

**ORDINANCE
2003-01**

CITY OF ORR

**AN ORDINANCE RELATING TO THE SALE AND USE OF FIREWORKS
WITHIN THE CITY OF ORR**

The Council of the City of Orr ordains:

Section 1. Provisions of State Law Adopted. Fireworks are regulated by Minnesota Statutes, Sections 624.20 through 624.25, or any superceding statute regulating fireworks. In addition to those regulations, all display sales, storage for commercial purposes, manufacturing and use of fireworks shall comply with this health and safety regulation.

Section 2. Purpose.

A. Due to the inherent risk of fire and injury to persons and property associated with the sale, possession, and use of fireworks, the City Council has determined that it is necessary and in the interest of public health, safety, and welfare to establish reasonable regulations concerning fireworks.

Section 3. Definitions.

A. "Consumer Fireworks". For the purpose of this section, "Consumer Fireworks" will have the same definition as contained in Minnesota Statutes, Section 624.20, subd. 1(c), or any superceding statute as amended from time to time. "Consumer Fireworks" means wire or wood sparklers of not more than 100 grams of mixture per item, other sparking items which are non-explosive and non-aerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes, and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture.

B. "Fireworks". "Fireworks" means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparkers other than those specified in paragraph (c), or other fireworks of like construction, and any fireworks containing any explosive or

inflammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks.

C. "Applicant" as used in this chapter shall mean the individual person who signs the application to the City for a license on behalf of the person or entity who applies for a license under this chapter.

D. "Licensee" as used in this chapter shall mean the individual or entity to whom a license is issued by the City under the provisions of this chapter to store, display or sell or advertise for sale consumer fireworks, and a person or entity to whom a license is issued by the City to make a public display of fireworks.

Section 4. License Required. It is unlawful to sell, display, or store fireworks in the City of Orr in violation of Minnesota Statutes 625.20 – 624.25. However, consumer fireworks as defined in Section 624.20 subd. 1(c) may be sold, displayed, advertised for sale, or stored as inventory for the sale upon issuance of a license approved by the City of Orr.

Section 5. Application for a License. An application for a license for the sale, storage, display and sale or advertising for sale of consumer fireworks shall be made to the City Clerk. No application for a license for the sale of consumer fireworks is valid until approved by the City Council.

A. **Required Information.** The complete license application shall be given to the City Clerk a minimum of thirty (30) days prior to the commencement of the storage, display, or sale of consumer fireworks by the licensee and shall include the following information:

1. Applicant's and proposed licensee's full name, address, phone number, and date of birth. The applicant and licensee must be eighteen (18) years of age or older, if a corporate application, the applicant must be the store manager.
2. The addresses and phone numbers for all the sites for which the proposed licensee intends to store, display, or sell consumer fireworks.
3. The zoning designation of each site.

4. An agreement by the applicant and the licensee that the applicant and licensee understand that those persons storing, displaying, or selling consumer fireworks must be at least eighteen (18) years of age.

5. An agreement by the applicant and the licensee that they understand what constitutes consumer fireworks and which fireworks are illegal under state law and this ordinance.

6. Documentation signed by the owner of the real property at which the storage, display or sale of consumer fireworks, or the public display of consumer fireworks is to take place, showing to the satisfaction of the City Council that the owner has granted to the proposed licensee permission to use the property for that purpose.

7. A list documenting the identity, type, weight, and numerical quantity of consumer fireworks that will be located within building on the site.

8. A certificate of insurance showing proof that the licensee will have before commencement of the use of a license for storage, display, sale or advertising for sale of consumer fireworks, a policy of public general liability, bodily injury, and property damage insurance from a company or companies approved by the City of Orr in the minimum amount of one million dollars (\$1,000,000.00) single limit.

9. Such other information as may be reasonably required by the City of Orr, to process the license application. The City of Orr shall be under no obligation to process the license application within 30 days of its receipt

B. Background Check. Prior to processing the application, a criminal background check must be conducted of the applicant and the proposed licensee. Neither the applicant nor the licensee, or owner shall have been convicted of a felony or a fire or fireworks related misdemeanor within three (3) years of the date of application.

C. Prior to processing the application, the Fire Chief or a designated City Employee shall determine if the proposed location is compliant with all applicable local and state codes, ordinances, and regulations.

Section 6. License and Fees. Licenses shall expire one (1) year from the date of resolution approving the application. Reissue shall require new application and City Council approval. License fee shall not be prorated and non-refundable. The fee shall be established from time to time by the City Council. Any license granted hereunder shall be non-transferable.

Section 7. Fees. The license fee per licensee selling from a permanent structure will be \$50.00, and \$200.00 per licensee selling from a temporary structure.

Section 8. Terms and Conditions for Issuance of a License. A license for the storage, display or sale of consumer fireworks shall be issued only upon the following terms and conditions:

- A. No person shall sell or store consumer fireworks within 100 feet of any fuel dispensing apparatus.
- B. It shall be unlawful for any seller of any consumer fireworks to permit smoking at any site containing consumer fireworks. "No smoking" signs must be conspicuously posted and approved fire extinguishers must be available for use.
- C. Each location at which consumer fireworks are stored, sold, or displayed shall have a minimum of two (2) 2.5 gallon pressurized water extinguishers or a dry chemical extinguisher carrying a classification no less than 3A-20BC and be adequate for the amount of fireworks on hand as determined by the Fire Chief.
- D. The premises where the licensed activity is to take place must be in compliance with the State Building Codes and State Fire Codes. There shall be at least two (2) exits accessible to all occupants from all buildings where the licensed activity takes place.
- E. In structures that do not have an automatic sprinkler system, retail sales display of consumer fireworks shall be limited to a gross weight of 200 pounds of consumer fireworks. In structures that do contain automatic spring system, the amount of consumer fireworks shall be determined by the Fire Chief on a case-by-case basis after considering the structure's construction, fire suppression apparatus and other relevant factors.
- F. Discharge of consumer fireworks shall be prohibited within one hundred (100) feet of any building in which fireworks are manufactured, stored, displayed or sold.

G. The requirements of this Ordinance are in addition to any requirements imposed by any building and zoning regulations, fire codes or state law.

H. Only persons 18 years of age or older may purchase consumer fireworks and the age of the purchaser must be verified by photographic identification.

I. No manufacturing, sales or storage for commercial purposes shall occur on residentially-zoned property or properties used for educational purposes, assemblies, or public parks.

J. A list of all consumer fireworks displayed and stored on the property shall be available at all times. The list shall document the name, weights and quantity of the fireworks and be accompanied by the material safety data sheets.

K. Upon request, samples of the consumer fireworks shall be made available to the Fire Chief or a designated city employee for testing purposes.

L. The premises where the licensed activity takes place are subject to inspections by City employees, including the Fire Chief, Building Official, and Police Officers, during normal business hours, at the discretion of the City.

Section 9. Discharge Rules and Regulations.

A. It is unlawful to discharge any fireworks on public property.

B. It is unlawful at any time to throw, toss or aim any fireworks at any person, animal, vehicle, or other thing or object or use in any manner that may threaten or cause possible harm to life or property.

C. It is unlawful to use, fire, or discharge any fireworks along the route and during any parade or at any place of public assembly or in any commercial district.

D. The discharge of any fireworks shall be prohibited inside a building.

E. The Fire Chief may ban the use of any fireworks if dry or windy conditions occur.

F. Juveniles may not possess any fireworks unless under the direct supervision of a responsible adult.

- G. Fireworks may not be discharged in such a manner that may create a nuisance.

Section 10. Revocation of License. In the event of the discovery of fraud in the application for the consumer fireworks license, or the conviction of the licensee or manager, officer or owner of a felony or of a violation of this Chapter or a similar ordinance in another jurisdiction, the license may be revoked. Revocation shall not occur unless the licensee has first been provided written notice by the City of the violation(s) and of its intent to seek revocation, and an opportunity for timely hearing on the revocation before the City Council. If, in the opinion of the Fire Chief or the City Manager that the continued operation under the license following discovery of the violation would constitute an unreasonable and imminent danger to persons or property, those officials may temporarily suspend the license until the Council has acted on a revocation required by those officials. If a license is revoked, neither the applicant, the licensee or the premise where the licensee's licensed activity took place, may apply for, obtain or be the site for a license for the period of twelve (12) months from the effective date of the revocation.

Section 11. Penalties.

- A. Materials which violate and/or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal shall be assessed back to the property owner or license holder.
- B. Any person who violates the provisions of this Chapter shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.
- C. In the event of a violation of this Chapter, the City may institute appropriate proceedings, including bringing criminal charges, or seeking civil or injunctive relief, to prevent, restrain, correct or abate such violation. The City, in any court of competent jurisdiction, may recover all costs incurred for corrective action. Any violator of this Chapter shall be responsible for the City's cost of prosecution, including attorney fees.

Section 12. Severability. If any section, subsequent, sentence, clause, phrase or portion of this Chapter is, for any reason, held to be invalid or unconstitutional by any court of administrative agency of competent jurisdiction, such portion shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 13. Effective Date. This Ordinance shall be effective immediately upon its passage and publication. Adopted by the Council this 14 day of July, 2003.

ATTEST:


City Clerk, Sherry Erickson

APPROVED:


Mayor, Doran Klakoski

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