

ORDINANCE 03-28-13-01

AN ORDINANCE AMENDING THE JOHNSON COUNTY FIREWORKS ORDINANCE

Section I. Purpose. The purpose of this ordinance is to further the stated purpose of the Fireworks Ordinance for Johnson County by adding specific requirements for the application, adding a definition of applicant, providing for the consideration of conduct under prior permits, and making other related amendments.

Section II. Amendments. Chapter 5:2 of the Johnson County Code of Ordinances is hereby amended by deleting it in its entirety and inserting in lieu thereof the following:

5:2.1. Purpose. The purpose of this chapter is to provide for a process for the consideration and granting of permits for the use of fireworks in Johnson County, Iowa, consistent with the discretion granted to the Board of Supervisors in Iowa Code Section 727.2.

5:2.2. Definitions.

(A) As used in this ordinance, the term "fireworks" includes any explosive composition, combination of explosive substances, or device for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of Section 727.2, Iowa Code. The term fireworks does not include goldstar-producing sparklers on wires which contain no magnesium, chlorate or perchlorate; flitter sparklers in paper tubes that do not exceed one-eighth inch in diameter; toy snakes which contain no mercury; or caps used in cap pistols.

(B) As used in this ordinance, the term "consumer fireworks" means fireworks devices classified as fireworks 1.4 UN #0336 and #0337 by the U.S. Department of Transportation at 49 CFR 172.101, and include those small firework items intended for personal use and which can be purchased over-the-counter in many states. These items include small fountains, small arterial shells, sparklers, firecrackers, and small rockets.

(C) As used in this ordinance, the term "display fireworks" means fireworks devices intended for use in fireworks displays and classified as explosives 1.3 as described as fireworks, UN #0333, #0334 and #0335 by the U.S. Department of Transportation at 49 CFR 172.101.

(D) As used in this ordinance, the term "operator" means a person trained in fireworks safety who will set up and explode the fireworks.

(E) As used in this ordinance, the term "applicant" means the municipality, organization, or group of individuals requesting a fireworks permit.

(F) As used in this ordinance, the term "fireworks display" means the explosion of fireworks regulated herein. The test-firing of fireworks by a person certified by the ATF to build fireworks shall not be considered a fireworks display so long as said person's name and address are on file with the Board of Supervisors.

5:2.3. Prohibition. No person shall conduct a fireworks display in Johnson County, Iowa, unless a permit for such display is first obtained from the Johnson County Board of Supervisors.

5:2.4. Application. Application for a permit under this ordinance shall be made in writing on a form prescribed by the Board of Supervisors no later than 14 days before the anticipated fireworks display. The Board may, in its discretion, accept applications filed beyond the deadline set out herein. The application shall include such information as deemed by the Board to be necessary for its consideration, including but not limited to the name, address and telephone number of the applicant; the name, address and telephone number of the operator; an explanation of the operator's proficiency or training in the use of fireworks; a drawing of the shoot site and drop zone, including their distance from spectators and any buildings; and the proposed approximate time of the display. Additionally, the application shall be accompanied by a signed hold harmless agreement in favor of the County; proof of insurance for a display of "consumer fireworks", or a bond or proof of insurance in an amount not less than \$1,000,000.00 for a display of "display fireworks;" proof of workers compensation insurance, where appropriate; and a copy of any necessary ATF permits or certifications.

5:2.5. Age and Qualifications of the Applicant and Operator. Permits may be granted to municipalities, organizations or groups of individuals. Any applicant requesting a permit for a display of "display fireworks" shall have an operator who possesses a current and valid ATF permit as set forth by the Safe Explosives Act and is certified by a nationally-recognized fireworks safety organization such as the American Fireworks Association or the Pyrotechnics Guild International, Inc. Any applicant requesting a permit for a display of "consumer fireworks" shall have an operator who is certified by a nationally-recognized fireworks safety organization such as the American Fireworks Association or the Pyrotechnics Guild International, Inc. and who is at least 21 years of age on the date of the display.

5:2.6. Fireworks Displays, Search for and Disposal of Unexploded Fireworks. The discharge of fireworks under a permit granted pursuant to this ordinance will not be allowed before sunrise or after midnight of the date of the display unless otherwise permitted by the Johnson County Board of Supervisors at the time the permit application is approved. Any fireworks that remain unexploded after the display shall be immediately disposed of or removed for storage or disposal in a safe manner by the operator who, as soon as practicable after the conclusion of the display, shall make a complete and thorough search for any fireworks or fuses, or parts thereof, which have not exploded or functioned.

5:2.7. Permit Suspension. The Johnson County Sheriff and his or her designees may suspend any permit issued pursuant to this ordinance should he or she determine that the health, safety, welfare of the public would require the suspension, or should the applicant and or operator fail to meet the qualifications as set out in this ordinance. In the event of any such suspension, the Sheriff shall file a report thereof with the Board of Supervisors. Thereupon, the Board of Supervisors shall, at its next formal meeting, affirm the

suspension of permit or reinstate the same. In the event a burn ban is issued for Johnson County by the State Fire Marshall or other appropriate authority, all permits granted shall be automatically suspended until such time as the burn ban is lifted.

5:2.8. Consideration of Prior Permits. In determining whether the application for a fireworks permit should be granted, the Board shall consider an applicant or operator's conduct in association with prior fireworks permits.

5:2.9. Penalty. Violation of the provision of this ordinance shall constitute a simple misdemeanor and the penalty for such violations shall be provided by the *Iowa Code* for simple misdemeanors.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

Janelle Rettig, Chairperson
Board of Supervisors

ATTEST: Travis Weipert, Auditor
Johnson County, Iowa