

CHAPTER 41

PUBLIC HEALTH AND SAFETY

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41.01 DISTRIBUTING DANGEROUS SUBSTANCES. No person shall distribute samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

(Code of Iowa, Sec. 727.1)

41.02 FALSE REPORTS TO OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES. No person shall do any of the following:

(Code of Iowa, Sec. 718.6)

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.
2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.
3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

41.03 REFUSING TO ASSIST OFFICER. Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. No person shall unreasonably and without lawful cause, refuse or neglect to render assistance when so requested.

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

41.06 ABANDONED OR UNATTENDED REFRIGERATORS. No person shall abandon or otherwise leave unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, nor shall any person allow any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children.

(Code of Iowa, Sec. 727.3)

41.07 ANTENNA AND RADIO WIRES. It is unlawful for a person to allow antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk, public way, public ground or public building without written consent of the Council.

(Code of Iowa, Sec. 364.12 [2])

41.08 BARBED WIRE AND ELECTRIC FENCES. It is unlawful for a person to use barbed wire or electric fences to enclose land within the City limits without the written consent of the Council unless such land consists of ten (10) acres or more and is used as agricultural land.

41.09 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or other firearms of any kind within the City limits except by written consent of the Council. This subsection does not apply to a person lawfully engaged in target practice on a range designed for that purpose or actually engaged in lawful hunting on property zoned "A1" or "A2" Agricultural.

2. No person shall intentionally discharge a firearm in a reckless manner.

41.10 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles, BB guns or other dangerous instruments or toys within the City limits except by written consent of the Council. (*Ord. 6-07 – Mar. 07 Supp.*)

(*Code of Iowa, Sec. 364.12 [2]*)

41.11 URINATING AND DEFECATING. It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway or window thereof, or onto any public or private land.

41.12 FIREWORKS. The sale, use, possession, and exploding of fireworks within the City are subject to the following:

1. Definitions.

A. Consumer Fireworks – (American Pyrotechnics Association (APA) standard 87-1, Chapter 3) Any device, other than a novelty or theatrical pyrotechnic article, intended to produce visible and/or audible effects by combustion, deflagration, or detonation. Fireworks are further described as Fireworks UN0336 (formerly Common Fireworks and now referred to in this Standard as Consumer Fireworks,) or Fireworks UN0335 (formerly Special Fireworks and now referred to in this Standard as Display Fireworks.) Fireworks may also be described as Fireworks UN0337 if examination and testing in accordance with Title 49 CFR, § 173.56 is performed that warrants that classification.

For purposes of this Section, the term “fireworks” 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 includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term “fireworks” does not include goldstarproducing sparklers on wires which contain no magnesium or chlorate or perchlorate, flutter sparklers in paper tubes that do not exceed one-eighth of an inch

in diameter, toy snakes which contain no mercury, or caps used in cap pistols.

B. Novelty Fireworks (American Pyrotechnics Association (APA) Standard 87-1) A device containing small amounts of pyrotechnic and/or explosive composition. Such devices produce limited visible or audible effects. These items must be approved by DOT, and are normally classed as 1.4G. A different classification may be assigned based on testing and examination as specified in Title 49 CFR §CFR, § 173.56. Certain novelties which meet the criteria specified in Section 3.2 are not regulated as explosives, and approval by DOT is not required for those specific items.

Novelty fireworks typically produce a much weaker explosion and sound. A few examples include:

- (1) Party Poppers – once a string is pulled to activate the charge, confetti is thrust into the air and produces a report.
- (2) Snaps – a small paper bag typically filled with gravel and a few milligrams of silver fulminate will produce a report when thrown at a hard surface or stepped on.
- (3) Flying Lanterns (Sky lantern) – these paper lanterns float into the sky when lit. They emit a slight glow and are very commonly used at weddings and celebrations.
- (4) Paper Tanks and Vehicles – when lit, these small paper vehicles emit sparks that cause them to move around on the ground and commonly produce a loud bang at the end.
- (5) Ground Bloom Flowers – a small cylinder that spins on the ground and changes color, spinning in such a way that it resembles a flower. Could be described as a large Jumping Jack.
- (6) Snakes (Black snake) – a small compressed pellet that, when lit, expands into a long snake-like object.

C. Display or Theatrical Fireworks/Pyrotechnics (American Pyrotechnics Association (APA) Standard 87-1) Pyrotechnic devices for professional use in the entertainment industry similar to consumer fireworks in chemical composition and construction but not intended for consumer use. Such articles, meeting the lift

and effect powder weight limits for similar consumer fireworks but not labeled as such, and containing only chemicals listed in table 4.3-1 may be approved under the provisions of this standard and classified as Articles, Pyrotechnic, 1.4G, UN0431.

Note: Theatrical pyrotechnic devices may be classed by DOT as Articles, Pyrotechnic, 1.4S, UN0432 or as Articles, Pyrotechnic, 1.3G, UN0430 on the basis of examination and testing as specified in Title 49 CFR, § 173.56.

Examples include: Aerial shell, salute, all other fireworks that are not considered novelty or consumer.

2. Fireworks Sales General Requirements.

A. Prior to any person engaging in fireworks sales the following shall be provided to the Fire Chief:

- (1) Proof of valid permit issued from the state fire marshal.
- (2) Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for the amounts required by Iowa Code § 100.19(4)(b).

B. 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), the current fire code adopted by the City of Asbury (City Ordinance Chapter 157), and any rules, regulations, requirements or the like promulgated by the state fire marshal pursuant to Iowa Code § 100.19.

- (1) An annual inspection fee of \$250 shall be charged by the City of Asbury for any permanent structure or building where fireworks are sold.
- (2) An annual inspection fee of \$500 shall be charged for any temporary or non-brick and mortar building used to sell fireworks. This is in addition to any City Business License fee.
- (3) The Fire Chief or his designee may cause for additional inspections with no additional fee, to ensure the

seller remains in compliance with this ordinance for the safety and well-being of any potential customers.

(4) All annual inspections must be arranged a minimum of 2 (two) days before intended sales dates. Failure to schedule an inspection in that time frame is grounds for non-issuance of occupancy and business permits. The Fire Chief shall notify the State Fire Marshall of any non-compliance for revocation or suspension of sales permits if this occurs.

(5) Persons shall not construct any display or offer for sale any fireworks type on roadways including shoulders thereof, alleys, sidewalks, public property or in Assembly or Educational occupancies. (IFC 5601.2.2)

(6) Permits shall not be issued for the storage or sale of any fireworks at any place of habitation or within 100 feet thereof. (IFC 5601.2.1)

(7) The Fire Chief is authorized to limit the quantity permitted at any given location. Permit holders shall not keep or store amounts greater than that they are permitted for and only the type they are permitted for. (IFC 5601.2.3)

C. Fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code § 100.19(4)(c).

(1) Approved fireworks sales meeting the requirements of this chapter and Subsection 3-8.4 and 3-9.4 shall be allowed from an approved permanent structure or building between June 1 and July 8 and from December 10 until January 3.

(2) Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between July 1 and July 8.

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

3. Fireworks Sales Safety Requirements.

A. The City hereby adopts National Fire Protection Association (NFPA) Standard 1124 (2006 edition) as incorporated by reference in Iowa Code § 100.19(4)(a). By so adopting NFPA

Standard 1124, the following safety requirements shall be adopted for all locations where fireworks are sold:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
 - (i) Exception: Where a person owns the adjacent property or written permission is granted, the property line distance requirement can be reduced to 15 feet.
- (5) Any temporary structure shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.
- (6) Smoking, open flame source, or matches shall not be located within 50 feet where fireworks are sold.

Exception:

- (i) 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.
 - (ii) 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.
- (7) 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.

(8) All fireworks sales locations of any type shall maintain 48 inch clear aisles between fireworks display shelves.

(9) 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; exits signs in permanent structures shall be illuminated.

(10) Fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.

(11) 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. The Fire Chief or his designee may order additional fire extinguishers and determine their location/placement.

(12) 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.

(13) 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.

(14) No more than one 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, if approved. Conex containers are not permitted.

(15) 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.

(16) Vehicles shall not be allowed to park within 30 feet of any structure, providing for clear and open access for any Fire Department response.

B. Fireworks sales shall only be allowed in areas zoned for commercial use. This includes all types of fireworks.

(1) Any person engaged in sales in any other zone other than commercial zoned areas shall not be approved for sales within the City limits.

(2) No person shall sell a DOT 1.4 class firework to a person under the age of 18.

(3) 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.

(4) Fireworks shall not be sold out of a residence or any part or combination of a residence, including: sidewalk adjacent to the property, yard – including the right-of-way, garage, temporary structures on residential property or vehicles. The term residence shall include single, double and multi-family dwellings.

4. 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 \$500 fine 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 pursuant to Iowa Code § 100.19(5)(a).

5. Fireworks Discharging General Requirements.

A. The use and explosion of consumer fireworks is prohibited within the corporate limits of the City of Asbury.

B. Display Fireworks. It is unlawful for any person to use or explode any fireworks: provided the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, 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:

- | | | |
|-----|------------------|-------------|
| (1) | Personal Injury: | \$1,000,000 |
| (2) | Property Damage: | \$1,000,000 |
| (3) | Total Exposure: | \$2,000,000 |

C. Exceptions: This section does not prohibit the use of blank cartridges for signal purposes or by railroads or trucks for signal purposes, or by a recognized military organization. This chapter does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes. Unless specifically provided otherwise, this chapter does not apply to novelties.

D. Any person who violates the provisions of the fireworks discharging ordinance shall be guilty of a scheduled simple misdemeanor violation punishable by a \$250 fine in addition to established court costs.

E. Persons who cause injury as a result of reckless discharging of fireworks shall be guilty of a serious misdemeanor charge with appearance before a magistrate required.

(Section 41.12 – Ord. 14-2017 – Dec. 17 Supp.)