

(Ordinance 00-13, sec. 2, adopted 4/11/00; Ordinance adopting Code)

Sec. 5.04.002 Territorial applicability

This article shall be applicable and in force throughout the incorporated territory of the town within its corporate limits, and within the extraterritorial jurisdiction of the town being the area immediately adjacent and continuous with the corporate limits of the town and extending for a distance outside the corporate limits for a distance as established by the laws of the state, provided that this article shall not apply within any portion of this extraterritorial jurisdiction which is contained within the territory of any other municipal corporation. (Ordinance 00-13, sec. 8, adopted 4/11/00)

Sec. 5.04.003 Prohibited

It shall be unlawful for any person to manufacture, assemble, store, transport, receive, keep, sell, offer or have in their possession with the intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description. (Ordinance 00-13, sec. 3, adopted 4/11/00)

Sec. 5.04.004 Exceptions

This article shall not apply to signal flares and torpedoes of the type and kind commonly used by any railroad and which signal flares and torpedoes are received by and stored or transported by any such railroad for use in railroad operation; nor shall this article apply to any marine signal flare or rocket of the type and kind commonly carried by a vessel at sea for its own use and which signal flares or rockets are transported or received or stored for use only as ship's stores; nor shall this article apply to signal flares or rockets for military or police use. (Ordinance 00-13, sec. 4, adopted 4/11/00)

Sec. 5.04.005 Permit and bond for public display

The town council shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by a jurisdiction, fair association, amusement park, other organizations, or for the use of fireworks by artisans in pursuit of their trade. Every such display shall be handled by a competent operator approved by the town administrator or his/her designee and shall be of such character and so located, discharged, or fired so as not to be hazardous to property and/or endanger any person. Applications for such permits shall be made in writing at least ten (10) days in advance of the date of the display to the town administrator or his/her designee and the state fire marshal's office and shall contain an approved bond in an amount adequate to protect any permittee against claims arising from damage to person and/or property as a result of the display. After such privilege shall be granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. Any fireworks that remain unfired after the display is concluded shall be immediately removed from the town or shall be disposed of in a way safe for the particular type of fireworks remaining. (Ordinance 00-13, sec. 5, adopted 4/11/00; Ordinance adopting Code)

Sec. 5.04.006 Public nuisance

The presence of any fireworks within the town in violation of this article is hereby declared to be a common and public nuisance. The fire chief is directed and required to seize and cause to be safely destroyed any fireworks found within the town in violation of this article. Any member of the fire department of the town, or any police officer of the town, or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where fireworks are found stored illegally until the fire chief can be notified in order that said fireworks may be seized and destroyed in accordance with the terms of this article. Notwithstanding any penal provision of this article, the town attorney is authorized to file suit on behalf of the town or the fire chief, or both, for injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the town and to aid the fire chief in the discharge of his duties, and to particularly prevent any person from interfering with the seizure and destruction of such fireworks. It shall not, however, be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction. The fire chief or any member of the fire prevention division of the town is hereby authorized, at reasonable times, to enter any building where the unlawful presence of fireworks is suspected in order to inspect the building for the presence of such fireworks. (Ordinance 00-13, sec. 6, adopted 4/11/00)

Sec. 5.04.007 Penalty for violation

Any person, firm, corporation or business entity violating this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided in section 1.01.009 of this code. Each continuing day's violation under this article shall constitute a separate offense. The penal provisions imposed under this article shall not preclude the town from filing suit to enjoin the violation. The town retains all legal rights and remedies available to it pursuant to local, state and federal law. (Ordinance 00-13, sec. 7, adopted 4/11/00)