

TO: Planning and Zoning Commission
FROM: Pam Kalstrup, Zoning & Land Use Coordinator
DATE: January 30, 2020
RE: Case #ZTA-2021-01

APPLICANT: Collin Piti

PROPERTY OWNER: Jack Barta Trust

REQUEST: Zoning text to amend the Pottawattamie County, Iowa, Zoning Ordinance, Section 8.055.020.20 T., Principal Uses for the Class I-1 (General Industrial) District, by adding I. Temporary roadside fireworks stands and Christmas tree lots, when approved by the Development Director for a specified time period, after which they shall be disassembled and removed at the end of the authorized period each year.

Temporary roadside fireworks stands and Christmas tree lots are principal uses in the C-1 (Highway Commercial) and C-2 (General Commercial) Zoning Districts.

There are 17 properties zoned I-1 in the County. **Attachment 1** shows those properties (labeled I-1 in purple).

The State Fire Marshal is responsible for enforcing Iowa Administrative Code 661-265 Consumer Fireworks Sales Licensing and Safety Standards. **Attachment 2.**

Attachment 3 is Pottawattamie County's current I-1 (Limited Industrial) District Zoning Ordinance.

Although you are voting on whether to approve or deny the Zoning Text Amendment and are not approving or denying a specific site, the applicant requesting this amendment proposes a temporary fireworks stand on Old Mormon Bridge Road approximately 3/4 of a mile west of Crescent City Limits. Properties in the immediate area are a mixture of industrial and agricultural ground. There is one residential property across the road.



Application:

ZTA 2021 01

FORM #706

FOR OFFICE USE ONLY - RECEIPT

POTTAWATTAMIE COUNTY, IOWA
ZONING TEXT AMENDMENT APPLICATION

APPLICANT	Name	Jack Barta Trust	Address	224 N Park Ave.	City/State/Zip	Fremont, NE 68025
APPLICANT	Phone		Cell		Home	402-753-2000
APPLICANT	Name	Collin Phi	Address	224 N Park Ave.	City/State/Zip	Fremont, NE 68025
APPLICANT	Phone		Cell	collin@swix.com	Home	402-206-8745
PROPOSED AMENDMENT	<p>Temporary roadside fireworks stands and Christmas tree lots, when approved by the Development Director for a specified time period, after which they shall be disassembled and removed at the end of the authorized period each year.</p> <p>We would like to use this land to open a second location for Boom Boom Discount Fireworks. We started this business 5 years ago and it has steadily grown of our only location in Jefferson SD. If approved we will open this second location for the 2021 selling season.</p>					

ATTACHED TO THIS APPLICATION IS THE FOLLOWING DOCUMENTATION FOR PUBLIC ATTACHMENTS:

- Zoning Ordinance
- Filing Fee Check and to be made payable to "Pottawattamie County Treasurer"

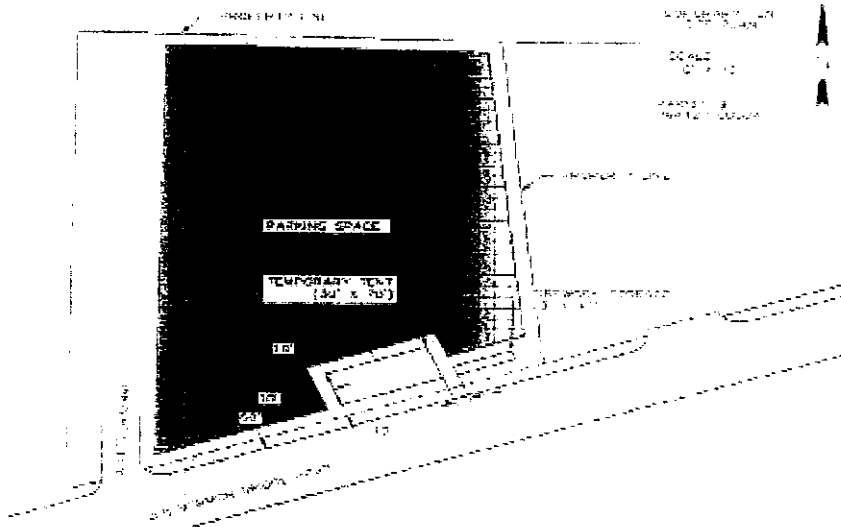
Please make be certain that you have in contact with the proper staff regarding your application. The fees for this project are non-refundable unless approved in advance.

SIGNATURE

APPLICANT: Signature: Jack Barta Date: 12/7/20

APPLICANT: Title of Head Name: Jack Barta

Site Plan:



The applicant has had conversation with the State Fire Marshal's office and the County Engineer – see correspondence below:

Pam,

As discussed, please see below a summary of the fireworks licensing process that we will pursue if the amendment is approved:

I had an extensive conversation with the Iowa State Fire Marshal's Office concerning the licensing requirements and now feel I have a good understanding of the process. The Iowa State Fire Marshall begins accepting applications for retail fireworks licenses on February 1 of each year. Should our Zoning Text Amendment be approved, we expect to submit our application shortly that. Along with the application and fee payments, we will also submit internal and external site plans for the temporary structure (tent) that we plan to put up and proof of commercial general liability insurance in accordance with Iowa Administrative Rule 661-265.24(1). Should our licensing application and site plans be approved, we will then be issued a license, which occurs on a rolling / first come first serve basis. The final step prior to officially opening for business is an inspection of the site, which we will schedule after setting everything up (tent, tables, product, fire extinguishers, etc.) and before opening for business.

I also spoke with John Rasmussen, the County Engineer for the Secondary Roads Department. I explained our filing for a Zoning Text Amendment and our plans to have a fireworks tent on the property next summer. He said that he has no issue with the plan or the current entrance to the property, as long as no one is parking on the highway. I told him that the property is big enough that we will have a full parking lot and will ensure that no one is parking on the highway.

Please let me know if there is anything else you need. Thank you!

Collin Piti

CHAPTER 265

CONSUMER FIREWORKS SALES LICENSING AND SAFETY STANDARDS

DIVISION I
SAFETY STANDARDS

661—265.1(100) Sale of consumer fireworks—safety standards. Any retailer or community group offering for sale at retail any first-class or second-class consumer fireworks, as described in American Pyrotechnics Association (APA) Standard 87-1, as published in December 2001, shall do so in accordance with the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition (hereinafter referred to as “APA 87-1” and “NFPA 1124,” respectively).

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.2 to 265.9 Reserved.

DIVISION II
CONSUMER FIREWORKS SALES—RESTRICTIONS

661—265.10(100) Sales allowed. A retailer or community group that is issued a license pursuant to this chapter is authorized to sell consumer fireworks as defined in this chapter. However, sales are permitted only as follows.

265.10(1) Prohibited sale or transfer to persons under 18 years of age.

a. A retailer or community group shall not transfer consumer fireworks, as described in APA 87-1, chapter 3, to a person who is under 18 years of age.

b. A person, firm, partnership or corporation shall not sell consumer fireworks to a person who is less than 18 years of age.

265.10(2) Exceptions for persons under 18 years of age.

a. A retailer selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall supervise any employees who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks in the course of their employment for the retailer.

b. A community group selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall ensure that any persons who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks by the community group, whether the persons less than 18 years of age are paid or unpaid, shall do so under the direct supervision of an adult member of the community group.

265.10(3) Safety requirements—storage and retail sales. A retailer or community group selling consumer fireworks as described in APA 87-1, chapter 3, shall do so in accordance with NFPA 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

265.10(4) Dates of sale.

a. Permanent building. A retailer or community group may sell consumer fireworks as described in APA 87-1, chapter 3, at a permanent building only between June 1 and July 8 and between December 10 and January 3 each year, all dates inclusive.

b. Temporary structure. A retailer or community group may sell consumer fireworks as described in APA 87-1, chapter 3, at a temporary structure between June 13 and July 8 each year, both dates inclusive.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.11 to 265.19 Reserved.

DIVISION III
CONSUMER FIREWORKS RETAILER LICENSING

661—265.20(100) Definitions. The following definitions apply to Division III.

“*APA 87-1*” means the American Pyrotechnics Association Standard 87-1, as published in December 2001.

“*Community group*” means a nonprofit entity that is open for membership to the general public and is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code or a fraternal benefit society, as that term is defined in Iowa Code section 512B.3.

“*First-class consumer fireworks*” means the following consumer fireworks, as described in APA 87-1, chapter 3:

1. Aerial shell kits and reloadable tubes.
2. Chasers.
3. Helicopter 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 tube devices as described in this definition of first-class consumer fireworks that are manufactured in accordance with APA 87-1, section 3.5.

“*NFPA 1124*” means the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

“*Retailer*” means the same as defined in Iowa Code section 423.1.

“*Second-class consumer fireworks*” means the following consumer fireworks, as described in APA 87-1, chapter 3:

1. Cone fountains.
2. Cylindrical fountains.
3. Flitter sparklers.
4. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5.
5. Ground spinners.
6. Illuminating torches.
7. Toy smoke devices that are not classified as novelties pursuant to APA 87-1, section 3.2.
8. Wheels.
9. Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.21(100) License fee schedule. The following license fees shall be paid before issuance of a license for the retail sale of consumer fireworks.

265.21(1) Permanent building—retailer—first-class consumer fireworks. The annual fee is \$1,000 for a retailer at a permanent building who devotes 50 percent or more of the retailer’s retail floor space to the sale or display of first-class consumer fireworks.

265.21(2) Temporary structure—retailer—first-class consumer fireworks. The annual fee is \$500 for a retailer at a temporary structure who devotes 50 percent or more of the retailer’s retail floor space to the sale or display of first-class consumer fireworks.

265.21(3) Retailer—first-class consumer fireworks—less than 50 percent of retail space. The annual fee is \$400 for a retailer who devotes less than 50 percent of the retailer’s retail floor space to the sale or display of first-class consumer fireworks.

265.21(4) Community group—first-class consumer fireworks. The annual fee is \$400 for a community group that offers for sale, exposes for sale, or sells first-class consumer fireworks.

265.21(5) *Retail sale of both first-class consumer fireworks and second-class consumer fireworks.* A license issued for the retail sale of first-class consumer fireworks allows the retailer or community group to sell or offer for sale both first-class consumer fireworks and second-class consumer fireworks at the same location. The license fee shall be based on the percentage of the retail space devoted to the sale of first-class fireworks.

265.21(6) *Retailer or community group—license for second-class fireworks only.* The annual fee is \$100 for a community group that offers for sale, exposes for sale, or sells second-class consumer fireworks but not first-class consumer fireworks. A license issued for the sale of second-class consumer fireworks does not allow the community group to sell or offer or expose for sale any first-class consumer fireworks.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.22(100) Fees collected.

265.22(1) *Administrative license fee.* A nonrefundable administrative fee of \$100 is required with every application for a consumer fireworks retail sales license. The \$100 fee will be applied to the license fee if the license is issued.

265.22(2) *Changing license class or amount.* If a retailer or consumer group is issued a license for the retail sale of one class or amount of consumer fireworks, and changes to a class or amount that requires a higher license fee, the retailer or consumer group shall pay only the difference in the two fees. The license for the lower class will be invalid after the issuance of the new license.

265.22(3) *No refund after issuance.* Payment is final when the license is issued, and the fee will not be refunded.

[ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.23(100) Consumer fireworks retail sales license.

265.23(1) *Application period.* The state fire marshal will begin accepting applications for consumer fireworks retail sales licenses beginning March 1 of each year. The license applications for permanent sites will be processed before the applications for temporary sites. Complete applications will be processed in the order they are submitted.

265.23(2) *Application form and instructions.* The application for a license for retail sales of first-class consumer fireworks or second-class consumer fireworks, or both first-class consumer fireworks and second-class consumer fireworks, shall be made to the state fire marshal. The application form and instructions may be found on the state fire marshal website at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml.

265.23(3) *Application requirements.* Applications and the accompanying plans must include all required information and must be prepared in accordance with the application instructions. An application will not be processed until all required information is received in the form required by the instructions. If any required information is illegible or incomplete, that application will not be processed and a new application with all of the required information must be submitted. The state fire marshal's office may, in its discretion, allow an applicant to provide missing information without submitting a new application.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.24(100) Submittal of application and required information.

265.24(1) The following must be submitted to the state fire marshal's office:

- a. The completed application, signed by the owner, officer, director, or another person authorized to sign documents on behalf of the retailer or community group.
- b. Document(s) that establish that the applicant is either a community group or retailer.
- c. The plan(s) for each retail sales location, including any permanent or temporary building or structure.
- d. The plan(s), including any required site plan(s) for the location(s) and for any building(s) or structure(s), whether permanent or temporary, that will be used for the storage of consumer fireworks.
- e. All plans and drawings must be legible and include all required information and measurements.

f. Proof that the applicant has obtained commercial general liability insurance with minimum per-occurrence coverage of at least \$1 million and aggregate coverage of at least \$2 million.

g. The applicable license fee.

265.24(2) Updating contact information. If any of the contact information for the retailer or community group changes during the period that the license is valid, that information shall be updated and submitted to the state fire marshal's office within five working days of when the information changed.

[ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.25(100) Fireworks site plan review and approval.

265.25(1) Plan approval.

a. A license is required for each location where the retail sales of consumer fireworks are conducted. The plan(s) for each retail sales location, including any permanent or temporary building or structure, and for each building or structure used for the storage of fireworks must be submitted.

b. Every location where the retail sales of consumer fireworks take place or where consumer fireworks are stored, including any permanent or temporary building(s) or structure(s), must do so in accordance with NFPA 1124.

c. The retailer or community group shall also submit to the state fire marshal's office the proposed plan(s), including any required site plan(s) for the location(s) and for any building(s) or structure(s), whether permanent or temporary, that will be used for the storage of fireworks.

d. The plan(s) will be reviewed to determine whether it is in accordance with NFPA 1124. If the plan(s) is incomplete or noncompliant, the retailer or community group will receive notification of deficiencies that need to be corrected.

NOTE: Regarding the incorporation of the reference to NFPA 102, 1995 edition, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures into NFPA 1124 concerning tents and membrane structures, Sections 7.3.5 and 7.4.8.1.2 of NFPA 1124 should be read together with Section A.7.4.8.1.2 in the Explanatory Material in Annex A to NFPA 1124 and used for the purposes of (1) determining the requirements for the means of egress in tents and membrane structures except as modified by Section 7.3.14 of NFPA 1124 for special requirements for the retail sales of consumer fireworks, and (2) to prohibit the use, discharge, or ignition of fireworks within the tent or membrane structure. The other provisions of NFPA 1124, including the sections relating to the retail sales of consumer fireworks in tents or membrane structures, remain applicable.

265.25(2) Plans not required. In the discretion of the state fire marshal, plans may not be required in the following circumstances:

a. For permanent buildings or temporary structures in which only exempt amounts of first-class or second-class consumer fireworks are offered for sale, pursuant to section 7.3.1, NFPA 1124. The licensee shall make current product inventory information available to the state fire marshal upon request.

b. For permanent buildings that were licensed in the previous year and for which there have been no changes to the site, building or floor plan. If any changes have been made, a new or updated plan shall be submitted.

c. For permanent buildings which are currently classified as a retail occupancy and in which second-class consumer fireworks are the only fireworks are offered for sale.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.26(100) Plan review and inspection—guidelines.

265.26(1) Inspections.

a. Any retailer or community group offering for sale at retail any consumer fireworks, as described in APA 87-1, shall do so in accordance with NFPA 1124. Every location and any building or structure where the retail sales of consumer fireworks are conducted or where consumer fireworks are stored is subject to an inspection. In the discretion of the state fire marshal, prelicense inspections may not be required in the following circumstances:

(1) For permanent buildings or temporary structures in which only exempt amounts of first-class or second-class consumer fireworks are offered for sale, pursuant to section 7.3.1, NFPA 1124. The licensee shall make current product inventory information available to the state fire marshal upon request.

(2) For permanent buildings that were licensed in the previous year and for which there have been no changes to the site, building or floor plan. If any changes have been made, then a new or updated plan shall be submitted.

b. State licensing inspections shall only be conducted by persons approved by the state fire marshal. The inspection form shall be approved by the state fire marshal and will be available only to approved inspectors.

c. Each location, including the building(s) or structure(s) where the retail sales of consumer fireworks will be conducted or are conducted or where consumer fireworks are stored, must pass the state licensing inspection when conducted. Each location, including the building(s) or structure(s) must pass all elements of the inspection as conducted.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.27(100) Issuance and display of license. The submitted application, any additional documents and information, and the completed inspection form shall be reviewed by the state fire marshal's office.

265.27(1) If all of the requirements are met and the correct license fee is paid, the state fire marshal shall issue the license. The license will be sent by email or can be downloaded from the state fire marshal's website at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml. The license shall be effective for the applicable date(s) for the sales of consumer fireworks.

265.27(2) The license must be clearly displayed at the location where the retail sales of consumer fireworks for which the license was issued are conducted.

[ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.28(100) Unauthorized use of license. Only the retailer or the community group which is issued the license may use that license for the retail sales of consumer fireworks. Each license will be issued for a specific location. The license may not be transferred to or used at any other location.

265.28(1) If the retailer or community group to which the license is issued changes the location where the retail sale of consumer fireworks will be sold, the retailer or community group shall submit a new application and all required information for the new site and pay the applicable license fee. The application must be reviewed and approved in order for a new license to be issued.

265.28(2) The licensed retailer or community group or the authorized representative of the licensed retailer or community group must be personally present at all times when consumer fireworks are being sold.

265.28(3) No unlicensed retailer, community group, person, group of people, business, or other for-profit or nonprofit entity may use the license issued to another retailer or community group for the retail sales of consumer fireworks, unless the licensed retailer or community group or the authorized representative of the licensed retailer or community group is personally present at all times when consumer fireworks are being sold.

[ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.29 Reserved.

DIVISION IV
CONSUMER FIREWORKS WHOLESALER REGISTRATION

661—265.30(100) Definitions. The following definitions apply to Division IV.

"*Consumer fireworks*" means first-class consumer fireworks and second-class consumer fireworks, as those terms are defined in Iowa Code section 100.19.

"*NFPA 1124*" means the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

“Wholesaler” means a person who engages in the business of selling or distributing consumer fireworks for the purpose of resale in this state.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.31(100) Annual registration. Each wholesaler shall register with the state fire marshal annually.

265.31(1) Registration process. Each wholesaler shall complete the annual registration form and submit the form to the state fire marshal’s office. The registration form and instructions may be found on the state fire marshal website at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml.

265.31(2) Registration fee. Each wholesaler shall pay an annual registration fee of \$1,000 to the state fire marshal.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.32(100) Safety regulations—storage and transfer. Each wholesaler shall comply with all of the requirements of NFPA 1124 for the storage and transfer of consumer fireworks.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.33(100) Insurance—required. While operating as a wholesaler, each wholesaler shall maintain commercial general liability insurance with minimum per-occurrence coverage of at least \$1 million and aggregate coverage of at least \$2 million.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.34 to 265.39 Reserved.

DIVISION V
VIOLATIONS—LICENSE REVOCATION

661—265.40(100) Revocation of license. The consumer fireworks retail sales license granted to a retailer or community group shall be revoked upon a finding by the state fire marshal that the licensee intentionally violated any of the rules in Division III of this chapter.

265.40(1) Notice of violation. The state fire marshal, any paid or volunteer member of a fire department, or any law enforcement officer may investigate a complaint of a violation of the rules in Division III of this chapter. After a review of the investigation, the state fire marshal may issue a Notice of Violation and Order to Show Cause to the licensee. The Notice shall contain the date, time and place for the hearing before the division of the state fire marshal.

265.40(2) Hearing. A hearing on the violation shall be held before the division of the state fire marshal.

265.40(3) Findings. If, after a hearing on the Order to Show Cause, the division of the state fire marshal finds that the licensee intentionally violated any of the rules in Division III, the state fire marshal shall revoke the license or licenses of the retailer or community group for the retail sale of consumer fireworks.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.41(100) Petition for judicial review. The licensee may file a petition for judicial review of the decision of the division of the state fire marshal in accordance with the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.42(100) License revocation effective date. The revocation of the license or licenses for the retail sale of consumer fireworks commences on the thirty-first day after the date of the order of the division of the state fire marshal, if a petition for judicial review has not been filed in the district court. If the licensee has filed a petition for judicial review, the revocation of the license or licenses for the

retail sale of consumer fireworks commences on the thirty-first day following the entry of the order of the district court, if the order affirms the order of the division of the state fire marshal.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.43(100) Revocation—denial of new license. A new license shall not be issued to a person whose license has been revoked or to the business in control of the premises on which the violation occurred for a period of one year if there is a finding that the owner of the business had actual knowledge of the violation resulting in the license revocation.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.44 to 265.49 Reserved.

DIVISION VI
FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES GRANT PROGRAM

661—265.50(100) Consumer fireworks fee fund. All fees received from the licenses issued for the retail sale of consumer fireworks and the annual registration fees received from wholesalers of consumer fireworks shall be deposited into the consumer fireworks fee fund pursuant to Iowa Code section 100.19. The state fire marshal shall use the fees deposited into this fund to fulfill the responsibilities of the state fire marshal for the administration and enforcement of Iowa Code sections 100.19 and 100.19A.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

661—265.51(100) Local fire protection and emergency medical service providers grant program. The local fire protection and emergency medical service providers grant program is established by the state fire marshal. The grant program shall be funded with only those moneys from the consumer fireworks fee fund which are not needed by the state fire marshal to fulfill the responsibilities of the state fire marshal for the administration and enforcement of Iowa Code sections 100.19 and 100.19A.

265.51(1) Definitions. The following definitions apply to Division VI.

“Emergency medical services” means the same as defined in Iowa Code section 147A.1(5).

“Fire protection service” means volunteer or paid fire departments.

265.51(2) Authorized applicants. Any local fire protection service provider or local emergency medical service provider in the state of Iowa may apply for grant funds from the local fire protection and emergency medical service providers grant program.

265.51(3) Authorized purposes of grant funds. The grant funds in the local fire protection and emergency medical service providers grant program may only be used for the following:

- a. To establish or provide fireworks safety education programming to members of the public.
- b. To purchase necessary enforcement, protection, or emergency response equipment related to the sale and use of consumer fireworks in this state.

265.51(4) Application. The application for grant funds shall be made to the state fire marshal. The application form may be found at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml. Applications must be received on or before June 30 of each year. The application shall include all of the following:

- a. The application shall be signed by a person who is an official, owner, or another person who has authorization to sign on behalf of the fire protection service or the emergency medical service provider entity.

- b. The specifics of the proposed use of the grant funds.

- (1) If the application is for equipment, the applicant should include a detailed description of the equipment, the company or entity from which the purchase will be made, the cost, and a justification as to how this equipment purchase fits the purposes of the grant program.

- (2) If the application is for safety education programming, the application shall include a detailed description of the programming, the specific people who will be providing the programming, and a description of the materials to be purchased and used.

- c. The amount of grant funds requested.

265.51(5) Approval of application. The state fire marshal shall review the application and determine whether to make the award of grant funds. The state fire marshal has the sole discretion in determining whether or not to award funds from the grant program to the applicant and the amount of funds awarded to each applicant. Factors to be considered in making an award of grant funds include, but are not limited to:

- a. The amount of grant funds available.
- b. The number of applicants for grant funds.
- c. The proposed use of the grant funds and whether the use is consistent with the approved program purposes.
- d. Whether the applicant has previously been approved for grant funds from this program.
- e. The applicant's use of any previous grant funds received from the program.

265.51(6) Report required. All grant recipients shall file a report with the state fire marshal that lists the amount of grant funds received and the purpose(s) for which the grant funds were spent. The state fire marshal may conduct an inspection or audit to determine compliance with the rules and purposes of the grant program, in addition to any other authorized audits.

[ARC 3124C, IAB 6/21/17, effective 5/31/17; ARC 3592C, IAB 1/17/18, effective 2/21/18]

These rules are intended to implement Iowa Code sections 100.19 and 100.19A

[Filed Emergency ARC 3124C, IAB 6/21/17, effective 5/31/17]

[Filed ARC 3592C (Notice ARC 3123C, IAB 6/21/17), IAB 1/17/18, effective 2/21/18]

CHAPTER 8.055
LIMITED INDUSTRIAL DISTRICT

8.055.010 INTENT: The Class I-1 District is intended primarily to provide for those activities and used of a limited industrial nature which are either free of objectionable influences in their operations and appearance or which can, through the use of appropriate abatement devices, readily prevent or control any such objectionable be influences. Land requirements for most limited industrial uses generally dictates its application along major streets and highways, railroad lines, and other major transportation corridors of the County which generally lie close to commercial and industrial districts. (*Ordinance #2015-05/12-18-2015*)

8.055.020 PRINCIPAL USES: The following *principal uses* shall be permitted in a Class I-1 District: (*Ordinance #81-6/10-01-81*)

.01 A

- A. Auction halls, barns and yards. (*Ordinance #81-6/10-01-81*)
- B. Automobile and other vehicle parts and supply stores. (*Ordinance #81-6/10-01-81*)
- C. Automobile and other vehicle washing establishments, including the use of mechanical conveyors, blowers and steam cleaning, and including self-service facilities. (*Ordinance #81-6/10-01-81*)
- D. Automobile, boat, farm implement and equipment, motorcycle, mobile home, trailer and truck sales, rental and service. (*Ordinance #81-6/10-01-81*)

.02 B

- A. Bag, carpet and rug cleaning, provided necessary equipment is installed and operated for effective precipitation or recovery of dust. (*Ordinance #81-6/10-01-81*)
- B. Bakeries, other than those whose products are sold at retail only on the premises. (*Ordinance #81-6/10-01-81*)
- C. Bottling plants. (*Ordinance #81-6/10-01-81*)
- D. Business and professional offices. (*Ordinance #81-6/10-01-81*)

.03 C

- A. Carpenter and cabinet making shops. (*Ordinance #81-6/10-01-81*)
- B. Catering establishments. (*Ordinance #81-6/10-01-81*)
- C. Circus, carnivals or similar transient enterprises; provided such structures or buildings shall be at least two hundred (200) feet from any Class "R" District or platted residential subdivision. (*Ordinance #2004-14/07-01-04*)

- D. Clothes dry cleaning and/or dyeing establishments using flammable cleaning fluids with a flash point higher than one hundred (100) degrees Fahrenheit. (*Ordinance #81-6/10-01-81*)
- .E. Coal, coke or wood yards. (*Ordinance #81-6/10-01-81*)
- F. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges, miniature golf courses, trampoline centers and similar open recreational uses and facilities. (*Ordinance #81-6/10-01-81*)
- G. Commercial parking lots and structures for passenger vehicles in accordance with the provisions of Chapter 8.080. (*Ordinance #81-6/10-01-81*)
- H. Commercial storage warehouses and mini-warehouses. (*Ordinance #81-6/10-01-81*)
- I. Concrete mixing plants, and concrete product manufacturing; provided no residential street shall be used for delivery trucks for ingress to or egress from the plant. (*Ordinance #81-6/10-01-81*)
- J. Contractor's equipment storage yards, including storage yards for commercial vehicles. (*Ordinance #81-6/10-01-81*)
- K. Convenience stores, including package foods and picnic supplies. (*Ordinance #81-6/10-01-81*)
- L. Cooperage works. (*Ordinance #81-6/10-01-81*)
- M. Creameries, including wholesale manufacturing of ice cream. (*Ordinance #81-6/10-01-81*)

.04 D

- A. *Demolition rubble waste disposal sites*, provided that no such disposal site shall be located closer than two (2) miles to the corporate limits of any municipality having a population of greater than 25,000, according to the latest federal census. (*Ordinance #88-15/12-06-88*)

B. Drive-in theaters. (*Ordinance #81-6/10-01-81*)

.05 E

- A. Egg and poultry stores, excluding any slaughtering eviscerating or plucking. (*Ordinance #81-6/10-01-81*)
- B. Electrical repair shops. (*Ordinance #81-6/10-01-81*)
- C. Enameling, lacquering or japanning. (*Ordinance #81-6/10-01-81*)

- D. Entertainment and recreational uses, including billiard and pool halls, bowling alleys, ballrooms and dance halls, gymnasiums and other indoor recreational uses and buildings. (*Ordinance #81-6/10-01-81*)
 - E. Exterminator sales. (*Ordinance #81-6/10-01-81*)
- .06 F
- A. Feed and seed sales and storage, including grain elevators. (*Ordinance #81-6/10-01-81*)
 - B. Frozen food lockers, excluding any slaughtering. (*Ordinance #81-6/10-01-81*)
 - C. Furniture warehouses and van services. (*Ordinance #81-6/10-01-81*)
- .07 G
- A. Garages for general motor vehicle repair, including major body and fender work, and overall painting and upholstering, but not including motor vehicle wrecking or used parts yards or outside storage of component parts. (*Ordinance #81-6/10-01-81*)
 - B. Garden supply shops and nurseries. (*Ordinance #81-6/10-01-81*)
 - C. Governmental *structures* or uses including fire stations, libraries, police stations, post offices, substations and roadside rest areas; but excluding sanitary landfills or uses similar in their scope or effect. (*Ordinance #81-6/10-01-81*)
- .08 H
- .09 I
- A. Ice manufacturing and cold storage plants. (*Ordinance #81-6/10-01-81*)
- .10 J
- .11 K
- .12 L
- A. Laboratories, research, experimental, and control or testing; provided no operation shall be conducted, or equipment employed, which would create hazardous, noxious, or offensive conditions. (*Ordinance #81-6/10-01-81*)
 - B. Laundries, including linen and diaper supply services. (*Ordinance #81-6/10-01-81*)
 - C. Lawn mower repair shops. (*Ordinance #81-6/10-01-81*)

- D. Lumber yards and building material sales yards, including incidental mill work. (*Ordinance #81-6/10-01-81*)
- ,13 M
- A. Machinery sales, rental and repairs. (*Ordinance #81-6/10-01-81*)
- B. Machine shops, including the use of lathes, drill presses and similar equipment on pre-formed metals, but not involving the use of drop hammers and other noise producing machine-operated tools. (*Ordinance #81-6/10-01-81*)
- C. Manufacturing, assembling, packaging or other comparable treatment of electric, electronic or gas appliances, instruments and devices of any kind, including kitchen appliances; small industrial instruments and devices; radios, phonographs, and television sets; cameras and other photographic equipment; musical instruments, toys, novelties, and rubber and metal hand stamps; medical, dental and drafting instruments; small precision instruments, such as barometers, clocks, watches and compasses; and including the manufacturing of small accessory parts, such as coils, condensers, transformers, crystal holders and similar products. (*Ordinance #81-6/10-01-81*)
- D. Manufacturing, assembling, painting and repair of electric and neon signs, and outdoor advertising signs and structures. (*Ordinance #81-6/10-01-81*)
- E. Manufacturing, compounding, processing, assembling, packaging, or other comparable treatment of articles or merchandise derived from previously prepared materials, specifically listed as follows: bone, canvas, cardboard, cellophane, cloth, cord, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, natural or synthetic rubber, paper, plastic, precious or semi-precious metals or stones, shell, textiles, tobacco, wax, wood, yarns; and light metal mesh, pipe, rods, strips or wire. (*Ordinance #81-6/10-01-81*)
- F. Manufacturing, processing, packaging, or other comparable treatment of drugs, general pharmaceutical products, cosmetics, perfume, and toiletries. (*Ordinance #81-6/10-01-81*)
- G. Manufacturing, processing, packaging, or other comparable treatment of pottery, figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas. (*Ordinance #81-6/10-01-81*)
- H. Milk distributing station, other than a retail business conducted on the premises. (*Ordinance #81-6/10-01-81*)
- I. Monument sales yard. (*Ordinance #81-6/10-01-81*)
- J. Motion pictures, radio, and television production studios and broadcasting stations, but not including antennas or towers. (*Ordinance #81-6/10-01-81*)

- K. Motor vehicle dismantling or recycling provided all portions of the operation shall be conducted within an enclosed building; that no metal shredders shall be used in connection with the operation; and that no burning of any portion of a motor vehicle is done on the site. (*Ordinance #81-6/10-01-81*)
- .14 N
- .15 O
- .16 P
- A. Packing and crating houses, excluding meat or fish products. (*Ordinance #81-6/10-01-81*)
 - B. Parcel delivery services. (*Ordinance #81-6/10-01-81*)
 - C. Photographic film printing or development establishments. (*Ordinance #81-6/10-01-81*)
 - D. Plumbing and heating, or electrical contractor shops. (*Ordinance #81-6/10-01-81*)
 - E. Photographic, lithographing and engraving shops, including blueprinting, photostating or other reproduction processes. (*Ordinance #81-6/10-01-81*)
 - F. Processing, packaging, or other comparable treatment of bakery goods, candy, canned foods, processed dairy products, and other food products, except fish and meat products, sauerkraut, vinegar, yeast, and the rendering of refining of fats and oils. (*Ordinance #81-6/10-01-81*)
 - G. Publishing and newspaper printing establishments, including bookbinding. (*Ordinance #81-6/10-01-81*)
- .17 Q
- .18 R
- A. Refrigeration equipment sales and services. (*Ordinance #81-6/10-01-81*)
 - B. Rental yards for equipment customarily used by contractors. (*Ordinance #81-6/10-01-81*)
 - C. Restaurants, cafes, and drive-in eating and dining places. (*Ordinance #81-6/10-01-81*)
- .19 S
- A. Safe and vault repair. (*Ordinance #81-6/10-01-81*)
 - B. Service stations, including dispensing of diesel fuels and complete truck service. (*Ordinance #81-6/10-01-81*)

- C. Sexually oriented businesses, subject to the terms of Chapter 3.55, Sexually Oriented Businesses Ordinance, Pottawattamie County, Iowa. (*Ordinance #2003-12/10-03-03*)
- D. Sheet metal shops, including the forming of heating and ventilating ducts, eaves, cornices and metal products, not involving the use of drop hammers and other noise producing machine-operated tools. (*Ordinance #81-6/10-01-81*)

.20 T

- A. Taxidermists. (*Ordinance #81-6/10-01-81*)
- B. Telegraph exchanges and other communications equipment buildings. (*Ordinance #81-6/10-01-81*)
- C. Tire shops, including vulcanizing, retreading or recapping. (*Ordinance #81-6/10-01-81*)
- D. Tool or cutlery sharpening or grinding. (*Ordinance #81-6/10-01-81*)
- E. Towers with a height not exceeding two hundred (200) feet, subject to the requirements of Section 8.004.220. (*Ordinance #2007-09/10-12-07*)
- F. Transformer stations, booster stations, and utility stations; including utility yard and garage for service or storage. (*Ordinance #81-6/10-01-81*)
- G. Transportation passenger terminals, including bus stations, railroad passenger stations, or other passenger terminals, and including vehicle storage and repair. (*Ordinance #81-6/10-01-81*)
- H. Truck and motor freight stations or terminals, including cartage and express hauling and similar establishments, provided such uses are conducted either (a) within a completely enclosed building or buildings, except for storage of vehicles, or (b) within an area completely enclosed on sides by a sight obscuring fence not less than six (6) feet high. (*Ordinance #81-6/10-01-81*)

.21 U

- A. Upholstering shops. (*Ordinance #81-6/10-01-81*)

.22 V

- A. Veterinary hospitals or clinics; provided an exercising runway shall be at least two hundred (200) feet from any Class "R" District or platted residential subdivision and one hundred (100) feet from any Class "C" District boundary. (*Ordinance #2004-14/07-01-04*)

.23 W

- A. Warehouses, retail and wholesale, except for the storage of fuel or flammable liquids and explosives. (*Ordinance #81-6/10-01-81*)
 - B. Welding, blacksmithing, or other metal working shops, exclusive of drop hammers and other noise producing machine-operated tools. (*Ordinance #81-6/10-01-81*)
- .24 X
- .25 Y
- .26 Z

8.055.030 **CONDITIONAL USES:** The following *conditional uses* shall be permitted in a Class I-1 District, when authorized in accordance with the requirements of Chapter 8.096: (*Ordinance #81-6/10-01-81*)

- .01 Agricultural grain and seed, stock feed and alfalfa drying, processing and storage. (*Ordinance #81-6/10-01-81*)
- .02 *Demolition rubble waste disposal sites*, which such disposal site may be located closer than two (2) miles to the corporate limits of any municipality having a population of greater than 25,000, according to the latest federal census. (*Ordinance #88-15/December 8, 1988*)
- .03 Flammable liquids, underground storage only, not to exceed fifty thousand (50,000) gallons per storage unit, provided such storage units shall be located not less than three hundred (300) feet from any Class "R" or "C" District. (*Ordinance #81-6/10-01-81*)
- .04 Foundry casting of light-weight non-ferrous metals produced in an electric foundry not causing noxious fumes or odors. (*Ordinance #81-6/10-01-81*)
- .05 Railroad and freight stations, including freight classification yards and repairs shops; provided no such station, yard or shop shall be closer than two hundred (200) feet from any Class "R" District or platted residential subdivision. (*Ordinance #2004-14/07-01-04*)
- .07 Transmitting stations and towers exceeding two hundred (200) feet, subject to the requirements of Section 8.004.220. (*Ordinance #2007-09/10-12-07*)

8.055.040 **ACCESSORY USES:** The following *accessory uses* shall be permitted in a Class I-1 District: (*Ordinance #81-6/10-01-81*)

- .01 *Accessory uses and structures* normally incidental and subordinate to one of the permitted *principal* or *conditional uses*, unless otherwise excluded. (*Ordinance #81-6/10-01-81*)
- .02 Display *signs*, subject to the provisions of Chapter 8.090. (*Ordinance #81-6/10-01-81*)

.03 Outdoor advertising signs and billboards, subject to the provisions of Chapter 8.090. (Ordinance #2004-14/07-01-04)

8.055.050 OFF-STREET PARKING AND LOADING: *Off-street parking and loading spaces* shall be provided in accordance with Chapter 8.080 for permitted *principal and conditional uses* in a Class I-1 District. (Ordinance #81-6/10-01-81)

8.055.060 HEIGHT REQUIREMENTS: The maximum height of *buildings and structures* in a Class I-1 District shall be seventy-five (75) feet, provided that no building or structure within two hundred (200) feet of any Class "R" District or platted residential subdivision shall exceed forty-five (45) feet in height. (Ordinance #2004-14/07-01-04)

8.055.070 SETBACK REQUIREMENTS: The *setback* requirements for *buildings and structures* in a Class I-1 District shall be as follows: (Ordinance #81-6/10-01-81)

.01 The *front yard setback* shall be a minimum of twenty-five (25) feet. (Ordinance #81-6/10-01-81)

.02 The *side yard setback* shall be a minimum of fifty (50) feet when such *yard* abuts a Class "A" District and shall be a minimum of seventy-five (75) feet when such *yard* abuts a Class "R" District or platted residential subdivision. (Ordinance #2004-14/07-01-04)

.03 The *rear yard setback* shall be a minimum of fifty (50) feet when such *yard* abuts a Class "A" District and shall be a minimum of seventy-five (75) feet when such *yard* abuts a Class "R" District or platted residential subdivision. (Ordinance #2004-14/07-01-04)

.04 The minimum *setback* between *buildings* situated on the same site shall be ten (10) feet. (Ordinance #81-6/10-01-81)

8.055.080 LOT SIZE AND COVERAGE REQUIREMENTS: The minimum *lot size* and maximum *lot coverage* for uses in a Class I-1 District shall be as follows, except as provided in Section 8.004.030 for *lots not having common water and/or sewer facilities*: (Ordinance #81-6/10-01-81)

	USE	MINIMUM LOT			MAXIMUM LOT
		AREA	WIDTH	DEPTH	COVERAGE
.01	Any Permitted Use	1.0 Acres	80'	100'	70%

(Ordinance #81-6/10-01-81)