \$250 fine in addition to established court costs.

B. Persons who violates the discharging fireworks ordinance after having been found guilty of a previous municipal infraction involving fireworks shall be cited for a municipal infraction with a fine of \$600 plus associated court costs.

C. Persons who recklessly endanger the property or safety of another shall be guilty of a serious misdemeanor in violation of 712.5 State Code of Iowa.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 17th day of May, 2017, and approved this 17th day of May, 2017.




David R. Jones, Mayor

Attest:



Barb Barrick, City Clerk

I certify that the foregoing was published as Ordinance No. 967 on the 26 day of May, 2017.



Barb Barrick, City Clerk