

ORDINANCE NO. ____

AN ORDINANCE AMENDING Chapter 23 Section 18-6 Exceptions, Fireworks

BE IT ORDAINED by the City Council of the City of Oelwein, Iowa, as follows:

Section 1. Remove the following from the Oelwein Municipal Code

SECTION 18-6. EXCEPTIONS.

~~_____ The requirements, prohibitions, and terms of this chapter shall not apply to: (1) emergency work or to any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency; (2) activities of a temporary duration, permitted by law and for which a license or permit therefor has been granted by the city, including but not limited to parades, fireworks displays, and the outdoor warning system; (3) reasonable or ordinary noises associated with athletic contest or lawful public meetings, parades or celebrations; (4) noises from construction, landscaping, lawn care and maintenance between 6:00 a.m. and 9:00 p.m.; and (5) all other authorized activities occurring on government property. Also excepted are nonprofessional athletic contests and all construction work.~~

Section 2. Add the following to the Oelwein Municipal Code

Chapter 23 Article VII Fireworks

1. Generally.

The sale, use or exploding of fireworks within the city shall be subject to the provisions set out in this chapter.

2. Definition.

The term "fireworks" means and includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance.

"First-class consumer fireworks" are defined as the following consumer fireworks, as described in American Pyrotechnics Association 87-1, chapter 3 but does not include novelties enumerated within this

same Chapter such as snakes, sparklers, or caps can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.

(1) Aerial shell kits and reloadable tubes.

(2) Chasers.

(3) Helicopter and aerial spinners.

(4) Firecrackers.

(5) Mine and shell devices.

(6) Missile-type rockets.

(7) Roman candles.

(8) Skyrockets and bottle rockets.

(9) Multiple tube devices

Second-class consumer fireworks are defined as the following consumer fireworks, as described in American Pyrotechnics Association 87-1, chapter 4:

(1) Cone fountains.

(2) Cylindrical fountains.

(3) Flitter sparklers.

(4) Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA87-1, section 3.5.

(5) Ground spinners.

(6) Illuminating torches.

(7) Toy smoke devices that are not classified as novelties pursuant to APA87-1, section 3.2.

(8) Wheels.

(9) Wire or dipped sparklers that are not classified as novelties pursuant to APA87-1, section 3.2.

3. Permitted Displays.

It is unlawful for any person to use or explode any fireworks; provided the city may, upon application in writing one month prior to the day of use, grant a permit for the display of fireworks 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 and the following requirements are met:

- A. The application for display must be submitted to the office Police Chief or their designee.
- B. The application must state the names and experience of the person(s) who will explode the fireworks.
- C. The application must show in detail the site location where the display will be held.
- D. The site must be provided with devices to separate the persons viewing the display area from the fireworks by at least four hundred fifty feet.
- E. The applicant shall state the name of the insurance liability carrier.
- F. The applicant shall obtain general liability insurance which includes at a minimum the following limits: one million dollars each occurrence; two million dollars general aggregate; two million dollars products and completed operations aggregate; one million dollars personal and advertising injury; fifty thousand dollars damage to rental premises.

The certificate of insurance will be provided to the office of the city clerk, naming the city of Oelwein, its employees, volunteers, officers, elected officials and subsidiaries as additional insureds. The certificate of insurance will state that a thirty-day written notice of cancellation will be provided to the city of Oelwein.

After receiving the application, the Police Chief or designee shall examine the area and determine if the site conforms to the application and issue the requested permit if the above-stated regulations have been met. The Police Chief or designee shall have full authority to invalidate the permit at any time if conditions arise that would create a safety concern to the general public safety.

Permitted displays can only discharge from the hours of 9:00 P.M. to 11:30 P.M. Permitted displays intended for New Year's Eve may discharged between December 31 9:00 P.M. to January 1 12:30 A.M.

4. Exceptions.

This shall not be construed to prohibit any resident, dealer, manufacturer or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks; provided the same are to be shipped out of state, or the sale or use of blank cartridges for a show or theater, or for signal purposes, or by a recognized military organization, and; provided further, that nothing in this chapter shall apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

5. 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.
- 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.

- 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.
- 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.
- 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 must be placed in clearly displayed visible locations. On temporary structures, No Smoking signs must be clearly displayed on all four sides of the structure not less than seventy-five (75) feet from the structure.

Exception:

a) 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.

b) 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 removed 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 of any type shall maintain 48 inch clear aisles between fireworks display shelves.
- I. Any location where fireworks are sold shall maintain two approved emergency exits for egress. All approved exits shall be clearly marked with signage; except that, exit signs in a permanent structure shall be illuminated.
- 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 seventy-five (75) feet in order to reach a fire extinguisher.
- 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 approved exit doors 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.
- 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 40' x 8' x 8'6" (300 sq. ft.) or two 20' x 8' x 8'6" (150 sq. ft.) shipping container or one Type 2 approved explosive storage 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. Licensed Retailers shall at the time of inspection provide to the inspector, a signed proof of training document showing all employees have received training in fire extinguisher operation and the proper handling and storage of consumer fireworks.

6. Consumer Fireworks Sales

- A. Any property, building, or premise whether it be permanent or temporary, intended for fireworks sales shall have an initial fire inspection completed by the Police Chief or designee prior to engaging in fireworks sales. The Police 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 Oelwein.
- B. An annual inspection shall be conducted and a permitting fee set by resolution by city council shall be charged by the City of Oelwein for any permanent structure or building where fireworks are sold.
- C. An annual inspection shall be conducted and a permitting fee of set by resolution by city council shall be charged by the City of Oelwein for any temporary or non-brick and mortar building where fireworks are sold.
- D. Fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code.
- E. 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.
- F. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between June 13 and July 8.
- G. It shall be unlawful to sell fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates specified.
- H. Fireworks sales within the corporate city limits of the City of Oelwein shall only be allowed in areas zoned General Commercial (GC) from June 1 through July 8 and December 10 through January 3 of any calendar year and only after the proper state licensing, local permit(s) have been acquired, administration fees paid, and facility inspections have been completed to the satisfaction of the Police Chief or Designee.
- I. Any person engaged in sales in any other zone other than General Commercial zoned areas shall not be approved for sales within the city limits.

- J. No person shall sell a DOT 1.4 class firework to a person under the age of 18.
- K. 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.

7. Consumer 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 may issue a municipal infraction stated above and shall issue a misdemeanor charge with a scheduled fine of \$250 in addition to established court costs.
- C. Persons violating the provisions of this chapter shall be reported to the Iowa State Fire Marshal to cause revocation of permit hearings to commence.

Reading	Date
First	
Second	
Final	

Passed and adopted by the City Council of the City of Oelwein, Iowa, this day of Month, 2016.

 Peggy Sherrets, Mayor

Attest:

 Dylan Mulfinger, City Administrator

Recorded _____, 2017.

 Dylan Mulfinger, City Clerk

First Reading: It was moved by _____ and seconded by _____ that the Ordinance as read be adopted and upon roll call there were:

	Ayes	Nays	Absent	Abstain
Christensen				
Stickel				
Milks				
M Weber				
Cantrell				
B Weber				

Second Reading: It was moved by _____ and seconded by _____ Weber that the Ordinance as read be adopted and upon roll call there were:

	Ayes	Nays	Absent	Abstain
Christensen				
Stickel				
Milks				
M Weber				
Cantrell				
B Weber				

Final Reading: It was moved by _____ and seconded by _____ that the Ordinance as read be adopted and upon roll call there were:

	Ayes	Nays	Absent	Abstain
Christensen				
Stickel				
Milks				
M Weber				
Cantrell				
B Weber				