

# **ORDINANCE NO. 601**

## **An Ordinance of the Municipal Code of the City of Kiel Repealing and Recreating Section 9.04 (Sale, Possession, and Use of Fireworks Regulated)**

The Common Council for the City of Kiel do ordain as follows:

SECTION 1: Section 9.04 is hereby repealed and recreated to read as follows:

~~**9.04 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.** Section 167.10, Wis. Stats., regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this section as though set forth in full.~~

### **9.04 SALE, POSSESSION, AND USE OF FIREWORKS REGULATED**

- (1) DEFINITION. In this section, "fireworks" means anything manufactured, processed, or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
  - (a) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
  - (b) A toy snake which contains no mercury.
  - (c) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects.
  - (d) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
  - (e) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects.
  - (f) A cylindrical fountain that consists of one or more tubes and that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
  - (g) A cone fountain that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.5
  - (h) A fuse less device that is designed to produce audible or visible effects, and that contains less than one-quarter grain of explosive mixture.
- (2) FIREWORKS USE REGULATED. No person will possess or use fireworks in the city without a user's permit issued pursuant to this ordinance and Wis. Stats. §167.10(3); except those fireworks listed in (1) (a-h) above.
- (3) FIREWORKS SALES REGULATED. Except as provided herein, no person can sell, or possess with intent to sell, without a city issued permit, fireworks in the city.
- (4) FIREWORKS SALES LICENSE.
  - (a) No person may sell, or possess with intent to sell, fireworks, except those specifically enumerated in section (1) (a-h) above, unless said person has been issued a fireworks sale license hereunder.

- (b) Applicants for a fireworks sale license will make an application for each site in writing on forms provided by the City Clerk-Treasurer. A licensee may possess and sell the enumerated fireworks at more than one site within the city. A nonrefundable license application fee of \$200.00 for each site will accompany each application.
- (c) The application for license will include, without limitation, the following information:
  - i. Name, address, and telephone number of the applicant.
  - ii. Address(es) at which the applicant intends to sell the enumerated fireworks.
  - iii. Name(s), address(es), and consent(s) of the owner(s) of the real estate upon which the enumerated fireworks will be sold.
  - iv. Itemization of which enumerated fireworks the applicant intends to sell.
- (d) Fire Chief Review: The Fire Chief or designee will consider the application for fireworks sales licenses and approve or deny applications. If the permit application is denied, the applicant has the right to appeal the denial to the Common Council. The Clerk-Treasurer issues the license upon the approval of the fire chief or the common council.

#### (5) ISSUANCE OF FIREWORKS SALES LICENSE

- (a) Licenses issued are for a term of one year, from May 1 through the following April 30. Application for annual licenses are filed not later than April 1 of each year.
- (b) The common council may condition the issuance of licenses hereunder as it sees fit to protect the public interest and safety.
- (c) The common council has the right to suspend or revoke any licenses issued hereunder as it sees fit to protect the public interest or safety. If a license is suspended or revoked, the licensee is entitled to a public hearing before the common council within seven days of the suspension or revocation.
- (d) Licenses issued hereunder may not be transferred or assigned without the consent of the common council; and, no licensee may use a site other than the site(s) licensed pursuant to the application of the licensee.
- (e) The fire chief, police chief or their designee may temporarily suspend and confiscate licenses if violations occur and order the closure of the site pending corrective action or appeal to the city council.

#### (6) FIREWORKS USE PERMIT. As provided in Wis. Stats. § 167.10(3), the mayor or designee may issue a fireworks use permit.

- (a) The official issuing the permit will require a certificate of liability insurance, or similar proof of coverage, in an amount deemed necessary.
- (b) A copy of the permit and proof of insurance is filed with the clerk-treasurer, and copies of the permit are given to the Fire Chief and Chief of Police at least five days before the authorized use.
- (c) The permit may be canceled by the Fire Chief, Police Chief or City Administrator if weather or other situations make it an unsafe condition.

(7) OBNOXIOUS ODOR DEVICES AND PRODUCTS.

- (a) No person may sell, possess, or use any device, product or item that has its primary purpose the production of an obnoxious odor or smell.
- (b) Without limitation, it is grounds for suspension or revocation of a fireworks sale license if the licensee sells or possesses for sale any obnoxious odor devices, products or items.

(8) FIREWORKS STORAGE AND HANDLINGS REGULATIONS

- (a) *Fire extinguishers required.* No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the fire chief.
- (b) No person may smoke where fireworks are stored or handled.
- (c) A person who stores or handles fireworks will notify the fire chief of the location of the fireworks.
- (d) No wholesaler, dealer or jobber may store fireworks within 50 feet of a residence.
- (e) No person may store fireworks within 500 feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one gallon.

(9) PARENTAL LIABILITY. Pursuant to Wis. Stats. § 167.10(7), a parent, foster parent, treatment foster parent, family operated group home parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks. Pursuant to Wis. Stats. § 167.10(9)(c), any parent or legal guardian of a minor who consents to the use of fireworks by the minor will, upon conviction, be subject to a forfeiture of not more than \$1,000.

(10) PENALTIES. Any person who violates the provision of this ordinance is subject to municipal penalties as defined under Chapter 25.04 of the City of Kiel municipal code. Each day of continued violation constitutes a separate violation and offense.

SECTION 2: This ordinance takes effect upon passage and publication in accordance with the law.

Ordinance No. 601 introduced on January 25, 2022 by Alderperson \_\_\_\_\_,  
seconded by Alderperson \_\_\_\_\_.

Upon a call of votes thereof, the result was as follows:

\_\_\_\_\_ Votes Cast  
\_\_\_\_\_ Votes Aye  
\_\_\_\_\_ Votes Nay

The Mayor declared Ordinance No. 601 introduced and approved this 25th day of January, 2022.

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MICHAEL STEINHARDT, Mayor

COUNTERSIGNED:

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JAMIE J. AULIK, City Administrator