

**ORDINANCE NO. 662**

**AN ORDINANCE AMENDING CHAPTER 9.18 OF THE MUNICIPAL CODES IN THEIR ENTIRETY, AND REPEALING ORDINANCE 620, TO PROVIDE FOR COMPREHENSIVE REGULATION OF FIREWORKS WITH THE CORPORATE LIMITS OF THE CITY OF POLSON.**

Whereas, the City Council of the City of Polson, hereinafter Council, finds that a comprehensive revision of its ordinances regulating the sale and discharge of fireworks is necessary to the public health, safety, peace, and welfare; and,

Whereas, the Council finds that an emergency exists, to wit, the nearness in time of the traditional Fourth of July holiday and its attendant sale and discharge of fireworks which this Ordinance seeks to regulate, and that it is necessary in the circumstances to provide an immediate effective date; and,

Whereas, the revised text of Chapter 9.18 attached hereto as Exhibit A, incorporating and revising the terms of the former Chapter 9.18 and of Ordinance 620, is an appropriate regulation of the sale and discharge of fireworks.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLSON, MONTANA:**

1. Chapter 9.18 is wholly amended and revised, as provided in Exhibit A. hereto.
2. Ordinance 620 is repealed.
3. This Ordinance shall be effective immediately.

**REPEALING CLAUSE:** All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

**FIRST READING:** June 4, 2012

**SECOND READING:** June 18, 2012

**NOW, THEREFORE,** the foregoing Ordinance shall become effective on June 19, 2012.

**PASSED AND ADOPTED THIS 18<sup>th</sup> day of June, 2012.**

CITY OF POLSON

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Pat DeVries, Mayor

ATTEST:

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Cindy Dooley, City Clerk

## CHAPTER 9.18

### FIREWORKS

#### Sections:

9.18.010 Sale, possession and use of fireworks

9.18.020 Permit required

9.18.030 Supervised public display of fireworks

9.18.040 Exceptions

#### 9.18.010 Sale, Possession, and Use of Fireworks

(A) It shall be unlawful to sell, transport, or use any fireworks within the city except as hereinafter provided.

(B) The term "fireworks" shall mean and include any combustible or explosive composition or any substance, combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and includes sky rockets, roman candles, daygo bombs, blank cartridges, toy cannons, toy canes or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sparklers, or other fireworks of like construction, any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

This chapter shall not apply to toy paper caps containing less than one-fourth of a grain of explosive composition per cap, to the manufacture, storage, sale, or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, to the military or naval forces of the United States or this state, to peace officers, or to the sale or use of blank cartridges for ceremonial, theatrical, or athletic events.

(C) It shall be lawful for any individual, firm, partnership, corporation, or association to possess for sale within the city, sell, or offer for sale at retail or use within the city, the permissible fireworks herewith enumerated. Permissible fireworks, excluding sky rockets, roman candles and bottle rockets, include and are limited to those that meet the definition of "common fireworks" as set forth in the U.S. Department of Transportation's

Hazardous Materials Regulations, as the same presently exist or may in future be amended, and that comply with the construction, chemical composition and labeling regulations of the U.S. consumer product safety commission, as the same presently exist or may in future be amended.

(D) It shall be unlawful for an individual under the age of 18 to possess for sale, sell, or offer for sale within the city permissible fireworks herein enumerated.

(E) It shall be unlawful for any wholesaler to sell or offer for sale within the city fireworks except as herein defined. It shall be lawful for said wholesaler, however, to transport said fireworks within the city for sale outside of the state of Montana.

(F) It shall be unlawful for any person, firm, or corporation to offer fireworks of any kind as defined herein for sale at retail before June 24 and after July 5.

(G) It shall be unlawful for any individual, business entity, or association:

1. to use any fireworks designed to move vertically within two thousand feet of any part of the Polson Municipal Airport without first notifying the Fixed Base Operator of such intention for use no later than twenty-four hours prior to such use, or to follow any instructions issued by such Operator as to such use;
2. to fail to remove to appropriate trash collection receptacles any waste or packaging resulting from the use of fireworks;
3. to use any fireworks in which explosions or noise constitute any part of the such display excepting such days as the sale of fireworks are approved by State law, namely, June 24 through July 5; and on such days, it shall be unlawful to use any fireworks before the hour of 8:00 a.m. or after the hour of 11:30 p.m., except that on July 3 and July 4, this limitation shall be 8:00 a.m. to 12:30 a.m. the following day;
4. notwithstanding the provisions of subpart (3), fireworks may be used on New Year's Eve from the hours of 11:30 p.m. to 12:30 a.m. immediately following;
5. to discharge fireworks of any kind from any park or Reserve owned by the City of Polson.

#### 9.18.20 Permits Required.

(A) All groups and/or individuals engaged in the retail sale of fireworks shall obtain a permit at least 15 days prior to the opening of the retail outlet. Every permit issued for the retail sale of fireworks shall be conditioned on the retailer posting at his place of business, in such locations as may be directed by the Polson Fire Chief, a notice consisting of the terms of 9.18.010 (G), above.

(B) All operators shall comply with all regulations set forth by the state of Montana.

(C) The permit fee for operation of an outlet for the sale of fireworks shall be as follows: All groups, businesses and individuals, including nonprofit organizations, shall pay a fee of \$300.00.

(D) Permits for the supervised public display of fireworks by any groups, businesses, individuals, including nonprofit organizations, may be granted by the City Council upon application therefore and proof of liability insurance covering both the operators and operation. Every such display shall be handled by a competent operator to be approved by the fire chief and the chief of police, and shall be of such a character and so located, discharged, or fired as in the opinion of the chief of the fire department or such other officer as may be designated by the council, after proper inspection, shall not be hazardous to property or endanger any person or persons. Application for permits shall be made in writing at least 5 days in advance of the date of the display.

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(E) No permit granted hereunder shall be transferable.

#### 9.18.040 Exceptions.

Nothing in this chapter shall be construed to prohibit the sale of any kind of fireworks to a person holding a permit from the city at the display covered by such permits; or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination or when used in quarrying or blasting or other industrial use; or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or organizations composed of veterans of the United States armed forces.

#### 9.18.050 Penalties for violations.

Violation of this Chapter shall constitute a misdemeanor. On a first violation, the violator shall be issued a warning; on the second, the violator shall be cited subject to a fine of \$50.00, plus confiscation of any visible fireworks. A third violation shall result in citation subject to a fine of \$100.00, together with confiscation of any visible fireworks. In addition to the Polson Police Department, the Polson Fire Department is authorized to issue citations as to offenses comprehended in this Chapter.”