

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HAWARDEN, IOWA BY REPEALING AND REPLACING CHAPTER 41, SECTION 41.13 PERTAINING TO THE SALE AND USE OF FIREWORKS IN THE CITY OF HAWARDEN.

BE IT ENACTED by the City Council of the City of Hawarden, Iowa:

SECTION 1. SECTION MODIFIED. Section 41.13 of the Code of Ordinances of the City of Hawarden, Iowa is repealed and the following adopted:

41.13 FIREWORKS. The sale, use and exploding of fireworks within the City are subject to the following:

1. **Definitions.** For purposes of this section, definitions are enumerated in the Iowa Code Section 727.2, which definitions are incorporated herein by reference.

(Code of Iowa, Sec. 727.2)

2. **Sales.** Sales within the City are subject to the following general requirements:

A. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the City Administrator:

- (1) **License:** Proof of valid license issued from the state fire marshal.
- (2) **Liability Insurance:** Proof of liability insurance separate from the building property insurance specifically showing coverage for fireworks sales for not less than \$1,000,000.00 per occurrence and an aggregate amount of not less than \$2,000,000.00.

B. Consumer firework sales shall only be conducted in accordance with the dates and times designated by Iowa Code Section 727.2. It shall be unlawful to sell consumer fireworks without meeting the requirements specified in this Ordinance, or to sell fireworks outside of the dates and times specified.

C. **Limitations on Sales.** Sales within the City are subject to the following limitations:

- (1) Consumer firework sales shall only be allowed in the area zoned for B-2 Commercial use pursuant to the City of Hawarden Zoning and Subdivision Ordinance.
- (2) Consumer Fireworks sales shall not be allowed in the Fire Zone established under Chapter 145 of the Code of Ordinances of the City of Hawarden without first obtaining a special permit from the City Council.
- (3) No person shall sell a DOT 1.4 class consumer firework to a person under the age of 18.
- (4) Consumer fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by any other substance.

3. **Discharging Fireworks.** The discharge of fireworks and use of novelties in the City of Hawarden is subject to the following regulations:

A. No person under the age of 18 shall discharge a DOT 1.4 class consumer firework device without parental supervision.

B. A person shall not discharge a consumer firework or novelty device on public property, including but not limited to, parks, school property, streets, and alleys nor on private property unless the owner or occupant of the private property has given prior written consent or has given prior verbal consent and is present.

C. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

D. Any person discharging a consumer firework or novelty device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer firework device in a reckless manner or manner likely to cause death, injury, fire or property damage.

E. No person shall discharge a consumer fireworks device outside the following dates and hours:

(1) June 28 through July 4 from the hours of 12:00 p.m. until 10:00 p.m.
Exception: discharge hours are extended to 11:00 p.m. on July 4th only.

(2) December 28 through January 3 from the hours of 12:00 p.m. until 10:00 p.m.
Exception: discharge hours for December 31 are extended to 12:30 a.m. on January 1 only.

F. It shall be unlawful to alter or remove, components of a consumer fireworks device or to discharge a consumer fireworks device in a manner differing from its intended method of discharging.

G. The City may, upon application in writing, grant a permit for the display of fireworks on public property by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such display fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- (1) Personal Injury: \$250,000.00 per person.
- (2) Property Damage: \$50,000.00.
- (3) Total Exposure: \$1,000,000.00.

H. Whenever drought, high winds, or other natural phenomena create, or are likely to create hazardous conditions and increased likelihood of fire danger and the Mayor determines that adverse conditions exist for the use and exploding of fireworks, the Mayor or the Mayor's designee may issue a temporary ban and halt the use and detonation of fireworks in the City and may inform the local press, post notice of the ban on the City website and at the City Offices and take such other actions as he deems necessary to inform the public of the ban and may rescind the ban upon determining the hazardous conditions are no longer present and then give notice of ending the ban in the same manner.

4. Violations. All violations of any provisions of this Section are hereby declared a simple misdemeanor with a fine not to exceed \$250.00. Violations of this Section will also be reported to the state fire marshal.

5. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of state; or the sale or use of blank cartridges for a show or theater, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

SECTION 2. REPEALER. All ordinances or part of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this 14th day of June, 2017.

Ricard R. Porter
Ricard R. Porter, Mayor

ATTEST:

Gary W. Tucker
Gary W. Tucker, City Administrator/Clerk

First Reading: Waived
Second Reading: Waived
Third Reading: June 14, 2017

I certify that the foregoing was published as Ordinance No. 698 on the 22nd day of June, 2017

Gary W. Tucker
Gary W. Tucker, City Administrator/Clerk