

**Chapter 8
FIRE PREVENTION AND PROTECTION**

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Chapter 8 FIRE PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

Sec. 8-1. Penalty.

Violations of this article are punishable as provided in Section 1-8.
(Code 2007, 8-1)

Sec. 8-2. Fires.

It shall be unlawful to burn brush, stumps, logs, rubbish, grass or any other material in an open fire, if the fire is unguarded and if no means are immediately available to enable the person setting the fire to prevent the escape of the fire, or to light or permit to continue to burn any open fire at any time.
(Code 2007, 8-2)

Sec. 8-3. Interference with Alarm System.

It is unlawful for any person to interfere with the proper function of a fire alarm system.
(Code 2007, 8-3)

Secs. 8-4 to 8-20. Reserved.

ARTICLE II. TECHNICAL CODES

Sec. 8-21. Fire Code, Standards Adopted.

There is hereby adopted by the City of Aztec for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain Code and Standards known as the International Fire Code, published by International Code Council, being particularly the 2009 editions including appendices B,C,D,E,F,G AND I, and thereof, not less than one (1) copy has been and is now filed in the office of the City Clerk of The City of Aztec and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provision thereof shall be controlling within the limits of The City of Aztec.
(Ord. 2009-375, effective July 22, 2009; Code 2007, 8-21)

Sec. 8-22. Enforcement.

The International Fire Codes shall be enforced by the Chief of the Fire Department. However, the Chief shall with the approval of the City commission have power to modify any of the provisions of the International Fire Code upon application in writing by the owner or Lessee, or his duly authorized agent, when there are practical difficulties on the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particular of such modification, when granted or

allowed, and the decision of the Fire Chief thereon, shall be entered upon the records of the department and a signed copy shall be furnished the applicant.
(Ord. 2009-375, effective July 22, 2009; Code 2007, 8-22)

Sec. 8-23. Definitions.

Whenever the word "Jurisdiction" is used in the International Fire Code, it is The City of Aztec.
(Ord. 2009-375, effective July 22, 2009; Code 2007, 8-23)

Sec. 8-24. Establishment of Limits or Districts in which Storage of Flammable or Combustible Liquids In/Outside Above Ground Tanks is Prohibited.

The limits referred to in Section 3404.2.9.L.1 of the International Fire Code in which the storage of flammable or combustible liquids is restricted are hereby established as follows:

1. All areas except those zoned industrial.
(Ord. 2009-375, effective July 22, 2009; Code 2007, 8-24)

Sec. 8-25. Establishments of Limits in Which Storage of Liquefied Petroleum Gases is to be Restricted.

The limits referred to in Section 3804.2 of the International Fire Code, are which storage of liquefied petroleum gas is restricted, and are hereby established as follows:

1. All areas except those zoned industrial.
(Ord. 2009-375, effective July 22, 2009; Code 2007, 8-25)

Sec. 8-26. Establishments of Limits of Districts in Which Storage of Explosives and Blasting Agents is to be Prohibited.

The limits referred to in Section 3304.5.2 of the International Fire Code, in which storage of explosives and blasting agents is prohibited, are hereby established as follows:

1. All areas except those zoned industrial.
(Ord. 2009-375, effective July 22, 2009; Code 2007, 8-26)

Sec. 8-27. Fire Department Access.

1. Approved Knox Box systems compatible with Aztec Fire Department Knox Keys shall be installed on all buildings that have fire suppression and/or fire alarm systems installed, unless the facility is manned twenty four (24) hours a day, three hundred sixty five (365) days a year.
2. Existing buildings which require Knox Box systems must comply within eighteen (18) months from the date of adoption of this ordinance.
(Ord. 2009-375, effective July 22, 2009)

Sec. 8-28. Appeals.

Whenever, the chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of

the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Chief to The City of Aztec Commission within 30 days from the date of the decision appealed.

(Ord. 2009-375, effective July 22, 2009; Code 2007, 8-27)

Sec. 8-29. New Materials, Processes or Occupancies Which May Require Permits.

The City Manager, duly authorized representative or delegate and the Chief of the bureau shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in said code. The chief shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

(Ord. 2009-375, effective July 22, 2009; Code 2007, 8-28)

Sec. 8-30. Penalties.

1. Any persons who shall violate any of the provisions of this Code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by The City of Aztec or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not more than \$500 or by Imprisonment not more than 90 days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.
2. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. 2009-375, effective July 22, 2009; Code 2007, 8-24)

Secs. 8-31 to 8-50. Reserved.

ARTICLE III. FIREWORKS

Sec. 8-51. Title.

This article shall be known and cited as the Aztec Fireworks Ordinance.

(Code 2007, 8-51)

Sec. 8-52. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(Code 2007, 8-52)

Aerial device

A fireworks device that upon ignition propels itself or an insert an insignificant distance into the air, but does not include a firework that produces a shower of sparks. Aerial device includes sky rocket and bottle rocket, missile-type rocket, helicopter, aerial spinner, roman candle, and mineshell.

Common fireworks

Any fireworks device suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the United States consumer product safety commission in title 16, C.F.R. and that is classified as a class C explosive by the United States department of transportation.

Display distributor

Any person selling special fireworks.

Distributor

Any person selling fireworks to wholesalers and retailers for resale.

Firework

Any composition or device for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks are further classified as common fireworks and special fireworks, as defined by the United States department of transportation, C.F.R. title 49, Transportation, parts 173.99(d) and 173.100(r).

Ground audible device

A fireworks device intended to function on the ground that produces an audible effect.

Law enforcement officers or code enforcement officers

Individuals authorized to enforce the laws or ordinances of the city.

Manufacturer

Any person engaged in the manufacture of fireworks.

Permissible fireworks

Fireworks that are legal for sale and use in the city under the provisions of this article.

Retailer

Any person purchasing fireworks for resale to consumers.

Special fireworks

Fireworks devices primarily intended for commercial displays which are designed to produce visible or audible effects by combustion, deflagration or detonation including salutes containing more than one hundred thirty (130) milligrams (two (2) grains) of explosive composition, aerial shells containing more than forty (40) grams of chemical composition exclusive of lift charge and other exhibition display items that exceed the limits contained in this article for common fireworks.

Specialty retailer

Any person purchasing fireworks for year. Round resale in permanent retail stores whose primary business is tourism.

Wholesaler

Any person purchasing fireworks for resale to retailers.

Sec. 8.53. Enforcement and Interpretation.

1. The fire chief, law enforcement officers and code enforcement officers shall enforce this article.
2. The fire chief, law enforcement officers, code enforcement officers, deputies or designees may at reasonable hours enter and inspect the permittee's premises, building, mobile or motor vehicle or temporary or permanent structure to enforce compliance with this article.
3. This article shall be enforced and interpreted in accordance with the Uniform Fire Code, as amended, and adopted by the city. If there is a conflict between this article and such Uniform Fire Code, such Uniform Fire Code will control except for the permissible use of a sparkler or a firework that produces a shower of sparks.

(Code 2007, 8-53)

Sec. 8.54. Violations.

1. Any person who violates any provision of this article is guilty of a misdemeanor and upon conviction shall be punished as provided in Section 1-8.
2. If a person is found guilty of violating any of the provisions of this article, that person's license or permit shall be revoked or suspended by the fire chief, his deputies or designee.
3. If any retailer has in his possession any fire. works in violation of this article, his permit shall be revoked and all such fireworks seized, and the fireworks shall be kept to be used as evidence. If any person has in his possession any fireworks in violation of this article, a warrant may be issued for the seizure of fireworks and the fireworks shall be safely kept to be used as evidence. Upon conviction of the offender, the fireworks shall be destroyed, but if the offender is discharged, the permissible fireworks shall be returned to the person in whose possession they were found.

(Code 2007, 8-54)

Sec. 8-55. Miscellaneous Exemptions.

Nothing in this article shall apply to or prohibit any employees of the department of game and fish or the United States fish and wildlife service from processing fireworks for control of game birds and animals or prohibit law enforcement officers from possessing fireworks in the performance of their duties or prohibit any organization therein from sponsoring and conducting in connection with any public celebration, an officially supervised and controlled fireworks display.

(Code 2007, 8-55)

Sec. 8-56. Transportation.

Nothing in this article applies to the transportation of fireworks by regulated carriers.

(Code 2007, 8-56)

Sec. 8-57. License or Permit.

1. No person may sell, hold for sale, import, distribute or offer for sale, as specialty retailer or retailer any fireworks in the city unless such person has first obtained the appropriate license or permit.
2. All license applications shall be submitted to the Business License office. The Fire Chief shall have final approval of firework sale applications. All retailers shall be required to purchase a retail fireworks permit for each retail location.
3. An applicant for a license or permit shall pay a fee as provided in Chapter 16, Fee Schedule, Sec 16-282.
4. All licenses and permits shall expire December 31 of the year in which it was approved. All licenses and permits shall be issued within fourteen (14) days from the date of receipt of application.
5. Licenses issued shall not be restricted in number or limited to any person without cause.
(Ord. 2011-404, eff. 2011-Oct-19; Code 2007, 8-57)

Sec. 8-58. Possession, Sale or Use of Unauthorized Fireworks.

1. No person shall possess for retail sale in the city, sell or offer for sale at retail or use or possess any fireworks other than permissible fireworks. Any and all types of ground audible or aerial devices are prohibited and shall not be described or defined, in any manner as permissible, common or special fireworks.
2. No person shall possess any fireworks for sale within the city other than those authorized by this article.
(Code 2007, 8-58)

Sec. 8-59. Exportation of Fireworks.

Nothing in this article shall prohibit wholesalers, distributors, importers, specialty retailers, or manufacturers from storing, selling, shipping or otherwise transporting fireworks as defined by

the United States department of transportation to any person outside the city.

(Code 2007, 8-59)

Sec. 8.60. Permissible Fireworks.

Permissible fireworks for sale to the general public shall be understood to mean common fire works legal for sale and use in the state under the provisions of the Fireworks Safety and Licensing Act [NMSA 1978, 60-2c-l et seq.], as amended, with the exception of ground audible devices and aerial devices, which are prohibited pursuant to Section 8-58.

(Code 2007, 8-60)

Sec. 8.61. Retail Sales or Storage of Fireworks.

1. No fireworks may be sold at retail without a retail permit. The permit shall be at each location where the retail sale takes place.
2. It is unlawful to offer for sale or to sell any fireworks to children under the age of twelve (12) years or to any intoxicated person.
3. At all places where fireworks are stored, sold or displayed, the words "No Smoking" shall be posted in letters at least four (4) inches in height. Smoking is prohibited within twenty. five (25) feet of any fireworks stock.
4. No fireworks shall be stored, kept, sold or discharged within fifty (50) feet of any gasoline pump or gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.
5. All fireworks permittees and licensees shall keep and maintain upon the premises a fire extinguisher bearing an Underwriters' Laboratories, Inc. rated capacity of at least five (5) pounds ABC per five hundred (500) square feet of space used for fireworks sales or storage.
6. A sales clerk who is at least sixteen (16) years of age shall be on duty to serve consumers at the time of purchase or delivery. All fireworks sold and shipped to consumers within the city shall be sold and shipped only by a person holding the proper state fireworks license or permit.
7. No fireworks shall be discharged within one hundred fifty (150) feet of any fireworks retail sales location.
8. No person shall ignite any fireworks within a motor vehicle or throw fireworks from a motor vehicle, nor shall any person place or throw any ignited article of fireworks into or at a motor vehicle or at or near any person or group of people
9. Any fireworks devices that are readily accessible to handling by consumers or purchasers in a retail sales location shall have their exposed fuses protected in a manner to protect against accidental ignition of an item by a spark, cigarette ash or other ignition source. If the fuse is a thread-wrapped safety fuse which has been coated with a nonflammable coating, only the outside end of the safety fuse shall be covered. If the fuse is not a safety fuse, then the entire fuse shall be covered.

10. Fireworks may be sold at retail between June 20 and July 6 of each year and three (3) days preceding and including:

- New Year's Day
- Chinese New Year
- Cinco de Mayo

of each year except that fireworks may be sold all year in permanent retail stores whose primary business is tourism.

(Code 2007, 8-61)

Sec. 8.62. Public Display of Fireworks.

1. Nothing in this article shall prohibit the public display of fireworks except that any person shall secure a written permit from the office of the fire chief and the fireworks shall be purchased from a distributor or display distributor licensed by the state fire marshal and the bureau of alcohol, tobacco and firearms at the United States Department of the Treasury.
2. The fire chief may adopt reasonable rules and regulations for the use of special fireworks in public displays.

(Code 2007, 8-62)

Secs 8.63 to 8.100 Reserved.

ARTICLE IV. EMERGENCY BAN ON OPEN FIRES, CONTAINED FIRES, AND FIREWORKS

Sec. 8-101. Establishment of Emergency Ban on Open Fires, Contained Open Fires and Fireworks.

This section shall apply within the incorporated area of the city and shall prohibit open fires, contained open fires or use of fireworks under the conditions stated in the following sections. At any regularly scheduled or special meeting of the city commission, the commission may, by resolution, impose a ban upon any or all types of open fires, contained open fires, and/or the use of fireworks in the incorporated area of the City of Aztec.

(Code 2007, 8-101)

Sec. 8-102. Requirements of Resolution.

1. Such resolution shall be based upon a danger of fires within the areas where the danger of forest, grass, or structural fires is found to be high, by competent evidence which may include:
 - (1) The recommendation of the city fire chief,
 - (2) The recommendation of the chief of police;
 - (3) The recommendation of the city parks and recreation director;
 - (4) Any similar ban imposed under the authority of the Governor of the State of New Mexico;

- (5) Any recommendation, or similar ban, from the state forest service, National Park Service, United States Forest Service, or any other agency of the state or federal government;
 - (6) Any testimony or exhibits establishing that, due to weather, weather forecasts, or condition of forest, grass or other vegetation, the likelihood of a fire is high.
2. Notice of such resolution may be given by best means available including, press release, individual notification to any agency requesting or advising in favor of the ban, individual notification to law enforcement agencies or such other means as in its discretion the commission deems is appropriate under the circumstances.
 3. Any such resolution shall specify an expiration date. The ban may be extended in the same manner as its original imposition and upon competent evidence that the fire danger continues.
 4. Any such resolution shall state which of the following are to be included in the ban:
 - (1) Open fires;
 - (2) Contained open fires; or
 - (3) Fireworks.
 5. Any resolution which bans open fires and contained open fires, may authorize the city manager to exempt from such ban any open fire or contained open fire, approved in advance by the city fire chief, after inspection of the containment structure, surrounding vegetation and potential fire fuel, and the immediate availability of fire suppression apparatus.
(Code 2007, 8-102)

Sec. 8-103. Interpretation and Enforcement.

1. Interpretation. This section shall be so interpreted and construed as to effectuate its general purpose to reduce the danger of fires.
2. Enforcement. Issue of citations shall be conducted in the manner set forth under Section 1-8 of this Code.
 - (1) Any person who knowingly violates the open fire, contained open fire or fireworks ban imposed under the authority of this section is subject to the following:
 - (a) One hundred dollars (\$100.00) for the first offense;
 - (b) Two hundred fifty dollars (\$250.00) for the second offense within sixty (60) days of the first offense;
 - (c) Five hundred dollars (\$500.00) for each additional offense within sixty (60) days of the first offense.
 - (2) In addition to the penalty prescribed in this section, persons convicted of a violation of this section are subject to the mandatory municipal court fees established in Section 1-12-2 of this Code.
(Code 2007, 8-103)

Sec. 8-104. Definitions.

The following words, terms and phrases, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(Code 2007, 8-104)

Open fires

1. Any open burning on public and private property;
2. Camp and cooking fires using solid fuels such as charcoal briquettes, wood, paper, etc. on public and private property;
3. Outdoor fireplaces using solid fuels such as charcoal briquettes, wood, paper, etc. on public and private property;
4. Use of luminaries, farolitos, and/or candles outside of buildings on public and private property;
5. Welding, or operating an acetylene or other torch with open flame on public property;
6. Smoking on public property; and
7. Discarding of cigarettes/cigars from any vehicle on public and private property.

Open fires shall not include:

8. Fires in camp stoves or grills, fueled by bottled gas or pressurized liquid, and specifically designed for cooking or heating purposes;
9. Fires in permanently constructed stationary masonry or metal fireplaces specifically designed for the purpose of combustion; or
10. Fires in commercially operated wood and/or charcoal fired grills designed for cooking. Contained open fires.

Contained open fires

Shall be defined as fires in permanently constructed stationary masonry or metal fireplaces specifically designed for the purpose of combustion; or operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order. Contained open fires shall not include fireplaces or wood stoves located inside permanent structures.

Fireworks

Any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation which meets the description as defined in Section 8-52. Fireworks do not include:

1. Thy caps which do not contain more than twenty-five hundredths of a grain of explosive compound per cap;

2. Highway flares, railroad fuses, ship distress signals, smoke candles, and other emergency signal devices;
3. Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two (2) ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means;

Welding

Operating an arc, acetylene, or other torch with open flame. Such activities whether on private or public property will require adequate fire extinguishers, water hoses or other fire suppression appliances be readily available. In addition, a fire watch shall be maintained during such operations and extend thirty (30) minutes after operations have stopped.