

Winneshiek County Fireworks Permit Information

Board of Supervisors Office
201 West Main
Decorah, IA 52101

Introduction

We appreciate your taking time to complete a fireworks permit application for rural Winneshiek County. We ask that you contact your local fire department prior to setting off your display in the event the State Fire Marshall has issued a countywide burning ban. Such a ban would invalidate the county permit.

Ordinance No. 14-179

Ordinance Establishing Fireworks Permit Application and Issuance Procedures in Winneshiek County, Iowa

Be it enacted by the Winneshiek County Board of Supervisors, Winneshiek County, Iowa:

Section 1. Purpose.

The purpose of this chapter is to provide for a process for the consideration and granting of permits for the use of fireworks in Winneshiek County, Iowa consistent with the discretion granted to the Board of Supervisors in Iowa Code Section 727.2 (2013).

Section 2. Definitions.

(A) As used in this ordinance, the term "fireworks" includes any explosive composition, combination of explosive substances, or device for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of Section 727.2, Iowa Code. The term fireworks does not include goldstar-producing sparklers on wires which contain no magnesium, chlorate or perchlorate; flitter sparklers in paper tubes that do not exceed one-eighth inch in diameter; toy snakes which contain no mercury; or caps used in cap pistols.

(B) As used in this ordinance, the term "consumer fireworks" means fireworks devices classified as fireworks 1.4 UN #0336 and #0337 by the U.S. Department of Transportation at 49 CFR 172.101, and include those small firework items intended for personal use and which can be purchased over the-counter in many states. These items include small fountains, small arterial shells, sparklers, firecrackers, and small rockets.

(C) As used in this ordinance, the term "display fireworks" means fireworks devices intended for use in fireworks displays and classified as explosives 1.3 as described as fireworks, UN #0333, #0334 and #0335 by the U.S. Department of Transportation at 49 CFR 172.101.

(D) As used in this ordinance, the term "operator" means a person trained in fireworks safety who will set up and explode the fireworks.

(E) As used in this ordinance, the term "applicant" means the municipality, organization, or group of individuals requesting a fireworks permit.

(F) As used in this ordinance, the term "fireworks display" means the explosion of fireworks regulated herein. The test-firing of fireworks by a person certified by the ATF to build fireworks shall not be considered a fireworks display so long as said person's name and address are on file with the Board of Supervisors.

1.3. Prohibition. No person shall conduct a fireworks display in Winneshiek County, Iowa, unless a permit for such display is first obtained from the Winneshiek County Board of Supervisors.

1.4. Application. An application for a permit under this ordinance shall be made in writing on a form prescribed by

the Board of Supervisors (Board) no later than 20 days before the anticipated fireworks display. The Board may, in its discretion, accept applications filed beyond the deadline set out herein. The application shall include such information as deemed by the Board to be necessary for its consideration, including but not limited to the name, address and telephone number of the applicant; the name, address and telephone number of the operator; an explanation of the operator's proficiency or training in the use of fireworks; a drawing of the shoot site and drop zone, including their distance from spectators and any buildings; and the proposed approximate time of the display. Additionally, the application shall be accompanied by:

1.4.1 Proof of workers compensation insurance, where appropriate;

1.4.2 A copy of any necessary ATF permits or certifications;

1.4.3 For a "consumer fireworks" display proof of insurance with liability limits of no less than five hundred thousand dollars (\$500,000.00) along with a signed hold harmless agreement in favor of the County in the form provided with the application for permit:

1.4.4 For a "display fireworks" display an original certificate of insurance (for occurrence form general liability coverage) shall be submitted to the Winneshiek County Board of Supervisors a minimum of twenty days prior to the date of the event for approval by the Winneshiek County Auditor. The following are the County's insurance requirements for issuance of a permit for "display fireworks". Any exceptions to these requirements must be specifically granted by the Winneshiek County Board of Supervisors and made known to the Winneshiek County Attorney.

- a. An original certificate of insurance shall be provided to the Winneshiek County Auditor prior to the effective date of the permit.
- b. The name, address and phone number of the agent signing the certificate shall be typed under the agent's signature.
- c. "Winneshiek County, Iowa, and its officers, agents and employees are named as additional insured" shall be specifically indicated on the certificate.
- d. The name and date of the event being covered shall be indicated on the certificate.
- e. The minimum liability limit required by Winneshiek County is two million dollars (\$2,000,000.00).
- f. All addresses on the certificate shall list a street address; P. O. Box addresses are not accepted.

Section 3. Age and Qualifications of the Applicant and Operator.

Permits may be granted to municipalities, organizations or groups of individuals. Any applicant requesting a permit for a display of "display fireworks" shall have an operator who possesses a current and valid ATF permit as set forth by the Safe Explosives Act and is certified by a nationally recognized fireworks safety organization such as the American Fireworks Association or the Pyrotechnics Guild International, Inc. Any applicant requesting a permit for a display of "consumer fireworks" shall have a competent operator who is at least 21 years of age on the date of the display.

Section 4. Fireworks Displays, Search for and Disposal of Unexploded Fireworks.

The discharge of fireworks under a permit granted pursuant to this ordinance will not be allowed before sunrise or after midnight of the date of the display unless otherwise permitted by the Winneshiek County Board of Supervisors at the time the permit application is approved. Any fireworks that remain unexploded after the display shall be immediately disposed of or removed for storage or disposal in a safe manner by the operator; who as soon as practicable after the conclusion of the display, shall make a complete and thorough search for any fireworks or fuses, or parts thereof, which have not exploded or functioned.

Section 5. Permit Suspension.

The Winneshiek County Sheriff and his or her designees may suspend any permit issued pursuant to this ordinance should he or she determine that the health, safety, welfare of the public would require the suspension, or should the applicant and or operator fail to meet the qualifications as set out in this ordinance. In the event of any such

suspension, the Sheriff shall file a report thereof with the Board of Supervisors. Thereupon, the Board of Supervisors shall, at its next formal meeting, affirm the suspension of permit or reinstate the same. In the event a burn ban is issued for Winneshiek County by the State Fire Marshall or other appropriate authority, all permits granted shall be automatically suspended until such time as the burn ban is lifted.

Section 6. Consideration of Prior Permits.

In determining whether the application for a fireworks permit should be granted, the Board shall consider an applicant or operator's conduct in association with prior fireworks permits.

Section 7. Penalty.

Violation of the provision of this ordinance shall constitute a simple misdemeanor and the penalty for such violations shall be provided by the Iowa Code for simple misdemeanors.

Section 8. Repealer.

All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 9. Savings Clause.

If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section 10. When Effective

This ordinance shall be in effect August 1, 2014.

Motion by Karlsbrotten second by Thompson to approve the final reading of Winneshiek County Ordinance No. 14-179 entitled "Ordinance Establishing Fireworks Permit Application and Issuance Procedures in Winneshiek County, Iowa."

Said hearing being continued from the first public hearing held May 19, 2014, and the second hearing held May 27, 2014.

Vote taken resulted as follows:

Ayes – Ashbacher, Karlsbrotten, Logsdon, and Thompson

Nays – none

Absent – Kuhn

PASSED AND APPROVED this 2nd day of June, 2014.

WINNESHIEK COUNTY BOARD
OF SUPERVISORS

John Logsdon, Chairperson

Attest:

Benjamin D. Steines
Winneshiek County Auditor

APPLICATION FOR FIREWORKS PERMIT

TO: Winneshiek County Board of Supervisors:

201 West Main

Decorah, IA 52101

Phone: 563/382-2370

Website: winneshiekcouny.org

Applicant (Municipality, Organization or Group of Individual):

Name: _____ Title: _____

Contact person: _____

Address: _____

Phone number: _____

Display:

Type of display (See ordinance):

_____ Consumer Fireworks (1.4) _____ Display Fireworks (1.3)

Date: _____ Raindate: _____

Time: _____

Approximate start time: _____ Approximate end time: _____

Location: Attach diagram

Address: _____

Operator:

Name: _____

Address: _____

Phone number; _____

Birthdate: _____

Certification:

PGI: _____ Include copy

ATF: _____ Include copy

Other – Specify and include copy: _____

I hereby affirm that I have read Winneshiek County Ordinance No.: 14-179 governing issuance of fireworks permits; that I understand the ordinance's terms; and that I will conduct myself according to its terms and according to the laws of the State of Iowa.

Further, I specifically agree to protect, defend and hold Winneshiek County harmless from any and all damages or claims for damages that might arise or accrue by reason of the granting of the permit for which I am applying.

Further I specifically acknowledge that any permit is valid only in the unincorporated areas of Winneshiek County, Iowa and this permit is immediately void if any firework or firework display is operated over any part of any city, airport, airstrip or outside of Winneshiek County (except non-nuisance airborne smoke that may drift from the display location); any permit so issued does not immunize the applicant or operator from complying with all laws and regulations concerning the purchase, transportation, possession, storage, firing and discharge of explosives and fireworks; and the applicant/operator shall comply with lawful directives of any peace officer and emergency services worker; and the applicant/operator shall produce the permit upon request of any peace officer or emergency services worker.

Further I specifically acknowledge that this permit is not valid if any required documentation (i.e. insurance certificates, hold harmless, etc.) have not been filed, during business hours, with the Winneshiek County Auditor prior to the effective date of the permit.

The applicant specifically agrees to the foregoing and understands the granting or denial of this application is in the sole discretion of the Winneshiek County Board of Supervisors.

Signature of Applicant's Representative

Date of Application

For Office Use Only

Date application submitted: _____

Checklist:

Application complete

Certification

Drawing of shoot site

Proof of insurance ("Display Fireworks" display) to be provided to Auditor, during regular business hours, prior to effective date of the permit.

Hold Harmless Agreement ("Consumer Fireworks" display)

Application fee (\$20.00)

Cash Money Order Check

APPROVED BY THE WINNESHIEK COUNTY BOARD OF SUPERVISORS

Chairperson

Date

**CONSUMER FIREWORKS DISPLAY
HOLD HARMLESS AGREEMENT**

I, _____ (print name and address), state that I am the authorized agent of Applicant and am authorized by Applicant to bind it to this Hold Harmless Agreement.

When issued a fireworks permit by the Winneshiek County, Applicant does hereby agree to hold Winneshiek County harmless from any and all liability resulting from the use of said fireworks and/or fireworks displays within the permitted area.

Applicant does further agree to indemnify and hold harmless Winneshiek County, its officers, agents and employees from and against all claims, damages, losses and expenses including attorney fees arising out of the explosion, construction of, and dismantling of said fireworks and/or fireworks displays as a result of the issuance of said permit.

Applicant does further state that it has insurance to cover liability for the above stated activity in the amount of \$ _____ (no less than five hundred thousand dollars (\$500,000.00)) that provides coverage at the site of the display. A copy of the insurance declaration sheet for this coverage is attached.

Dated this _____ day of _____, 20____

Agent for Applicant (signature)