

CHICKASAW COUNTY

ORDINANCE NO. V-14

AN ORDINANCE PROVIDING FOR GENERAL REQUIREMENTS REGARDING THE SALE OF CONSUMER FIREWORKS AND USE AND DISCHARGE OF CONSUMER FIREWORKS AND FIREWORKS DISPLAY WITHIN THE UNINCORPORATED AREAS OF CHICKASAW COUNTY

BE IT ORDAINED BY THE BOARD OF SUPERVISORS CHICKASAW COUNTY:

SECTION 1 -- PURPOSE

The purpose of this Ordinance is to ensure the safety of Chickasaw County Citizens and to enforce Iowa Code Chapter 727.

SECTION 2 – DEFINITIONS

(a) Display Fireworks: Display Fireworks is defined as 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 explosive or flammable compound, or other device containing any explosive substance which meets the definition of Display Fireworks contained in Iowa Code Section 727.2(1)(b) (2017). Display Fireworks does not include Consumer Fireworks or Novelties as defined in Iowa Code Sections 727.2(1)(a) or 727.2(1)(c) (2017)

(b) Consumer Fireworks: Consumer Fireworks is defined to include first-class consumer fireworks and second-class consumer fireworks as those terms are defined in Iowa Code Section 100.19(1) (2017).

(c) Novelties: Novelties is defined to include all novelties enumerated in Chapter 3 of the American Pyrotechnics Association Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

(d) Operator: A person eighteen (18) years of age or older trained in fireworks safety who will set up and explode the Display Fireworks.

(e) Applicant: The municipality, organization, fair association, amusement park, individual, or group of individuals requesting a Display Fireworks permit.

(f) Fireworks Display: The explosion of Display Fireworks regulated hereunder. The test firing of Display Fireworks by a person certified by the ATF to build Display Fireworks shall not be considered a fireworks display so long as said person's name and address are on file with the Chickasaw County Board of Supervisors for that purpose.

(g) 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) Sky rockets and bottle rockets; and
- (viii) Multiple type devices under this subparagraph (b) which are manufactured in accordance with APA 87-1, Section 3.5.

(h) 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.

SECTION 3 – PROHIBITION

(a) No person shall conduct or cause to conduct a Fireworks Display in the unincorporated areas within Chickasaw County, Iowa, unless a permit for such display is first obtained from the Chickasaw County Board of Supervisors.

(b) No person shall conduct or cause to conduct a Fireworks Display or engage in the testing of Display Fireworks in the unincorporated areas within Chickasaw County, Iowa during any time in which a burn ban or other applicable burn restriction(s) has/have been issued or otherwise placed in effect by any lawful authority.

(c) No person shall use Consumer Fireworks in the unincorporated areas within Chickasaw County, Iowa during any time in which a burn ban or other applicable burn restriction(s) has/have been issued or otherwise placed in effect by any lawful authority.

SECTION 4 – APPLICATION

Application for a permit to conduct a Fireworks Display 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. An Application Fee of \$50.00 shall accompany the Application for Fireworks Permit.

The application shall include such information as deemed by the Board of Supervisors to be necessary for its consideration, including, but not limited to the name, address and telephone number of the applicant; the name, age, address and telephone number of the operator; the location of the Fireworks Display; and the proposed approximate time and date of the Fireworks Display. The application must be signed by the fire chief of the jurisdiction in which the display will be located. Additionally, the application shall be accompanied by **proof of \$2,000,000 in liability insurance** and a copy of proof of training or certification. It is recommended that the application be submitted to the Chickasaw County Auditor at least 14 days prior to the proposed display date. The application will then be scheduled for consideration on the next available meeting date for the Chickasaw County Board of Supervisors. Applicants will be notified of the Board of Supervisor’s decision.

SECTION 5 – AGE AND QUALIFICATIONS OF THE APPLICANT AND OPERATOR

Permits for a Fireworks Display may be granted to municipalities, fair associations, amusement parks, organizations of groups of individuals. Any applicant requesting a permit for a Fireworks Display shall have an operator eighteen (18) years of age or older who possesses a current and valid ATF permit as set forth by the State Explosives Act and is certified by a nationally-recognized fireworks safety organization such as the American Pyrotechnic Association or the Pyrotechnics Guild International, Inc. The representative signing the application on behalf of the municipality, fair association, amusement park, and/or organization or group of individuals shall be at least eighteen (18) years of age.

SECTION 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 eleven o’clock (11:00) p.m. of the date of the Fireworks Display unless otherwise permitted by the Chickasaw County Board of Supervisors at the time the permit application is approved. Any Display Fireworks that remain unexploded after the Fireworks 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 Fireworks Display, shall make a complete and thorough search for any Display Fireworks or fuses, or parts thereof, which have not exploded or functioned.

SECTION 7 – PERMIT SUSPENSION AND BURN BANS

The Chickasaw County Sheriff, area Fire Chief, Fire Marshal and/or their respective designee(s) may suspend any permit issued pursuant to this Ordinance and/or any Display Fireworks testing should any such individuals 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 and appropriate Fire Chief shall promptly file a report thereof with the Board of Supervisors. Thereupon, the Board of Supervisors shall, at its next formal meeting, affirm the suspension of the permit or reinstate the same. In the event a burn ban is issued for Chickasaw County by the State Fire Marshal or other appropriate authority, all approved permits shall be automatically suspended and test firing of Display Fireworks otherwise allowed without a permit shall be not conducted until such time as the burn ban is lifted or expires by order of the Fire Marshal or other appropriate authority, unless the area Fire Chief, Fire Marshal, or designee issues a written exception for a particular Fireworks Display or test firing.

SECTION 8 – CONSIDERATION OF PRIOR PERMITS

In determining whether the application for a Fireworks Display permit should be granted, the Board may consider an applicant’s or operator’s conduct in association with prior Fireworks Display permits.

SECTION 9 – USE OF CONSUMER FIREWORKS PERMITTED

(a) A person may use or explode Consumer Fireworks during the dates of June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive, so long as the use of Consumer Fireworks is not prohibited under Section 3 subparagraph C under Prohibition set forth herein above.

(b) A personal shall not use or explode Consumer Fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates Consumer Fireworks shall not be used at times other than between the hours specified:

(1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.

(2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.

(3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.

(c) A personal shall not use Consumer Fireworks on real property other than that person’s real property or on the real property of a person who has consented to the use of Consumer Fireworks on that property.

SECTION 10 – USE OF NOVELTIES PERMITTED

Unless specifically provided otherwise, this Ordinance does not apply to the use of Novelties.

SECTION 11 – SALE, TRANSFER, AND PURCHASE OF CONSUMER FIREWORKS

- i. Sale. The sale of consumer fireworks shall at all times be conducted in accordance with the provisions of the Iowa Code and the administrative rules adopted by the Iowa State Fire Marshal relating to the sale, transfer and purchase of consume fireworks. Accordingly, it shall be unlawful to sell consumer fireworks without meeting the requirements specified in the Iowa Code and by the State Fire Marshal, or to sell consumer fireworks outside of the following dates:
 - a. 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.
 - b. Approved consumer fireworks sales meeting the requirements of this Chapter shall be allowed from an approved temporary structure between June 13 and July 8.
- ii. Requirements. Prior to engaging in the sale of consumer fireworks, a person, firm, partnership, or entity who sells consumer fireworks shall (1) provide the appropriate Fire Chief within the jurisdiction of the sale premises with proof of a valid and current license issued by the state fire marshal, (2) obtain a permit from the Fire Chief following inspection of the property, building, or premise from which sales will be conducted. Said permit shall be effective for one year from the date of issuance. Issuance of a new permit shall only be made after re-inspection of the property, building, or premises by the Fire Chief.
- iii. 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 the Chief's 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 Chickasaw County. 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.
- iv. Revocation of Fireworks Sales Permit. The Fire Chief may, for cause, revoke the permit for the sale of consumer fireworks. An appeal of the decision may be taken to the Chickasaw County Board of Supervisors by filing a written notice with the County Auditor. The written notice must be filed with the County Auditor within ten (10) days of the Fire Chief's decision to revoke the permit. The Chickasaw County Board of Supervisors shall schedule a hearing on the appeal within seven (7) days from the receipt of the notice. The appeal shall stay the decision of the Fire Chief unless the Chickasaw County Board of Supervisors directs otherwise. At the hearing, the applicant shall have the opportunity to present evidence or arguments the applicant may have as to why the action of the Fire Chief should not be approved by the Chickasaw County Board of Supervisors. The Chickasaw County Board of Supervisors shall render a written decision on the appeal within seven (7) days after the hearing. The decision of the Chickasaw County Board of Supervisors shall be final. The parties may extend the time limits set forth herein by mutual agreement.

SECTION 12 – SALE, TRANSFER, AND PURCHASE OF DISPLAY FIREWORKS

It is unlawful for any person to offer for sale, expose for sale, or sell at retail any display fireworks.

SECTION 13 – PENALTY

Violation of any of the provisions of this Ordinance shall constitute a simple misdemeanor.

SECTION 14 – REPEALER

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

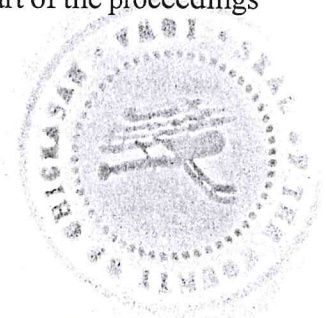
SECTION 15 – SAVINGS CLAUSE

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 16 – EFFECTIVER DATE

This Ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

Passed and approved this 18 day of June, 2018.



Chickasaw County Board of Supervisors

Jacob Hackman
Jacob Hackman - Chairman

Tim Zoll
Tim Zoll - Member

David Tilkes
David Tilkes – Member

Steve Geerts
Steve Geerts – Member

Dan Carolan
Dan Carolan - Member

ATTEST: Jean G. Knoll
Chickasaw County Auditor

First Reading: June 18, 2018

Second Reading: Waived-June 18, 2018

Approved June 18, 2018

Published: June 22, 2018

APPLICATION FOR FIREWORKS PERMIT

NAME: _____ DATE: _____
ADDRESS: _____ AGE: _____
GROUP OR ORGANIZATION: _____
DATE OR DATES OF EVENTS: _____ EXPECTED ATTENDANCE: _____
HOURS OF EVENT: Beginning: _____ Ending: _____
TYPE OR CLASS OF FIREWORKS: _____
LOCATION OF EVENT: _____
COMPETENT OPERATOR: _____
AGE OF OPERATOR: _____

Fire Chief Signature in Jurisdiction of Event

STATE OF IOWA, COUNTY OF CHICKASAW, SS:

I, the undersigned applicant, do hereby depose and state that I have prepared and executed the above application and know that the statements made therein are true and correct as I verily believe.

I do further state that in the event said application is granted by Chickasaw County, I, the applicant, will observe the rules and regulations issued by the manufacturer and/or distributor of said fireworks, in the use of said fireworks; that I will allow no other individual or individuals to operate or use said fireworks, except those qualified individuals listed in this application, that I will observe and execute all recognized safety precautions in the use and clean-up of said fireworks; that in the event that a lawsuit would be filed by any person or persons arising out of the use of the fireworks covered by this application, the undersigned agrees to hold Chickasaw County harmless from such lawsuit and to defend in any Court any such lawsuit, and to provide legal counsel therefore, all without cost to Chickasaw County, Iowa.

It is acknowledged by the undersigned that the consideration for the execution of this hold harmless agreement is the granting by Chickasaw County of the permit applied for herein.

APPLICANT

Subscribed and sworn to before me by _____ on this
____ day of _____, 20____, before me, a Notary Public in and for said County and
State.

NOTARY PUBLIC

ATTACHMENTS

- Copy of Valid ATF Permit
- Copy of Certificate of Training
- Proof of Insurance