

**CITY OF HARTLEY  
ORDINANCE NO. 347**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE  
CITY OF HARTLEY, 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 Hartley, Iowa:

SECTION 1. SECTION MODIFIED. Chapter 41 Public Health and Safety, Section 41.14 of the Code of Ordinances of the City of Hartley, Iowa, is repealed and the following adopted in lieu thereof:

**“41.14 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 gold-star producing sparklers on wires which contain no magnesium or chlorate or perchlorate, flutter 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.

Novelty fireworks typically produce a much weaker explosion and sound. A few examples include:

(1) Party Poppers — once a string is pulled to activate the charge, confetti is thrust into the air and produces a report.

(2) Snaps — a small paper bag typically filled with gravel and a few milligrams of silver fulminate will produce a report when thrown at a hard surface or stepped on.

(3) Flying Lanterns (Sky lantern) — these paper lanterns float into the sky when lit. They emit a slight glow and are very commonly used at weddings and celebrations.

(4) 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.

(5) 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.

(6) Snakes (Black snake) — a small compressed pellet that, when lit, expands into a long snake-like object.

- 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, and all other fireworks that are not considered Novelty or Consumer.

## 2. Fireworks sales general requirements.

- A. Prior to any person engaging in fireworks sales the following shall be provided to the fire chief:

(1) Proof of valid permit issued from the state fire marshal.

(2) 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).

- B. 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 (2006 edition), the current fire code adopted by the City of Hartley (City Ordinance Chapter 35), and any rules, regulations, requirements or the like promulgated by the state fire marshal pursuant to Iowa Code § 100.19.

(1) An annual inspection fee of \$100 shall be charged by the City of Hartley for any permanent structure or building where fireworks are sold. This is in addition to any City Business License fee.

(2) An annual inspection fee of \$200 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.

(3) 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.

(4) 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.

(5) 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)

(6) 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)

(7) 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)

C. Fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code § 100.19(4) (c).

(1) Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved permanent structure or building between June 1<sup>st</sup> and July 8<sup>th</sup> and from December 10<sup>th</sup> until January 3<sup>rd</sup>.

(2) Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between June 13 and July 8.

(3) It shall be unlawful to sell fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates specified.

### 3. Firework sales safety requirements.

A. 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:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.

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

- (5) Any temporary structure shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.
- (6) Smoking, open flame source, or matches shall not be located within 50 feet where fireworks are sold.

Exception: 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.

Exception: 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.

- (7) 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.
- (8) All fireworks sales locations of any type shall maintain 48 inch clear aisles between fireworks display shelves.
- (9) 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.
- (10) Fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.

(11) 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.

(12) 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.

(13) 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.

(14) 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.

(15) 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.

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

- 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 in any of the following Districts: Residential Single-Family, Residential Multi-Family and Downtown Commercial Districts.
- E. Permits shall not be issued for the storage or sale of any fireworks at any place of habitation or within 100 feet thereof.
- F. Permits shall not be issued for the storage or sale of any fireworks in any place in an Agricultural, Highway Commercial, Light Industrial or Heavy Industrial Districts in the city within one hundred (100) feet of a business storing flammable or combustible solid or liquid products or that emit vapors in the air.

#### 4. Fireworks discharging general requirements.

It is the intention that citizens be allowed to enjoy the use of novelty and consumer 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.

- A. No person under the age of 18 shall discharge DOT 1.4 class fireworks without direct supervision by a parent or legal guardian.
- B. A person shall only discharge a fireworks device on real property they own or on property where consent has been expressly given. Fireworks shall not be discharged within 500 feet of City-owned or public property, except in the case of the City-owned swimming pool, fireworks shall not be discharged within 1000 feet of the City-owned swimming pool.
- C. 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.
- D. 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.
- E. No person shall discharge a fireworks device outside the following dates and hours:  
  
(1) July 3<sup>rd</sup> from 10:00 a.m. until 11:00 p.m. and July 4<sup>th</sup> from 10:00 a.m. until 11:00 p.m.
- F. It shall be unlawful to alter, remove, or discharge components of a 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. Exception: Special Limited Display permits may be issued by the Fire Chief. Inspections, Insurance, Display/Use types and Hours of use will apply.
- I. No person shall discharge or allow the use of fireworks to occur within 50 feet of an occupied structure in the city limits.
- J. 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.
- K. No person shall discharge or allow the use, explosion or other discharge of fireworks in any Downtown Commercial, Commercial or Industrial Districts within the city limits.
- L. 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.
- M. Notwithstanding the above subsections, no person shall discharge a fireworks device at any time upon declaration from the fire chief or police chief that discharging a fireworks device is temporarily banned due to severe dry weather conditions that

create heightened fire dangers. Any such declaration by the fire chief or police chief shall be published at least once in a newspaper calculated to bring such declaration to the notice of the residents of the City. Any declaration issued by the fire chief or police chief under this subsection shall take effect immediately upon its being published and shall be effective until rescinded by a declaration from the issuing chief indicating a termination of the ban.

5. Display fireworks.

A. No person, firm, partnership, or corporation shall offer for sale, expose for sale, sell at retail, store, or use or explode any display fireworks.

B. Notwithstanding the above subsection, the City Council may, upon application in writing, grant a permit for the display of display fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such display fireworks 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

6. Applicability. Section 41.11 of the Hartley Code of Ordinances does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited by city or state law; 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 theatre, 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.”

7. The fine for violating any section of this ordinance shall be the following:

A.) Warning

B.) First Offense \$100.00

C.) Second Offense \$200.00

D.) Third Offense \$400.00

E.) Fourth Offense and each subsequent offense thereafter will be \$500.00 dollars.

SECTION 2. REPEALER. All ordinances or parts 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 by the City Council this 11th Day of December, 2017.

\_\_\_\_\_  
Rodney Ahrenstorff, Mayor

Attest: \_\_\_\_\_  
Patty Anderson, City Clerk/Administrator

1<sup>st</sup> Reading: November 13, 2017  
2<sup>nd</sup> Reading: November 20, 2017  
3<sup>rd</sup> & Final Reading: December 11, 2017  
Published: December 21, 2017

I certify that the foregoing was published as Ordinance No. 347 on the 21st day of December 2017.

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Patty Anderson, City Clerk/Administrator