

ORDINANCE 03-2010

To Amend the Code of the City of Amery Title 7 Chapter 6 Regulation and Licensing of Fireworks

The City Council of the City of Amery, Polk County, Wisconsin, does ordain as follows:

7-6-1 Purpose

7-6-2 Definitions

7-6-3 Possession, Sale and Use of Fireworks Limited

7-6-4 Sale of Fireworks Limited

7-6-5 User's Permits for Possession and Use of Fireworks

7-6-6 Storage and Handling

7-6-7 Violation — Penalty

Sec. 7-6-1 Purpose.

This Chapter shall regulate the possession, sale and use of fireworks within the City limits. It shall constitute a local regulation adopted pursuant to Sec. 167.10(5), Wis. Stats.

Sec. 7-6-2 Definitions.

The following definitions shall apply to application of this Chapter:

- (a) **City or City Limits.** All land located within the corporate limits of the City of Amery.
- (b) **Dwelling.** A place of residence for human inhabitants and shall include all single family and multiple family residences and all other structures used for human habitation.
- (c) **Fire Chief.** The duly appointed Fire Chief of the City of Amery.
- (d) **Fireworks.** 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:
 - (1) Fuel for lubricant;
 - (2) A firearm cartridge or shotgun shell;
 - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle;
 - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater;
 - (5) A cap containing not more than one-quarter (1/4) 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;
 - (6) A toy snake which contains no mercury;

- (7) A model rocket engine;
 - (8) Tobacco and a tobacco product;
 - (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length that is designed to produce audible or visible effects or to produce audible and visible effects;
 - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture;
 - (11) A fuseless device that is designed to produce audible or visible effects or audible and visible effects and that contains less than one-quarter (1/4) gram of explosive mixture;
 - (12) A device that emits smoke with no external flame and does not leave the ground;
 - (13) A cylindrical fountain that consists of one (1) or more tubes and that is classified by the federal department of transportation as a division 1.4 explosive, as defined in 49 C.F.R. 173.50;
 - (14) A cone fountain that is classified by the federal department of transportation as a division 1.4 explosive, as defined in 49 C.F.R. 173.50.
- (e) **Person.** Any natural person or unincorporated or incorporated corporation, partnership or other association. Persons who otherwise are referred to as sellers under this Chapter shall include, for purposes of Section 7-6-8(b) and (d), those sellers who are not required to obtain seller's permits. It shall not include a natural person under the age of eighteen (18) years, otherwise referred to herein as a "minor".
- (f) **Possess.** To have in one's possession, to own, hold on consignment or to otherwise to be physically and/or legally in control of fireworks.
- (g) **A Public Authority.** The City of Amery
- (h) **Use.** Any of the permitted purposes for fireworks set forth at Sec. 167. 10(3)(b)2. to 6., Wis. Stats., together with all other types of use including but not limited to explosions, emission of sparks or combustion.

Sec. 7-6-3 Possession, Sale and Use of Fireworks Limited.

Except as otherwise allowed by this Chapter, no person may possess, sell or use fireworks in the City.

Sec. 7-6-4 Sale of Fireworks Limited.

No person shall sell or possess with intent to sell fireworks, except:

- (a) To a person holding a permit under Section 7-6-5, below or a similar municipal permit issued in accord with Sec. 167.10(3)(a) and (c), Wis. Stats.; (b)
- To a city a village or town; or
- (c) For a purpose specified at Sec. 167.10(3)(b)2. to 6., Wis. Stats.
- (d) Under no circumstances shall fireworks including those devices specified at Section 7-6- 2(d)(6), (7), (9), (10), (11), (13) and (14) to be sold to minors.
- (e) To out-of-state purchasers in accord with Section 167.10(4), Wis. Stats.

(d) No fireworks, as that term is generally described at Section 7-6-2(d), which fall outside of the federal classification of "Class C" common fireworks and/or those

specified at Section 7-6-2(d)(6), (7), (9), (10), (11), (13) and (14) may be possessed with the intent to sell or be sold in the City.

(e) No transient merchant permits will be issued for the sale of any type of fireworks within the City.

Sec. 7-6-5 Use of Fireworks.

(a) No person shall possess with the intent to use fireworks within the corporate limits of the City any fireworks except "Class C" Common Fireworks. Only the following entity shall be eligible to possess and display Class A Fireworks:

(1) A Public Authority;

Sec. 7-6-6 Storage and Handling.

No person possessing fireworks with the intent to sell in the City may store or handle fireworks in premises which are not equipped with fire extinguishers approved by the Fire Chief or his/her designee. In addition, the following criteria shall govern storage and handling:

(a) No person may smoke where fireworks are stored or handled.

(b) Prior to any person storing fireworks in the City, the Fire Chief shall be notified.

(c) No fireworks shall be stored within one hundred (100) feet of a dwelling.

Sec. 7-6-7 Violation — Penalty.

(a) Any person violating any of the provisions of this Chapter shall be subject to a forfeiture as prescribed by Section 1-1-7, together with the costs of prosecution.

(b) Pursuant to Sec. 167.10(8)(b), Wis. Stats., fireworks stored, handled, sold, possessed or used by a person in violation of this Chapter may be seized by the Police Department, held as evidence and destroyed after conviction.

(c) Upon request of the Police Department, the City Attorney may seek injunctive relief against present or future violations of this Chapter

Passed this day Wednesday, April 7, 2010

This amendment shall take effect upon passage and publication as required by law.


Michael Karuschak, Mayor

Attest:


Darcy D. Long, City Administrator