

RESOLUTION NO. 2019-5-83

A RESOLUTION ESTABLISHING PROVISIONS FOR THE PERMITTING AND USE OF FIREWORKS

(SUPERCEDES RESOLUTION 2017-12-179)

WHEREAS, Senate File 489 (the legislation), signed into law by the governor on May 9 2017, relates to the possession, sale, transfer, purchase, and use of fireworks; and,

WHEREAS, the legislation authorizes the Board of Supervisors to grant, upon written application, a permit for the use of Display Fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the Board of Supervisors when the Display Fireworks will be handled by a competent operator; and,

WHEREAS, the legislation sets forth that a person shall not use Consumer Fireworks on real property other than on that person's real property, or on the real property of a person who has consented to the use of consumer fireworks on that property; and,

WHEREAS, the legislation establishes limitations on the dates and times a person may use or explode consumer fireworks; and,

WHEREAS, the legislation states "The Board of Supervisors may by ordinance or resolution prohibit or limit the use of consumer fireworks or display fireworks, as described in (Iowa Code) section 727.2, if the board determines that the use of such devices would constitute a threat to public safety or private property, or if the board determines that the use of such devices would constitute a nuisance to neighboring landowners"; and,

WHEREAS, the Linn County Board of Supervisors desires to maintain provisions for the issuance of permits and the use of Display Fireworks, Consumer Fireworks, or Novelties in unincorporated Linn County or on real property owned by Linn County; and,

WHEREAS, on December 6, 2017 the Linn County Board of Supervisors passed and approved Resolution 2017-12-179 establishing provisions for the permitting and use of fireworks in unincorporated Linn County or on real property owned by Linn County; and,

WHEREAS, the Linn County Board of Supervisors desires to change provisions included in Resolution 2017-12-179 specifically pertaining to the permitting and use of consumer fireworks in unincorporated Linn County or on real property owned by Linn County.

BE IT THEREFORE RESOLVED by the Linn County Board of Supervisors that Resolution 2017-12-179 is repealed and replaced with this Resolution.

BE IT FURTHER RESOLVED the Board of Supervisors finds that the use of consumer fireworks constitutes a threat to public safety or private property and/or constitutes a nuisance to neighboring landowners.

BE IT FURTHER RESOLVED by the Linn County Board of Supervisors that the permitting and use of Display Fireworks, Consumer Fireworks, or Novelties in unincorporated Linn County or on real property owned by Linn County is subject to the provisions listed below.

I. Definitions. For the purposes of permitting and using Display Fireworks, Consumer Fireworks, or Novelties in unincorporated Linn County or on real property owned by Linn County, pursuant to the provisions established in this resolution, the following terms are defined:

A. "Consumer Fireworks" means first-class consumer fireworks and second-class consumer fireworks as those terms are defined in subparagraphs (C) and (E) below.

B. "Display Fireworks" means any explosive composition, or combination of explosive substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosives or flammable compound, or other devices containing any explosive substance.

C. "First Class Consumer Fireworks" means the following consumer fireworks as described in the American Pyrotechnics Association ("APA") Standard 87-1, chapter 3:

1. Aerial shell kits and reloadable tubes.
2. Chasers.
3. Helicopters and aerial spinners.
4. Firecrackers.
5. Mine and shell devices.
6. Missile-type rockets.
7. Roman candles.
8. Sky rockets and bottle rockets.
9. Multiple type devices under this subparagraph (c) which are manufactured in accordance with APA 87-1, section 3.5.

D. "Novelties" means all novelties enumerated in chapter 3 of the APA standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

E. "Second Class Consumer Fireworks" means the following consumer fireworks, as described in APA Standard 87-1, chapter 3:

1. Cone fountains.
2. Cylindrical fountains.
3. Flitter sparklers.
4. Ground and hand-held sparkling devices, including multiple tube and hand held sparkling devices that are manufactured in accordance with APA Standard 87-1, section 3.5.
5. Ground spinners.
6. Illuminating torches.

7. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, section 3.2.
8. Wheels.
9. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, section 3.2.

II. Display Fireworks Permit

- A. The Board of Supervisors may grant, upon written application, a permit for the use of Display Fireworks to municipalities, fair associations, amusement parks and other organizations or groups of individuals approved by the Board of Supervisors when the Display Fireworks will be handled by a competent operator who meets at least one of the following safety requirements:
 1. Possesses a Display Operator Certification from Pyrotechnics Guild International
 2. Possesses a current, valid state-issued fireworks operator license, from any state, which requires formal safety training similar to that required for a Display Operator Certification from Pyrotechnics Guild International.
 3. Demonstrates an equivalent degree of formal fireworks safety training and experience to the satisfaction of the Board of Supervisors.
- B. No permit is required for the use of display fireworks at incorporated county fairs.
- C. The applicant for a Display Fireworks Permit must submit the Application for Use of Display Fireworks Permit, attached hereto as "Exhibit A" and made part of this Resolution, not less than fourteen (14) days prior to the proposed use of display fireworks.
- D. No Display Fireworks Permit will be granted without proof of commercial general liability insurance in an amount to be determined by the Board of Supervisors, but in no event less than \$2,000,000. A Certificate of Liability Insurance must be submitted with the application and must be valid for the entire period listed in either Section III.A.1(a) or Section III.A.1(b) of this resolution.
- E. No Display Fireworks Permit will be granted without approval from the chief, or assistant chief, of the fire department with jurisdiction over the proposed fireworks display site for: display at that location, and for the fire prevention measures listed by the applicant on the Application for Fireworks Display Permit.
- F. No Display Fireworks Permit will be granted without approval from the Linn County Risk Manager.

G. No Display Fireworks Permit will be granted to an applicant or operator who is not at least eighteen (18) years of age on the date of the proposed fireworks display.

H. Any and all fireworks that remain unexploded at the conclusion of the display must be disposed of immediately or safely removed for storage or disposal by the operator who, at the conclusion of the display, must complete a thorough search for any unexploded fireworks or fuses therefrom which have not exploded or functioned properly.

I. The Linn County Sheriff, or his or her designee, may suspend any permit issued pursuant to this Resolution if he or she determines that the health, safety or welfare of the public requires such a suspension, or if the applicant and/or operator fail to meet or follow the safety provisions set forth in this Resolution.

J. Linn County will not charge a fee for the issuance of a Display Fireworks Permit.

III. Consumer Fireworks Permit

A. The Board of Supervisors may grant upon written application, a Consumer Fireworks Permit for the use of Consumer Fireworks on real property owned by Linn County, subject to the provisions listed below, which do not apply to facilities under the management of the Linn County Conservation Board. Facilities under the management of the Linn County Conservation Board are subject to the Linn County Conservation Board Rules and Regulations.

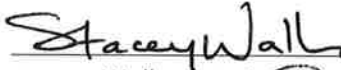
1. A person shall not use or explode Consumer Fireworks in unincorporated Linn County on days other than July 4 between the hours of 9 AM and 11 PM and December 31 between the hours of 9 AM and 12:30 AM on the immediately following day.
2. The applicant for a Consumer Fireworks Permit for the use of Consumer Fireworks on real property owned by Linn County must submit the Application for Fireworks Permit, attached hereto as "Exhibit B" and made part of this Resolution, not less than fourteen (14) days prior to the proposed use.
3. Linn County will not charge a fee for the issuance of a Consumer Fireworks Permit.

III. Novelties

A. No permit shall be required for the use of Novelties in unincorporated Linn County or on Linn County-owned property.

PASSED AND APPROVED this 29th day of May 2019.

LINN COUNTY BOARD OF SUPERVISORS



Stacey Walker, Chair



Ben Rogers, Vice Chair



Brent Oleson, Supervisor

ATTEST:



Joel Miller, Auditor

I, Joel Miller, Linn County Auditor, certify that the Linn County Board of Supervisors duly adopted the foregoing resolution at a regular meeting by a vote of:

 3 Aye 0 Nay 0 Abstain and 0 Absent from Voting.