

ORDINANCE NO. 266

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SWISHER, IOWA, BY AMENDING PROVISIONS PERTAINING TO FIREWORKS**

Be It Enacted by the City Council of the City of Swisher, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 41.14 of the Code of Ordinances of the City of Swisher, Iowa, is repealed and the following adopted in lieu thereof:

**41.14 FIREWORKS.**

*(Code of Iowa, Sec. 727.2)*

1. Definitions. For purposes of this section:
  - A. "Consumer fireworks" means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association ("APA") Standard 87-1:
    - (1) First-class consumer fireworks:
      - a. Aerial shell kits and reloadable tubes;
      - b. Chasers;
      - c. Helicopters 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 B which are manufactured in accordance with APA Standard 87-1, Section 3.5.
    - (2) Second-class consumer fireworks:
      - a. Cone fountains;
      - b. Cylindrical fountains;
      - 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 Standard 87-1, Section 3.5;
      - e. Ground spinners;
      - f. Illuminating torches;
      - g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;
      - h. Wheels;
      - i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.

B. "Display 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 fireworks containing any explosive or flammable compound, or other device containing any explosive substance. "Display fireworks" does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.

C. "Novelties" includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid. 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: \$250,000.00 per person
- B. Property Damage: \$50,000.00
- C. Total Exposure: \$1,000,000.00

3. Consumer Fireworks. It is unlawful for any person to use or explode consumer fireworks within the City.

4. Novelties. This section does not apply to novelties.

**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.

On the 9<sup>th</sup> day of October 2017, at a regular meeting of the Swisher City Council, Swisher, Iowa, Councilperson Gudenkauf introduced Ordinance No. 266, and moved that it be given its first reading. The motion was seconded by Councilperson Suec.

Ayes: Gudenkauf, Hinrichs, Suec

Nays: None

Absent: Neuendorf, Staggs

3 members of the Council being present and having voted aye, Mayor Christopher Taylor declared the motion carried, and Ordinance No. 266 was read the first time and discussed and placed on record.

On the 13<sup>th</sup> day of November, 2017 at a regular meeting of the Swisher City Council, Swisher, Iowa, thereupon, it was moved by Councilperson Neuendorf, and seconded by Councilperson Hinrichs that Ordinance No. 266 be introduced and moved that it be given its second reading.

Ayes: Gudenkauf, Hinrichs, Neuendorf, Stagg

Nays: None

Absent: Suec

4 members of the council being present and having voted "Aye", Mayor Christopher Taylor declared the motion carried, and Ordinance No. 266, was read the second time and discussed and placed on record.

On the 13<sup>th</sup> day of Nov., 2017 at a regular meeting of the Swisher City Council, Swisher, Iowa, Councilperson Neuendorf and seconded by Councilperson Stagg that the laws and rules providing that ordinances be considered and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed be suspended and dispensed with for Ordinance No. 266.

Ayes: Gudenkauf, Hinrichs, Neuendorf, Stagg

Nays: None

Absent: Suec

4 members of the council being present and having voted "Aye", Mayor Christopher Taylor declared the motion carried on Ordinance No. 266.

On the 13<sup>th</sup> day of Nov, 2017 at a regular meeting of the Swisher City Council, Swisher, Iowa, thereupon, it was moved by Councilperson Stagg, and seconded by Councilperson Gudenkauf that Ordinance No. 266 be placed upon its final passage and adopted.

Ayes: Gudenkauf, Hinrichs, Neuendorf, Stagg

Nays: None

Absent: Suec

4 members of the council being present and having voted "Aye", Mayor Christopher Taylor declared the motion carried, and the ordinance was passed and adopted.

Whereupon the Mayor declared that Ordinance No. 266 be adopted and signified his approval of same by fixing his signature thereto.

Passed by the council on the 13<sup>th</sup> day of Nov., 2017 and approved by the Mayor on the 13<sup>th</sup> day of Nov., 2017.

*Christopher J. Taylor*

**CHRISTOPHER TAYLOR, Mayor**

ATTEST:

*Tawnia Kakacek*

**Tawnia Kakacek, City Clerk**