

ORDINANCE NO. 994 (2016/2017)

**AN ORDINANCE AMENDING THE CITY CODE OF NEVADA, IOWA, BY
AMENDING CHAPTER 41.13 (FIREWORKS)**

WHEREAS, the General Assembly of the State of Iowa has taken measures to allow the sale and use of consumer fireworks in the State of Iowa during specific timeframes and pursuant to applicable state licensure; and

WHEREAS, the new legislation provides for city councils, by ordinance, to prohibit or limit the use of consumer fireworks within their jurisdiction, if determined a public safety risk or a nuisance to neighbors.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of Nevada, Iowa as follows:

SECTION 1. AMEND CHAPTER 41.13 (FIREWORKS). The Code of Ordinances of the City of Nevada, Iowa, is amended by repealing Section 41.13 and adopting the new section stated as follows:

41.13 FIREWORKS

The sale, use or exploding of fireworks within the City is subject to the following:

1. **Definition.** 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 - General Requirements.

- A. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the fire chief:
- 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 of fireworks sales for an aggregate amount of \$2,000,000.
 - 3) Fire Inspection: Any property, building, or premise whether it be permanent or temporary, intended for the sale of consumer fireworks shall have an initial fire inspection completed by the fire chief prior to engaging in the sale of consumer fireworks. The fire chief or their designee shall cause an annual inspection to occur meeting the requirements of the National Fire Protection Code 1124 (2006 edition) and the current fire code adopted by the City of Nevada. Inspection Costs shall be assessed as follows:
 - a. Permanent Structure where fireworks are sold - Annual inspection fee of \$100.

- b. Temporary or Non-Brick or Mortar Building where fireworks are sold - Annual inspection fee of \$200.

B. Dates of Sale: Consumer fireworks sales shall only be conducted in accordance with 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 specified.

- 1) Approved consumer fireworks sales meeting the requirements of this chapter shall be allowed from an approved permanent structure or building between June 1 and July 8 and from December 10 until January 3.
- 2) Approved consumer fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between June 13 and July 8.

C. Safety Requirements: The following safety requirements shall be adopted for all locations where consumer fireworks are sold:

- 1) All transportation, storage, and sales of consumer fireworks shall conform to the safety standards set forth by the National Fire Protection Code 1124 (2006 Edition), including but not limited to, those standards concerning separation distance requirements and aggregate weight limits.
- 2) There shall be no more than 1000 lbs of 1.4G consumer fireworks on site at any temporary structure sales location.
- 3) Any permanent structure used primarily for the purpose of consumer fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway; and 70 feet from an inhabited building.
- 4) Any temporary structure having between 500 and 1000 pounds of total aggregate weight of DOT 1.4 class consumer fireworks shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.
- 5) Smoking, open flame source, or matches shall not be located within 50 feet where consumer fireworks are sold. The following exemptions apply:
 - a. Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where consumer fireworks are not the primary business.
 - b. Locations that engage in consumer fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.
- 6) All electrical wiring shall meet NFPA 70 *National Electrical Code*. Permanent structures or buildings used primarily for consumer fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.
- 7) Locations shall maintain a 48-inch clear aisles between consumer fireworks display shelves.
- 8) Locations shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; except that, exit signs shall be illuminated in permanent structures.

- 9) Consumer fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.
- 10) Locations shall have a minimum of two 10 pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher.
- 11) All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are approved exit doors as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within 8 seconds.
- 12) No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where consumer fireworks are sold as a primary business.
- 13) No more than one conex container or approved explosive magazine shall be located on site for short-term storage of extra product. All containers shall be properly placarded and equipped with tamper proof locking devices. It is permitted to place containers in a security fenced area.
- 14) Individual consumer fireworks devices or opened consumer fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.
- 15) Consumer fireworks sales shall only be allowed in areas zoned for commercial use.
- 16) Any person engaged in consumer firework sales in any other zone other than commercial zoned areas shall not be approved for sales within the city limits.
- 17) No person shall sell a DOT 1.4 class consumer firework to a person under the age of 18.
- 18) Consumer fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.

3. Fireworks - Discharging General Requirements.

- A. No person under the age of 18 shall discharge a DOT 1.4 class consumer firework without parental supervision.
- B. A person shall only discharge a consumer fireworks device on real property they own or on property where consent has been given. Novelties, including snakes, sparklers, or caps, can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.
- 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 fireworks device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer

fireworks 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 1 thru July 8 from the hours of 9am until 10pm.

Exception: discharge hours are extended to 11 pm on July 4th only.

2) December 10 thru January 3 from the hours of 9am until 10pm.

Exception: discharge hours are extended to 12:30am on January 1.

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

G. Sky lantern open flame devices are not permitted to be released within the city limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.

H. The City may, upon application in writing, grant a permit for the display of display 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 per person.

2) Property Damage: \$50,000.

3) Total Exposure: \$1,000,000.

4. **Violations.** All violations of any provisions of this Chapter are hereby declared simple misdemeanors and/or municipal infractions. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the fire chief or peace officer. Fines shall be set by resolution of the City Council. Violations of this chapter shall 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 parts thereof 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

this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

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

Passed First Reading by the City Council of Nevada, Iowa, 8th day of May, 2017.

Passed Second Reading and Waived Third Reading by the City Council of Nevada, Iowa, the 22nd day of May, 2017.

PASSED AND ENACTED by the City Council of Nevada, Iowa, the 22nd day of May, 2017.

Lynn Lathrop, Mayor

ATTEST:

Kerin Wright, City Clerk

1st Reading – May 8, 2017

Motion by Council Member Brian Hanson, seconded by Council Member Jim Walker, first reading of Ordinance No. 994 (2016/2017).

AYES: Hanson, Walker, Barker, Kelly, Mittman, Schwichtenberg
NAYS: None
ABSENT: None

2nd Reading – May 22, 2017

Motion by Council Member Brian Hanson, seconded Council Member Andrew Kelly, to approve the second reading of Ordinance No. 994 (2016/2017).

AYES: Hanson, Kelly, Mittman, Walker
NAYS: None
ABSENT: Barker, Schwichtenberg

3rd Reading – Waived, May 22, 2017

Motion by Council Member Brian Hanson, seconded by Council Member Andrew Kelly, to approve the third reading of Ordinance No. 994 (2016/2017)

AYES: Hanson, Kelly, Mittman, Walker
NAYS: None
ABSENT: Barker, Schwichtenberg

The Mayor declared Ordinance No. 994 (2016/2017) was passed on May 22, 2017.

I certify that the foregoing was published as Ordinance No. 994 (2016/2017) on the ___ day of ___ 2017.

Kerin Wright, City Clerk