

ORDINANCE NO. 2018-501

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF INDEPENDENCE, IOWA, BY AMENDING SECTION 41.13 PERTAINING TO THE USE AND SALE OF FIREWORKS

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

SECTION 1. SECTION MODIFIED. Section 41.13 of the Code of Ordinances of the City of Independence, Iowa, is repealed and replaced by the following:

41.13 FIREWORKS.

1. **DEFINITION.** The term "fireworks" shall include any item or class of items defined as "consumer fireworks" in Iowa Code Sec. 727.2(1).

2. **FIREWORKS USE REGULATIONS.** It is unlawful for any person to use or explode any consumer fireworks as defined herein within the corporate limits of the City of Independence. All remaining restrictions, exemptions, and/or requirements imposed by Iowa Code § 727.2 and the applicable regulations promulgated by the State Fire Marshal shall remain in full force and effect.

(Code of Iowa, Sections 727.2(4); 364.2(6))

With respect to "display fireworks" as defined in Iowa Code § 727.2(1)(b) the City may, upon application in writing, grant a permit for the display of fireworks by 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. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

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

(Code of Iowa, Sections 727.2; 364.2(6))

3. **FIREWORKS SALE REGULATIONS.** The retail sale of fireworks within the City shall be limited to only those areas zoned C-1 and C-2, as designated on the City's Zoning Map. A copy of the City's Zoning Map can be found on the City's website or can be obtained upon request from the City Clerk's office.

Except for the limitations stated above, the City hereby adopts all standards, rules, regulations, and the like promulgated or that will be promulgated by the State Fire Marshall regarding the licensure of fireworks retailers and the retail sale of fireworks pursuant to Iowa Code §§ 100.1; 100.19; 727.2. The City specifically adopts National Fire Protection Association standard 1124 with respect to the requirements for the handling, storage, transportation, display, and retail sale of fireworks. All other provisions of the City Code of Ordinances not in conflict with this Section or with the laws of the State of Iowa remain valid and enforceable.

(Code of Iowa, Sections 727.2; 364.2(6))

4. **EXCEPTIONS.** 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 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.

(Code of Iowa, Sections 727.2)

5. PENALTIES. Any person who violates the provisions of subsection (2) of this Ordinance shall be guilty of a simple misdemeanor punishable by a fine of at least \$250, in addition to established court costs. Any person or firm who violates the provisions of subsection (3) of this Ordinance shall be guilty of a municipal infraction and subject to the penalties provided for in Chapter 4 of this Code of Ordinances.

Nothing in this section shall be construed to limit or infringe upon the ability of the State of Iowa to impose additional sanctions with respect to any fireworks retailer license held by the violator.

(Code of Iowa, Sections 100.19; 727.2(3)(c)(1))

SECTION 2. 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 3. 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 25th day of June, 2018.



Bonita Davis, Mayor

ATTEST:


Jeena Lynch, City Clerk/Treasurer

First Reading: June 25, 2018
Second Reading: Waived
Third Reading: Waived

I certify that the foregoing was published as Ordinance No.2018-501 on the 30th day of June, 2018.


Jeena Lynch, City Clerk/Treasurer