

CHAPTER 48

FIREWORKS REGULATION

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48.01 DEFINITIONS. For purposes of this chapter:

1. "APA 87-1" means the American Pyrotechnics Association Standard 87-1 as published in December, 2001, and as may be amended from time to time and re-published.
2. "City" means the City of Glenwood, Iowa.
3. "Consumer fireworks" means first-class consumer fireworks and second-class consumer fireworks as those terms are defined in Section 100.19, *Code of Iowa*.
4. "Display fireworks" means the fireworks defined in Section 727.2, *Code of Iowa*, as amended from time to time.
5. "Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion with substantially instantaneous release of gas and heat, unless such compound, mixture or device is otherwise specifically classified by the United States Department of Transportation. The term includes all materials which are classified as a Class 1, Division 1.1, 1.2, 1.3, or 1.4 explosive by the United States Department of Transportation under 49 C.F.R. Section 173.50, and all materials classified as explosive materials under 18 U.S.C. Section 841, and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonative fuse, instantaneous fuse, igniter cord, igniters, smokeless propellant, cartridges for propellant-actuated power devices, cartridges for industrial guns, and overpressure devices, but does not include "consumer fireworks," "display fireworks," or "novelties" as those terms are defined in this chapter, or ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols.
6. "Fireworks" means 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.

7. "First-class consumer fireworks" means those fireworks defined as first-class consumer fireworks in Section 100.19(c), *Code of Iowa*, as amended from time to time, and includes, but is not limited to, the following consumer fireworks:

- A. Aerial shell kits and reloadable tubes.
- B. Chasers.
- C. Helicopter and aerial spinners.
- D. Firecrackers.
- E. Mine and shell devices.
- F. Missile-type rockets.
- G. Roman candles.
- H. Sky rockets and bottle rockets.
- I. Multiple tube devices under this paragraph manufactured in accordance with APA 87-1, Section 3.5.

8. "Novelties" means those items enumerated as novelties as defined in Section 727.2, *Code of Iowa*, as amended from time to time, and includes those items classified as novelties in Chapter 3 of APA 87-1, and that comply with the labeling regulations issued by the U.S. Consumer Products Safety Commission.

9. "Permanent Building" means a structure as defined by the State Fire Marshal by administrative regulation or rule, which shall comply with the National Fire Protection Association, Standard 1124, published in the National Fire Protection Code relating to the manufacture, transportation, storage and retail sale of fireworks and pyrotechnic articles, 2006 Edition, as it may be amended from time to time.

10. "Retailer" means as defined in Section 423.1, *Code of Iowa*.

11. "Sale" or "sell" means transfer of ownership or possession in exchange for valuable consideration furnished by the person receiving ownership or possession.

12. "Second-class consumer fireworks" means those fireworks defined as second-class consumer fireworks in Section 100.19(e), *Code of Iowa*, as amended from time to time, and includes, but is not limited to the following consumer fireworks:

- A. Cone fountains.

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- B. Cylindrical foundations.
- C. Flitter sparklers.
- D. 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.
- E. Ground spinners.
- F. Illuminating torches.
- G. Toy smoke devices that are not classified as novelties pursuant to APA 87-1, Section 3.2.
- H. Wheels.
- I. Wire or dipped sparkers that are not classified as novelties pursuant to APA 87-1, Section 3.2.

13. "Stand-alone structure" means either a permanent building or a temporary structure attached to no other building or structure, and which is located a minimum of fifty (50) feet from any adjacent structure.

14. "Structure" means a place constructed by putting together materials which satisfies all conditions for a structure as set out in regulations or rules of the State Fire Marshal.

15. "Temporary structure" means that structure as defined by the State Fire Marshal by administrative regulation or rule, which shall comply with the National Fire Protection Association, Standard 1124, published in the National Fire Protection Code relating to the manufacture, transportation, storage and retail sale of fireworks and pyrotechnic articles, 2006 Edition, and amendments thereto.

16. "Use" means to apply the device or substance involved to the purpose for which it was designed. In the case of fireworks, this includes the discharge or exploding of the device or substance.

17. "Wholesaler" means a person who engages in the business of selling or distributing consumer fireworks for the purpose of re-sale in the State of Iowa.

48.02 SCOPE OF REGULATIONS. The City of Glenwood deems the use of display fireworks and consumer fireworks both a threat to public safety and a possible nuisance, and therefore prohibits the use of display fireworks, consumer fireworks, and novelties except as provided in this chapter.

48.03 DISPLAY FIREWORKS REGULATIONS. It is unlawful for any person to use display fireworks, unless upon application and permit therefore

issued by the City in accordance with conditions established by the City Council. In addition to or incorporated into the conditions established, shall be conditions requiring that the operator or sponsoring organization has satisfied the City that the display fireworks will be managed by a competent operator and that the operator or sponsoring organization has filed with the City Clerk evidence of liability insurance protecting the City with limits established by the City, but not less than \$1,000,000 per person and \$2,000,000 aggregate.

48.04 CONSUMER FIREWORKS REGULATIONS. Consumer fireworks may be used without advance notice as long as in compliance with all other regulations and restrictions concerning consumer fireworks use in the City.

48.05 NOVELTIES USE REGULATIONS. Novelties may be used without advance notice as long as in compliance with all other regulations and restrictions concerning novelties use in the City.

48.06 FIRST-CLASS CONSUMER FIREWORKS AND SECOND-CLASS CONSUMER FIREWORKS USE RESTRICTIONS. In addition to any restrictions stated in other sections of this chapter, the following use restrictions are adopted for use both of first-class consumer fireworks and second-class consumer fireworks:

1. Date(s) of use – first-class consumer fireworks and second-class consumer fireworks may be used only on the following dates and times. All times are local times:

- A. July 1, July 2 and July 3 of each year beginning at 9:00 A.M. and ending at 10:00 P.M. each day;
- B. July 4 of each year beginning at 9:00 A.M. and ending at 11:00 P.M.;
- C. July 5 of each year beginning at 9:00 A.M. and ending at 10:00 P.M.;
- D. December 30 of each year beginning at 9:00 A.M. and ending at 10:00 P.M. each day;
- E. December 31 of each year beginning at 9:00 A.M. and ending at 12:30 A.M. of the day following;
- F. January 1 and January 2 of each year beginning at 9:00 A.M. and ending at 10:00 P.M.

2. Proximity to structures. Fireworks shall be discharged a minimum of fifty (50) feet from any structure at the location where discharged.

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3. Supervision. Use of first-class consumer fireworks shall be under supervision of the responsible person indicated on the notice filed with the City Clerk. Use of second-class consumer fireworks shall be under supervision of an adult. The responsible person or adult shall be physically present at the location and in a position to enable the responsible person or adult to render assistance on an immediate basis.
4. Fire extinguisher. It shall be the responsibility of the responsible person or adult to have present at the location a fire extinguisher sufficient to suppress or extinguish fires started by use of the fireworks.
5. Reserved power in City. The City Fire Chief or Chief of Police may refuse or end the use of fireworks at any location in the event the Fire Chief or Chief of Police determines use at that location to be unsafe or in violation of this chapter.

48.07 PROHIBITATION OF FIREWORKS OR NOVELTIES USE. The City may prohibit use of fireworks or novelties when an increased fire danger is present, or for any other good cause posing hazard to the City or property of its residents.

48.08 GENERAL REQUIREMENTS.

1. Adults only. No person under the age of 18 years shall discharge a first-class consumer fireworks or second-class consumer fireworks without supervision as specified in this chapter.
2. Intoxication. No fireworks shall be discharged by a person under the influence of an alcoholic beverage or drugs.
3. Responsibility for safe use. The responsible person or adult at each location where consumer fireworks are used is responsible for both proper and safe use of the fireworks and use in compliance with this chapter.
4. Unsafe or reckless use. No person shall discharge fireworks in an unsafe or reckless manner or with the intent to cause injury, death, fire or property damage either to the person's property or that of a third party.
5. Alteration of components. It is a violation of this chapter for any person to alter components of fireworks. The responsible person or any adult at the location of the violation may be charged accordingly.
6. Open flame devices. Open flame devices shall not be released into the air, unless the device after release remains connected to a person able to retrieve the device during or after use.
7. Public property use restrictions. It is unlawful for any person to use fireworks upon public property within the City, unless upon

application and permit therefore issued by the City in accordance with the requirements of Section 48.03 of this chapter. This use restriction includes, but is not limited to, use of fireworks upon City parks, street rights-of-way, sidewalks, recreational trail areas and the adjoining easement area thereto, and upon other easement areas granted to the City.

48.09 SALE OF FIREWORKS. The following regulations apply to sales or selling of fireworks within the City:

1. State Fire Marshall. The sale of consumer fireworks shall be regulated by the State Fire Marshal. Dates of permitted sales, minimum requirements for a consumer fireworks seller license and issuance of licenses shall be controlled by the State Fire Marshal, and those rules and regulations are hereby adopted by reference and incorporated into this chapter in addition to those provisions herein stated. In the event of a conflict between the rules and regulations of the State Fire Marshal and the provisions of this ordinance, the stricter provision shall be deemed controlling, in the absence of a state law providing otherwise.

2. Place of sales. The sale of fireworks shall be limited to either a permanent building or temporary structure meeting the requirements of the State Fire Marshal, which building or structure is a stand-alone structure under this chapter.

3. NFP standards. Any seller of consumer fireworks as described in APA 87-1, Chapter 3, shall do so in accordance with the National Fire Protection Standard 1124, published in the National Fire Protection Code relating to the manufacture, transportation, storage and retail sales of fireworks and pyrotechnic articles, 2006 Edition, and amendments thereto.

4. Permit and insurance required. A seller must provide to the City Clerk proof satisfactory to the City of the seller's possession of a valid license issued by the State Fire Marshal and a policy of commercial general liability insurance with minimum limits per occurrence of \$1,000,000 and minimum aggregate limits of \$2,000,000 with both the City of Glenwood and the property owner where the permanent building or temporary structure is located shown as additional insureds, effective during the entire duration of sale dates provided for under law.

Sale dates and times. Sales of fireworks from the following structures are permitted each year during the dates and times shown. All times are local time.

- A. Permanent building. June 1 through July 8, and December 10, to the following January 3, all dates inclusive.

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- B. Temporary structure. June 13 through July 8, inclusive.
 - C. Hours: Sales shall begin at 8:00 A.M. and shall end at 8:00 P.M.
- 6. Age restrictions. No consumer fireworks shall be sold to any person under the age of 18 years on the date of sale.
 - 7. Where allowed. Fireworks sales shall be permitted only in areas not zoned as residential under the City of Glenwood Zoning Ordinance.

48.10 PENALTY. Any person found guilty of a violation of an of the provisions of this chapter shall upon conviction be subject to a minimum fine of \$250.00, plus court costs. Any violation of the provisions of this chapter may be prosecuted as a municipal infraction under this Code of Ordinances, either in addition to or in lieu of, the criminal prosecution.

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