

CITY OF HUXLEY

MONDAY ** JUNE 5, 2017 ** CITY HALL ** 6:30 P.M.

SCHEDULED SESSION OF THE CITY OF HUXLEY'S PLANNING AND ZONING COMMISSION

PUBLIC NOTICE IS HEREBY GIVEN THAT THE PLANNING AND ZONING COMMISSION OF THE CITY OF HUXLEY, IOWA, WILL MEET IN THE **HUXLEY CITY COUNCIL CHAMBERS** AT 515 NORTH MAIN AVE., HUXLEY, IOWA, IN THIS SCHEDULED SESSION AT 6:30 P.M. ON MONDAY THE 5th DAY OF JUNE, 2017 TO CONSIDER THE MATTERS ENUMERATED IN THE AGENDA BELOW:

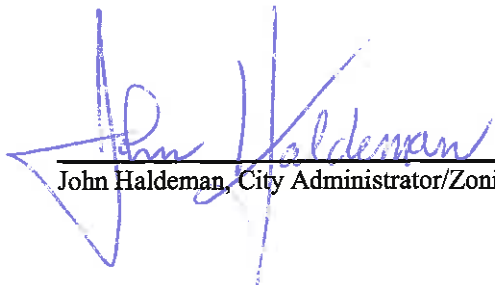
- 1.0) ROLL CALL
- 2.0) MOTION TO APPROVE THE MINUTES FROM THE FOLLOWING MEETINGS:
 - 2.1) April 24, 2017 Meeting

COMMISSION AGENDA ITEMS:

- 3.0) PUBLIC HEARING : NONE
- 4.0) DISCUSSION AND POSSIBLE ACTION
 - 4.1) Discussion and Possible action on *RECOMMENDATION TO THE HUXLEY CITY COUNCIL ON FIREWORKS*;
 - 4.2) Discussion and possible action on *RECOMMENDATION ON BONDING REQUIREMENTS FOR NEW DEVELOPMENTS*.
- 5.0) COMMENTS AND UPDATES

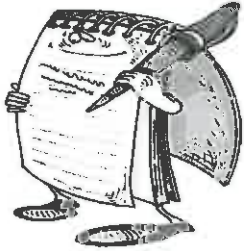
City Staff and Engineer, Mayor and Council and Public
- 6.0) ADJOURNMENT

THIS NOTICE IS HEREBY GIVEN AT LEAST 24 HOURS PRIOR TO THE COMMENCEMENT OF THE MEETING SPECIFIED ABOVE. THIS WAS DONE BY ADVISING THE NEWS MEDIA WHO HAVE FILED A REQUEST FOR NOTICE AND BY POSTING THE NOTICE ON THE FRONT WINDOW IN THE LOBBY AREA IN CITY HALL THAT IS ACCESSIBLE TO THE PUBLIC. THIS WAS ALL PURSUANT TO CHAPTER 21 OF THE CODE OF IOWA.



John Haldeman, City Administrator/Zoning Administrator

PLANNING AND ZONING NOTES



FOR
JUNE 5, 2017

Calendar of Upcoming Meetings of Interest;

JUNE 5, 2017 ... HUXLEY PLANNING AND ZONING COMMISSION --- 6:30 PM
JUNE 13, 2017 HUXLEY CITY COUNCIL MEETING 6:00 P.M.

COMMISSION ITEMS:

2.1) Minutes from the April 24, 2017 P&Z meeting are in your packet for your review.

3.0) Public Hearing; NONE

4.0) DISCUSSION AND POSSIBLE ACTION

4.1) Discussion and Possible action on **RECOMMENDATION TO THE HUXLEY CITY COUNCIL ON FIREWORKS;**

When the State of Iowa Legislature passed the bill allowing for the sale of Fireworks they left it up to the individual cities regulate the sale. Cities can determine what zoning districts would be suitable, what distance from residential structures, amount of insurance (within reason) and other items. I have enclosed samples of other cities' ordinances and also the regulations the City has adopted. You will also find a visual chart that shows what each type is.

4.2) Discussion and possible action on **RECOMMENDATION ON BONDING REQUIREMENTS FOR NEW DEVELOPMENTS.**

Each development that is constructed in Huxley has a requirement that they have to put up certain types of bonds to cover faulty material and/or workmanship. The problem is trying to collect on some of those bonds when something does happen can be a challenge.

5.0) Comments

6.0) Adjournment



Planning and Zoning Commission Minutes

Monday April 24, 2017
Huxley Safe Room—3C's Building
7:30 P.M.

1.0) CALL TO ORDER AND ROLL CALL:

Chairman Roger Bierbaum called the P&Z Meeting to order at 7:30 PM. P&Z members present:

Roger Bierbaum	<input checked="" type="checkbox"/>	Larry Wilson	<input type="checkbox"/>
Cheryl Patterson	<input checked="" type="checkbox"/>	Mark Johnson	<input type="checkbox"/>
Mike Schonhorst	<input type="checkbox"/>	Nate Easter	<input checked="" type="checkbox"/>
Gordon Mosher	<input checked="" type="checkbox"/>		

Guests present: Mark DeYoung, Bella Homes
Chris Gardner, Bella Homes
Steve Domino, Bella Homes
Bob Gibson, CDA Engineering for Bella Homes
David Jensen, Huxley City Council

Citizens present: Bob Shearer, Darold Primmer, Sharon Nelson, Andrew Allen, Hollie Allen, Cindy Hildebrand,
David Wombacher, Mark Ryen Anderson, Scott Anderson, Karen Anderson, Chad Anderson,
Stephen Jones, Kathy Jones, Joyce Hornstein, Ivan Kinnen, Avis Stensland, Kathy Lee, Charles Lee,
Seldon Spencer.

Staff present: John Haldeman, Zoning Administrator
Amy Kaplan, Planning & Zoning

Consultants present: Jim Nervig, City Attorney
Forest Aldrich, City Engineer

2.0) MOTION TO APPROVE THE MINUTES FROM THE FOLLOWING MEETING:

- 2.1) **April 17, 2017 REGULAR MEETING** - Motion by Mosher and seconded by Easter to approve minutes. Roll was taken. 4 AYE. 0 NAY

COMMISSION AGENDA ITEMS:

3.0) PUBLIC HEARING: NONE

- 3.1) **Open hearing on ground being requested to be annexed known as Iron Bridge:** Motion by Patterson and seconded by Mosher to open the hearing at 7:32 P.M. 4 AYE. 0 NAY. Questions and discussion took place. Motion by Mosher and seconded by Patterson to close the public hearing at 8:00 P.M. 4 AYE. 0 NAY.
- 3.2) **Open hearing on the rezoning of the ground being requested to be annexed known as Iron Bridge and mending land use map, from A-1 and to PUD.** Motion by Patterson to open the hearing at 8:01 P.M. and seconded by Easter. 4 AYE. 0 NAY. Questions and discussion took place. Motion by Easter to close the public hearing at 8:16 P.M. and seconded by Mosher. 4 AYE. 0 NAY.

4.0) DISCUSSION AND POSSIBLE ACTION:

- 4.1) Discussion and possible action on annexation of ground known as Iron Bridge:** Motion by Mosher, seconded by Easter. 4 AYE. 0 NAY.
- 4.2) Discussion and possible action on rezoning and amending land use:** Motion by Easter to recommend to City Council the approval of the rezoning of Iron Bridge development as a PUD as provided in the document provided at the Planning and Zoning Meeting on April 24, 2017 indicating lots 1-17 zoned as R1 and outlots X & Y zoned as A-1; and that the development meet requirements stipulated in the preliminary plat action. Seconded by Patterson. 4 AYE. 0 NAY.
- 4.3) Discussion and possible action on preliminary plat for the Iron Bridge development:** Motion by Easter, and seconded by Patterson for a favorable recommendation to City Council for approval of the preliminary plat with the following conditions:
- Easement for a future trail along the creek as shown in the “comprehensive plan” for the City needs to be added to the plat.
 - Assessment protest waiver for the Iron Bridge development in the event 550th is required to be constructed with curb and gutter in the future, adjacent to and within the Subdivision, applied to all lots within the Iron Bridge Subdivision.
 - Assessment protest waiver for the extension of a water main along 550th to the east line of outlot X, applied to all lots within the Iron Bridge Subdivision.
 - Assessment protest waiver for the installation of a sanitary sewer collection system for the Iron Bridge Subdivision, adjacent to and within the Subdivision, applied to all lots within the Iron Bridge Subdivision.
 - Assessment protest waiver for the installation of sidewalk for Iron Bridge Subdivision, adjacent to and within the Subdivision, applied to all lots within the Iron Bridge Subdivision.

4 AYE. 0 NAY.

- 4.4) Discussion and possible action on lighting plan for Duane Jensen and Prairie Ridge Plat 1:** Motion by Patterson and seconded by Mosher to waive photometric lighting plan and accept the proposed lighting plan. 3 AYE. 1 NAY by Easter.

5.0) COMMENTS AND UPDATES: The City will begin uploading approved minutes separately from the packets.

6.0) ADJOURNMENT – Motion by Mosher to adjourn, seconded by Patterson. 4 AYE. 0 NAY. Meeting adjourned at 9:32 P.M.

Amy Kaplan, Planning & Zoning

Roger Bierbaum, Chairman

Date of Approval

First Class



**Sky rockets/
Bottle rockets**



Roman Candle



**Aerial Shell devices/
Reloadable Tubes**



Firecrackers



Missile-type rockets



**Helicopter & aerial
spinners**



Chasers

Second Class



Cone Fountains



**Cylindrical
Fountains**



Flitter Sparklers



Ground Sparklers



Wheels



**Ground
Spinners**

Sparklers/Novelties



Novelties



Sparklers

ORDINANCE NO. 463

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF
THE CITY OF HUXLEY, IOWA, BY AMENDING PROVISIONS OF
THE ORDINANCE REGARDING FIREWORKS USE**

Whereas, the City of Huxley deems the use of certain consumer fireworks as a threat to public safety and a nuisance to landowners.

Be It Enacted by the City Council of the City of Huxley, Iowa:

SECTION 1. Section 41.14, Fireworks, is hereby amended by deleting the current definition and inserting in lieu thereof the following:

1. Definition.

a. "Consumer Fireworks" means those fireworks as defined by Iowa Code Section 727.2 that may be sold within the City even though the use of those items is prohibited.

b. "First-class Consumer Fireworks" means the following Consumer Fireworks, as described in the American Pyrotechnics Association's standard 87-1, Chapter 3:

1. Serial 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. Skyrockets and bottle rockets.

9. Multiple tube devices under this paragraph (b) that are manufactured in accordance with APA 87-1, Section 3.5.

c. "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.
- d. "Display Fireworks" means those fireworks as defined by Iowa Code Section 727.2(1)(b).

SECTION 2. Section 41.14, Fireworks, is hereby amended by deleting the current regulations and inserting in lieu thereof the following:

2. Regulations.

- a. It shall be unlawful for any person to use or explode any explosive, explosive material or First-class Consumer Fireworks and Second-class Consumer Fireworks within the corporate limits of the City.
- b. It shall be unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any explosive, explosive material or First-class Consumer Fireworks and Second-class Fireworks within the corporate limits of the City unless granted a permit as provided in Section _____ of the Huxley Municipal Code. Sales of Display Fireworks may be made for that purpose only.
- c. It shall be unlawful for any person to use or explode any Display Fireworks within the corporate limits of the City unless, upon application in writing, the City has issued a permit to a City agency, fair association, amusement park or other organizations or groups of individuals approved by City authorities to display fireworks and such display will be handled by a competent operator.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. This ordinance shall be effective upon its passage, approval and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2017.

Craig D. Henry, Mayor

ATTEST:

Jolene Lettow, City Clerk

Publication Date: _____

Record Of Vote

First Reading _____ (Date)

Roll Call	Aye	Nay	Absent
Kevin Deaton	_____	_____	_____
Craig Hemmen	_____	_____	_____
David Jensen	_____	_____	_____
Dave Kuhn	_____	_____	_____
Tracey Roberts	_____	_____	_____

Second Reading _____ (Date)

Roll Call	Aye	Nay	Absent
Kevin Deaton	_____	_____	_____
Craig Hemmen	_____	_____	_____
David Jensen	_____	_____	_____
Dave Kuhn	_____	_____	_____
Tracey Roberts	_____	_____	_____

Third Reading _____ (Date)

Roll Call	Aye	Nay	Absent
Kevin Deaton	_____	_____	_____
Craig Hemmen	_____	_____	_____
David Jensen	_____	_____	_____
Dave Kuhn	_____	_____	_____
Tracey Roberts	_____	_____	_____

RESOLUTION NO. 17 - 034

**RESOLUTION IMPOSING A MORATORIUM ON THE SALE OF
CONSUMER FIREWORKS WITHIN THE CITY OF HUXLEY, IOWA**

WHEREAS, the City of Huxley expects to receive requests to sell Consumer Fireworks within the City; and

WHEREAS, the City of Huxley has a responsibility to protect and promote the public health, safety and welfare its citizens; and

WHEREAS, the City Council of the City of Huxley is in the process adopting an ordinance to address the sale of Consumer Fireworks; and

WHEREAS, the City of Huxley believes that it is necessary to impose a moratorium on the sale of fireworks sale of fireworks until the proposed ordinance can be reviewed and approved as required by Iowa law; and

WHEREAS, during the period of the moratorium, the City of Huxley shall not receive or process applications for the sale of Consumer Fireworks and fireworks shall not be sold within the City limits.

IT IS, THEREFORE, RESOLVED by the City Council of the City of Huxley, Iowa, that there is imposed a moratorium on the sale of Consumer Fireworks within the City limits.

IT IS FURTHER RESOLVED that during the period of the moratorium the City of Huxley shall not receive and process applications.

IT IS FURTHER RESOLVED that the period of the moratorium shall be until June ___, 2017.

DATED this 23rd day of May 2017.

Roll Call	Aye	Nay	Absent
Kevin Deaton	___	___	___
Dave Jensen	___	___	___
Dave Kuhn	___	___	___
Craig Hemmen	___	___	___
Tracey Roberts	___	___	___

PASSED, ADOPTED AND APPROVED this ___ day of May, 2017

APPROVAL BY MAYOR

I hereby approve the foregoing **Resolution No. 17-034** by affixing below my official signature as Mayor of the City of Huxley, Iowa, this ___ day of May, 2017.

Craig D. Henry, Mayor

ATTEST:

Jolene Lettow, City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ANKENY, IOWA, BY AMENDING PROVISIONS OF THE ZONING ORDINANCE REGARDING FIREWORKS SALES

Be It Enacted by the City Council of the City of Ankeny, Iowa:

SECTION 1. Section 190.03, Definitions, is hereby amended by adding the following definition:

104. "Fireworks Retail Sales Facility" means a retail sales facility for the sale of First-class Consumer Fireworks as defined in Iowa Code Section 100.19(1)(c) and/or Second-class Consumer Fireworks as defined in Iowa Code Section 100.19(1)(e).

SECTION 2. Section 192.13(1)(C), M-2 Heavy Industrial District, Principal Permitted Uses, is hereby amended by deleting the first sentence and inserting in lieu thereof:

The uses listed in Paragraph D of this section shall be permitted through a Special Use Permit as provided for in Section 196.02 of the Ankeny Municipal Code, issued after public hearing and approval by the Board of Adjustment.

SECTION 3. Section 192.13(1)(D), Principal Permitted Uses, M-2 Heavy Industrial District, is hereby amended by adding the following:

(19) Fireworks Retail Sales Facility.

SECTION 4. Section 192.13, M-2 Heavy Industrial District is hereby amended by adding the following new section:

5. Fireworks Retail Sales Facility Required Conditions. Required conditions for a Fireworks Retail Sales Facility are as follows:

A. Operator shall provide proof of licensure by the State Fire Marshal.

B. For a facility occurring within a permanent structure, the allowable dates of operation shall be between June 1st through July 8th (38 total days) and between December 10th and January 3rd (25 total days).

C. For a facility occurring within a temporary structure, the allowable dates of operation shall be between June 13th through July 8th (26 total days).

D. The facility shall be located a minimum of 200 feet from property containing:

- a. residential uses,
- b. fuel pumps or fuel containers,
- c. schools,
- d. public parks, or
- e. churches.

E. For a facility located within a permanent structure, the facility shall not be located in a multiple-tenant building and shall be located in a stand-alone structure that shall have a minimum of 50 feet of separation from adjacent structures.

F. All signage shall comply with City of Ankeny Sign Code.

G. Parking for the facility must be provided at 1 space per 200 square feet of floor area.

H. For a facility occurring in a temporary structure, required parking for the other uses on the site shall not be occupied by the temporary structure.

I. The operator of the facility will require to be posted in plain clear view of all patrons a sign which reads, "It is unlawful to discharge fireworks in the Ankeny City limits at any time, except between 9:00 a.m. – 11:00 p.m. on July 4th."

J. The facility shall comply with all applicable Building and Fire Codes.

K. A site plan shall be provided with the Special Use Permit application that depicts at a minimum those items outlined in Section 192.02.4 of the Ankeny Municipal Code.

SECTION 5. Chapter 132, Peddlers, Solicitors and Transient Merchants, is hereby amended by adding the following Section 132.21:

132.21. Fireworks License. Notwithstanding anything contained in this Chapter 132, the sale of First-class Consumer Fireworks and Second-class Consumer Fireworks as defined in Iowa Code Section 727.2 shall not be subject to this Chapter but shall require a Special Use Permit in accordance with Ankeny Municipal Code Sections 192.13 and 196.02.

SECTION 6. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. This ordinance shall be effective upon its passage, approval and publication as provided by law.

PASSED and approved this _____ day of _____ 2017.

GARY LORENZ, Mayor

ATTEST:

PAMELA DeMOUTH, City Clerk

ORDINANCE NO. 2017-_____

AN ORDINANCE AMENDING SECTION 41.11 OF THE CODE OF ORDINANCES OF THE CITY OF CORALVILLE REGARDING FIREWORKS REGULATION.

WHEREAS, the Iowa General Assembly passed Senate File 489 which allows for the sale and use of certain fireworks within the State of Iowa; and

WHEREAS, the City's ordinance previously banned the sale and use of fireworks within the City, which is now inconsistent with state law; and

WHEREAS, the City desires to continue to prohibit the use of consumer fireworks within the City; and

WHEREAS, to comply with state law, the City desires to pass certain rules regulating the sale of fireworks within the city which are consistent with state law.

NOW, THEREFORE, BE IT ORDAINED, as follows:

1. Amendment. Section 41.11 of the Code of Ordinances is hereby amended by deleting the section in its entirety and replacing it with the following:

"SECTION 41.11. FIREWORKS REGULATION.

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

1. *Definitions. For the purposes of this Section 41.11, the following terms are defined:*

- a. *"Consumer fireworks" shall mean first-class consumer fireworks and second-class consumer fireworks as those terms are defined in subparagraphs (c) and (e) below.*

- b. *"Display Fireworks" shall mean any explosive composition, or combination of explosive substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosives or flammable compound, or other devices containing any explosive substance.*

c. *“First Class Consumer Fireworks” shall mean the following consumer fireworks as described in the American Pyrotechnics Association (“APA”) Standard 87-1, chapter 3:*

- (i) Aerial shell kits and reloadable tubes;*
- (ii) Chasers;*
- (iii) Helicopters and aerial spinners;*
- (iv) Firecrackers;*
- (v) Mine and shell devices;*
- (vi) Missile-type rockets;*
- (vii) Roman Candles;*
- (viii) Sky rockets and bottle rockets; and*
- (ix) Multiple type devices under this subparagraph (b) which are manufactured in accordance with APA 87-1, section 3.5.*

d. *“Novelties” shall mean all novelties enumerated in chapter 3 of the APA standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.*

e. *“Second Class Consumer Fireworks” shall mean the following consumer fireworks, as described in APA Standard 87-1, chapter 3:*

- (i) Cone fountains;*
- (ii) Cylindrical fountains;*
- (iii) Flitter sparklers;*
- (iv) Ground and hand-held sparkling devices, including multiple tube and hand held sparkling devices that are manufactured in accordance with APA Standard 87-1, section 3.5;*
- (v) Ground spinners;*
- (vi) Illuminating torches;*
- (vii) Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, section 3.2;*
- (viii) Wheels;*
- (ix) Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, section 3.2.*

2. *The use or explosion of Consumer Fireworks within the City is hereby prohibited.*

3. *The use or explosion of Display Fireworks by the City, a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by*

City authorities when such fireworks display will be handled by a competent operator. In no event shall a permit be granted unless the operator or sponsoring organization provides evidence to the City of insurance in at least the following amounts:

- A. Personal Injury: \$ 250,000.00 per person.*
- B. Property Damage: \$ 50,000.00.*
- C. Total Exposure: \$1,000,000.00.*

4. The sale of consumer fireworks within a permanent or temporary structure within the City by a retailer or community group is subject to the following:

- a. The sale of consumer fireworks can only occur between the dates of June 1st and July 8th inclusive; and December 10th and January 3rd inclusive.*
- b. The retailer or community group shall maintain commercial general liability insurance of at least One Million Dollars (\$1,000,000) per occurrence and aggregate coverage of at least Two Million Dollars (\$2,000,000).*
- c. The retailer or community group shall obtain a permit from the Fire Department to ensure that the permanent or temporary structure meets the guidelines of NFPA 1124, 2006 Edition.*
- d. All temporary structures for the sale of consumer fireworks shall obtain a Transient Merchant Permit as described in this Code.*
- e. All temporary structures for the sale of consumer fireworks shall meet the guidelines of NFPA 1124, 2006 Edition.*
- f. All temporary and permanent structures may hold no more than 125 pounds of explosive materials at any given time.*
- g. Pays the City a fee in an amount set by Resolution of the City Council.*

If the retailer or community group meets the preceding requirements, the Fire Department shall issue the permit. If the permit is denied, the Fire Chief or designee shall issue such denial to the applicant in writing stating the reasons for denial. The applicant may appeal said denial to the City Council

by filing notice of appeal within ten (10) days of the date of denial with the City Clerk.

2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

3. Adjudication. If any section, provision, or part of this ordinance shall be adjudged to be 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.

4. Effective Date. This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed and approved this _____ day of _____, 2017.

John A. Lundell, Mayor

ATTEST:

Thorsten J. Johnson, City Clerk

Ordinance No. _____

AN ORDINANCE AMENDING THE CITY CODE OF ORDINANCES OF THE CITY OF INDIANOLA, IOWA, CHAPTER 165, ZONING REGULATIONS, BY AMENDING PROVISIONS OF THE ZONING ORDINANCE REGARDING FIREWORKS SALES

Be It Enacted by the City Council of the City of Indianola, Iowa:

SECTION 1. Section 165.03, Definitions, is hereby amended by adding the following definition:

55. “Fireworks Retail Sales Facility” means a retail sales facility for the sale of First-class Consumer Fireworks as defined in Iowa Code Section 100.19(1)(c) and/or Second-class Consumer Fireworks as defined in Iowa Code Section 100.19(1)(e).

SECTION 2. Section 165.09, Schedule of District Regulations, is hereby amended by adding the following to subsection C-2 (44):

C-2	HIGHWAY COMMERCIAL	C-2
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
44. Fireworks Retail Sales Facilities		See Special Requirements Below
SPECIAL REQUIREMENTS		
A. Operator shall provide proof of licensure by the State Fire Marshal.		
B. For a facility occurring within a permanent structure, the allowable dates of operation shall be between June 1 st through July 8 th (38 total days) and between December 10 th and January 3 rd (25 total days).		
C. For a facility occurring within a temporary structure, the allowable dates of operation shall be between June 13 th through July 8 th (26 total days).		
D. The facility shall be located a minimum of 200 feet from property containing: <ul style="list-style-type: none">a. residential uses,b. fuel pumps or fuel containers,c. schools,d. public parks, ore. churches.		
E. For a facility located within a permanent structure, the facility shall not be located in a multiple-tenant building and shall be located in a stand-alone structure that shall have a minimum of 50 feet of separation from adjacent structures.		

F. All signage shall comply with City of Indianola Sign Code.

G. Parking for the facility must be provided at 1 space per 200 square feet of floor area.

H. For a facility occurring in a temporary structure, required parking for the other uses on the site shall not be occupied by the temporary structure.

I. The facility shall comply with all applicable Building and Fire Codes.

J. A site plan shall be submitted for approval in accordance with the Building Code and applicant shall be charged a \$100 site plan review fee.

SECTION 3. Chapter 165.10(15), Temporary or Seasonal Structures, is hereby amended by adding the following subsection G:

G. Fireworks Retail Sales Facilities provided the facility meets all requirements of Indianola Municipal Code Section 165.09.

SECTION 4. Chapter 122, Peddlers, Solicitors and Transient Merchants, is hereby amended by adding the following Section 122.22:

122.22. Fireworks License. Notwithstanding anything contained in this Chapter 122, the sale of First-class Consumer Fireworks and Second-class Consumer Fireworks as defined in Iowa Code Section 727.2 shall not be subject to this Chapter but shall be subject to the zoning requirements in Indianola Municipal Code Chapter 165.

SECTION 5. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. This ordinance shall be effective upon its passage, approval and publication as provided by law.

PASSED and approved this _____ day of _____ 2017.

Kelly B. Shaw, Mayor

ATTEST:

Diana Bowlin, City Clerk

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

Ordinance No. 827

FIREWORKS ORDINANCE AMENDING CHAPTER 41 PUBLIC HEALTH AND SAFETY

BE IT ENACTED by the Pleasant Hill City Council of the City of Pleasant Hill, Iowa:

WHEREAS, the State of Iowa has enacted a law relating to the possession, sale, transfer, purchase, and use of fireworks, providing penalties, and including effective date provisions; and

WHEREAS, the City of Pleasant Hill has previously enacted under its Public Health and Safety Chapter of its Code of Ordinances, being Chapter 41 and specific section 41.11, an Ordinance relating to the restrictions on sale, use, discharge and possession of Fireworks; and

WHEREAS, to avoid conflict of laws and to better protect the public health, safety and welfare of its Citizens the City desires to create an Ordinance to effectively eliminate any inconsistent measures of both the State and the City; and

WHEREAS, that it is understood that the City, its Police Department and Fire Department may not be adequately prepared to undertake the protection of its citizens in a proper fashion under the circumstances of an emergency related the use or sale of Fireworks given the timing of this new law.

NOW THEREFORE, be it resolved by the City Council of the City of Pleasant Hill, Iowa, as follows:

41.11 FIREWORKS

1. Definition. "Fireworks" or "Consumer Fireworks" as used in this section, shall mean those items listed or referred to under the definition of "First-class Consumer Fireworks" and "Second-Class Consumer Fireworks" as set forth under Iowa Code Chapter 100.

2. No person shall use, explode, discharge any consumer fireworks on days other than July 4, between the hours of 12:00 p.m.(noon) and 11:00 p.m., and December 31 between the hours of 12:00 p.m.(noon) and continuing through 1:00 a.m. on January 1st.

3. Fireworks Permit for Display.

A. Supervised public exhibitions or displays shall be conducted only in accordance with this section (41.11)(3) along with any rules and regulations issued by the Fire Chief for the area included with the permit application boundaries of the City.

B. Upon written application the City may grant a permit for the display of fireworks by a City agency, fair association or other organizations or groups as may be approved by the City and when such fireworks to be displayed are under the direct control of a licensed and competent operator. Any applications shall have attached thereto proof of insurance with limits not less than \$2,000,000.00 per occurrence and \$5,000,000.00 aggregate.

C. No person shall use, explode, discharge, possess or display fireworks or consumer fireworks on any publicly owned property unless authorized under this section.

4. Fireworks Permit for Sale.

A. No person, retailer, consumer group or otherwise shall sell or display any fireworks without possessing a consumer fireworks seller license as required under Iowa Code Chapter 100, without possessing a permit as required under Chapter 122 of the Code of Ordinances, City of Pleasant Hill, and without providing evidence of insurance in the amounts not less than \$2,000,000.00 per Occurrence and \$5,000,000.00 in the Aggregate.

B. The sale or display of fireworks shall only occur within permanent primary structures located in the I-1, I-2, and I-3 zoning districts. No sale or display of fireworks shall occur within 100' of a public right-of-way or 500' of the following:

1. Any residential use, zoning district or area designated for residential use on the City's adopted future land use plan.
2. Schools, Child day care centers, day nurseries, and nursing schools
3. Nursing Homes, adult day care centers, hospitals, and medical clinics.
4. Underground pipelines, local gas service facilities or any electrical transmission lines or electrical transformers.

5. Enforcement.

A. The Chief of Police or designees is charged with the duty of enforcing these provisions.

B. The penalty for violation of this Chapter shall include confiscation or destruction of any Fireworks or Consumer fireworks and in addition fines up to and including \$500.00 per violation or in amounts not to exceed those allowed for a municipal infraction.

C. The City, Police Department or Fire Department is authorized to enforce said violation(s) as a municipal infraction as set forth in these code of ordinances.

6. Additional Provisions

A. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

B. If any section, provision, or parts of this Ordinance shall be adjudged to be 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

- C. This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Pleasant Hill City Council on May 23, 2017.

Sara Kurovski, Mayor

ATTEST:

Dena Spooner, City Clerk/Finance Director

Preface: The State of Iowa has passed a fireworks bill authorizing the sale of consumer fireworks in permanent buildings meeting NFPA 1124 standards from June 1 to July 8 and December 10 to January 3. The bill allows sales in conforming temporary structures from July 1 to July 8 each year. The bill requires anyone selling fireworks to have a license issued by the State Fire Marshal and proof of insurance for liability for \$1,000,000 and \$2,000,000 aggregate.

The bill allows cities to prohibit the discharge of fireworks if determined a public safety risk or a nuisance to neighbors. Persons engaged in discharging fireworks shall only do so on real property they own or on real property of another if permission is obtained. The bill permits the discharge of fireworks between 9 am to 10 pm (except until 11 pm on July 4 and 12:30 am on December 31). Violations of this chapter are a simple misdemeanor with a fine not less than \$65 and not more than \$625 or up to 30 days confinement.

ORDINANCE NO.

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AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST BURLINGTON, IOWA, BY AMENDING PROVISIONS PERTAINING TO THE SALE, USE, POSSESSION AND EXPLODING OF FIREWORKS

Be It Enacted by the City Council of the City of West Burlington, Iowa:

SECTION 1. SECTION MODIFIED. Section 32.13 of the Code of Ordinances of the City of West Burlington, Iowa, is repealed and the following adopted in lieu thereof:

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

1. DEFINITIONS.

- A. **Consumer Fireworks** - (American Pyrotechnics Association (APA) standard 87-1, [chapter 3](#)) Any device, other than a novelty or theatrical pyrotechnic article, intended to produce visible and/or audible effects by combustion, deflagration, or detonation. Fireworks are further described as Fireworks UN0336 (formerly Common Fireworks and now referred to in this Standard as Consumer Fireworks,) or Fireworks UN0335 (formerly Special Fireworks and now referred to in this Standard as Display Fireworks.) Fireworks may also be described as Fireworks UN0337 if examination and testing in accordance with Title 49 CFR, § 173.56 is performed that warrants that classification.

For purposes of this Section, the term “fireworks” includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, *firecrackers*, torpedoes, skyrockets, roman candles, or other *fireworks* of like construction and *fireworks* containing any explosive or flammable compound, or other device containing any explosive substance. The term “fireworks” does not include goldstarproducing *sparklers* on wires which contain no magnesium or

chlorate or perchlorate, flitter *sparklers* in paper tubes that do not exceed one-eighth of an inch in diameter, toy snakes which contain no mercury, or caps used in cap pistols.

- B. **Novelty Fireworks** (American Pyrotechnics Association (APA) standard 87-1) A device containing small amounts of pyrotechnic and/or explosive composition. Such devices produce limited visible or audible effects. These items must be approved by DOT, and are normally classed as 1.4G. A different classification may be assigned based on testing and examination as specified in Title 49 CFR §CFR, § 173.56. Certain novelties which meet the criteria specified in Section 3.2 are not regulated as explosives, and approval by DOT is not required for those specific items.

- 1) Novelty fireworks typically produce a much weaker explosion and sound. A few examples include:
- 2) Party Poppers — once a string is pulled to activate the charge, confetti is thrust into the air and produces a *pop*.
- 3) Snaps — a small paper bag typically filled with gravel and a few milligrams of silver fulminate will produce a *pop* when thrown at a hard surface or stepped on.
- 4) Flying Lanterns (*sky lanterns*) — these paper lanterns float into the sky when lit. They emit a slight glow and are very commonly used at weddings and celebrations.
- 5) Paper Tanks & Vehicles — when lit, these small paper vehicles emit sparks that cause them to move around on the ground and commonly produce a loud bang at the end.
- 6) Ground Bloom Flowers — a small cylinder that spins on the ground and changes color, spinning in such a way that it resembles a flower. Could be described as a large Jumping Jack.
- 7) Snakes (*black snakes*) — a small compressed pellet that, when lit, expands into a long snake-like object.

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- C. **Display or Theatrical Fireworks/Pyrotechnics** (American Pyrotechnics Association (APA) standard 87-1) Pyrotechnic devices for professional use in the entertainment industry similar to consumer fireworks in chemical composition and construction but not intended for consumer use. Such articles, meeting the lift and effect powder weight limits for similar consumer fireworks but not labeled as such, and containing only chemicals listed in table 4.3-1 may be approved under the provisions of this Standard and classified as Articles, Pyrotechnic, 1.4G, UN0431.

Note: Theatrical pyrotechnic devices may be classed by DOT as Articles, Pyrotechnic, 1.4S, UN0432 or as Articles, Pyrotechnic, 1.3G, UN0430 on the basis of examination and testing as specified in Title 49 CFR, § 173.56.

Examples include: Aerial Shell, Salute, all other fireworks that are not considered Novelty or Consumer.

SECTION 2. SECTIONS ADDED. The following sections 13, 14, 15, 16, 17 , and 18 are added to Chapter 32 of the Code of Ordinances of the City of West Burlington, Iowa: ~~is repealed and the following adopted in lieu thereof:~~

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32.14 FIREWORKS SALES GENERAL REQUIREMENTS.

1. Prior to any person engaging in fireworks sales the following shall be provided to the fire chief:
 - A. Proof of valid permit issued from the state fire marshal.
 - B. Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for the amounts required by Iowa Code § 100.19(4)(b), an aggregate amount of \$2,000,000.
2. Any property, building, or premise whether it be permanent or temporary, intended for fireworks sales shall have an initial fire inspection completed by the ~~Fire~~ Chief prior to engaging in fireworks sales. The Fire Chief or their designee shall cause an annual inspection to occur meeting the requirements of the National Fire Protection Code 1124 ~~(2013-2006 edition), and the current fire code adopted by the City of West Burlington (City Ordinance Chapter 157), and any rules, regulations, requirements or the like promulgated by the state fire marshal pursuant to Iowa Code § 100.19.~~
- A. An annual inspection fee of \$250 shall be charged by the City of West Burlington for any permanent structure or building where fireworks are sold. This is in addition to any City Business License fee.
- B. An annual inspection fee of \$500 shall be charged for any temporary or non-brick and mortar building used to sell fireworks. This is in addition to any City Business License fee.
- C. The Fire Chief or his designee may cause for additional inspections with no additional fee, to ensure the seller remains in compliance with this ordinance for the safety and well-being of any potential customers.
- D. All annual inspections must be arranged a minimum of 2 (two) days before intended sales dates. Failure to schedule an inspection in that time frame is grounds for non-issuance of occupancy and business permits. The Fire Chief shall notify the State Fire Marshall of any non-compliance for revocation or suspension of sales permits if this occurs.
- E. Persons shall not construct any display or offer for sale any fireworks type on roadways including shoulders thereof, alleys, sidewalks, public property or in Assembly or Educational occupancies. (IFC 5601.2.2)

- F. Permits shall not be issued for the storage or sale of any fireworks at any place of habitation or within 100 feet thereof. (IFC 5601.2.1)
 - G. The Fire Chief is authorized to limit the quantity permitted at any given location. Permit holders shall not keep or store amounts greater than that they are permitted for and only the type they are permitted for. (IFC 5601.2.3)
3. Fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code [§ 100.19\(4\)\(c\)](#).
- A. Approved 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.
 - B. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between June 13 and July 8.
 - C. It shall be unlawful to sell fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates specified.

32.15 FIREWORKS SALES SAFETY REQUIREMENTS

1. ~~The City hereby adopts National Fire Protection Association (NFPA) standard 1124 (2006 edition) as incorporated by reference in Iowa Code § 100.19(4)(a). By so adopting NFPA standard 1124, the following safety requirements shall be adopted for all locations where fireworks are sold.~~

- A. Not more than 100 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a commercial business with other mercantile products for sale.
- B. Not more than 500 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a building where fireworks are the primary business.
- C. Not more than 1000 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located in a temporary structure used primarily for fireworks sales.
- D. Any permanent structure used primarily for the purpose of fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway; and 70 feet from an inhabited building.

- i. Exception: Where a person owns the adjacent property or written permission is granted, the property line distance requirement can be reduced to 15 feet

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Commented [GU1]: This is assuming that the requirements set out below are all taken directly from standard 1124

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- E. Any temporary structure shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.
- F. Smoking, open flame source, or matches shall not be located within 50 feet where fireworks are sold.
 - i. Exception: a) Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where fireworks are not the primary business.
 - ii. b) Locations who engage in fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not removed within the store premises.
- G. All electrical wiring shall meet NFPA 70 National Electrical Code. Permanent structures or buildings used primarily for fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.
- H. All fireworks sales locations of any type shall maintain 48 inch clear aisles between fireworks display shelves.
- I. Any location where fireworks are sold shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; exit signs in permanent structures shall be illuminated.
- J. Fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.
- K. All 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. The Fire Chief or his designee may order additional fire extinguishers and determine their location/placement.
- L. 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.
- M. No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where fireworks are sold as a primary business.

N. No more than one 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, if approved. Conex containers are not permitted.

O. Individual fireworks devices or opened fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.

P. Vehicles shall not be allowed to park within 30 feet of any structure, providing for clear and open access for any Fire Department response.

2. Fireworks sales shall only be allowed in areas zoned for commercial use. This includes all types of fireworks.

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A. Any person engaged in sales in any other zone other than commercial zoned areas shall not be approved for sales within the city limits.

B. No person shall sell a DOT 1.4 class firework to a person under the age of 18.

C. 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.

D. Fireworks shall not be sold out of a residence or any part or combination of a residence, including: sidewalk adjacent to the property, yard – including the Right-of-Way, garage, temporary structures on residential property or vehicles. The term residence shall include single, double and multi-family dwellings.

32.16 FIREWORKS SALES PENALTIES

1. A person or entity who violates the provision of this fireworks sales ordinance shall be assessed a municipal infraction cost not exceeding \$500 plus court costs.

2. In circumstances where a flagrant or intentional violation of these provisions occurs, a peace officer may issue a municipal infraction stated above and shall issue a misdemeanor charge with a scheduled fine of ~~\$250-\$500~~ fine in addition to established court costs.

3. Persons violating the provisions of this chapter shall be reported to the state fire marshal to cause revocation of permit hearings to commence pursuant to Iowa Code § 100.19(5)(a).

Commented [GU2]: Language of 127.2(3)(c) says violation is a simple misdemeanor and fine "not less than \$250", and simple misdemeanor maximum is \$625. I think the \$500 is appropriate across the board here.

32.17 FIREWORKS DISCHARGING GENERAL REQUIREMENTS

It is the intention that citizens be allowed to enjoy the use of novelty and consumer ~~classified~~ fireworks. It is in the best interest of public safety that these restrictions are included to prevent or limit injuries ~~and/or~~ fire(s) caused by fireworks and their use in and around individuals, large gatherings or events, structures and the environment.

1. No person under the ~~age of 18~~ shall discharge a DOT 1.4 class fireworks without ~~direct supervision by a parent or legal guardian~~parental supervision.
2. A person shall only discharge a fireworks device on real property they own or on property where consent has been expressly given. Fireworks ~~are not authorized to shall~~ not be discharged on City-owned or public property without authorization of the Fire Chief.
3. Fireworks shall not be discharged by persons showing visible signs of, or who are determined to be, intoxicated or under the influence of a drug or narcotic.
4. Any person discharging a fireworks device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.
5. No person shall discharge a fireworks device outside the following dates and hours:
 - A. June 1 thru July 8 from the hours of 9am until 10pm.
Exception: discharge hours are extended to 11 pm on July 4th only.
 - B. December 10 thru January 3
Exception: discharge hours are extended to 12:30am on January 1.
6. It shall be unlawful to alter, remove, or discharge components of a fireworks device from its intended method of discharging.
7. 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.
8. No person shall discharge fireworks of any type - novelty, consumer or display - within areas set aside for special events, i.e, City Fourth of July event, with or without a permit, from the hours of 10:00 pm the night before the event and ending at 6:00 am the morning following the event date(s).
9. Exception: Special Limited Display permits may be issued by the Fire Chief. Inspections, Insurance, Display/Use types and Hours of use will apply.

10. No person shall discharge or allow the use of fireworks to occur within ~~150~~50 feet of an occupied structure in the city limits.
11. No person shall discharge or allow the use of fireworks, including novelty, consumer or display types, within the proximity of others, or in areas where large public gatherings are present.
12. No person shall discharge or allow the use, explosion or other discharge of fireworks in any commercial or industrial rated building zone within the city limits, without permission of the Fire Chief.
13. Proximity for definition of this section shall mean within 10 feet of another individual, building/structure, or vehicle, unless a further distance is specifically given.

Commented [GU3]: I would increase this to at least 100 feet. Review of NFPA standard 1124 would be advisable here. NOTE: 32.15(1)(E) above requires sales to be more than 110 feet from inhabited building. I think 110 feet here would maintain consistency and is a much better distance generally.

32.18 FIREWORKS DISCHARGING PENALTIES

1. Any person who violates the provisions of the fireworks discharging ordinance shall be guilty of a scheduled simple misdemeanor violation punishable by a \$250 fine in addition to established court costs.
2. Persons who cause injury as a result of reckless discharging of fireworks shall be guilty of a serious misdemeanor charge with appearance before a magistrate required."

Commented [GU4]: Again, \$500 would be acceptable here if the City wants to be more strict punitive with this ordinance.

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.

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

Passed by the Council on the day of , 2017.

Hans K. Trousil, Mayor

ATTEST:

Kelly D. Fry, City Clerk