

ORDINANCE NO. 486

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

BE IT ENACTED by the City Council of the City of Cresco, Iowa, as follows:

SECTION 1. Chapter 41, Section 13, of the Code of Ordinances of the City of Cresco, Iowa, is repealed and the following adopted in lieu thereof:

41.13 FIREWORKS. The sale, use and exploding of fireworks within the City are subject to the following:

1. **Definition.** Consumer Fireworks shall have the same meanings as defined in Iowa Code section 727.2. Consumer Fireworks do not include novelties enumerated in chapter 3 of the American Pyrotechnic Association's standard 87-1.

A. First-Class Consumer Fireworks include aerial shell kits and reloadable tubes; chasers; helicopter and aerial spinners; firecrackers; mine and shell devices; missile-type rockets; roman candles; sky rockets and bottle rockets; multiple tube devices manufactured in accordance with APA 87-1, section 3.5.

B. Second-Class Consumer Fireworks include cone fountains; cylindrical fountains; flitter sparklers; grand and hand-held sparkling devices; ground spinners; illuminating torches; toy smoke devices and wheels and wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.

C. Display Fireworks include any explosive composition, or combination of explosive substances, or article prepared 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 do not include consumer fireworks.

2. **Discharge of Consumer Fireworks.**

A. A person shall not use or explode consumer fireworks on days other than July 3rd between the hours of 9:00 a.m. and 10:00 p.m. and July 4th between 9:00 a.m. and 11:00 p.m.

B. A person shall not use consumer fireworks on real property other than that person's real property or on property where consent has been given.

C. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

D. Any person discharging a consumer fireworks device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.

E. Violation of this subsection commits a simple misdemeanor punishable by a fine of not less than \$250.00 up to \$625.00.

3. **Exception for Display Fireworks.** The City may, upon application in writing, grant a permit for Display 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.

A. Competent Operator must either be a PGI Certified Shooter or must attest to following safety precautions and studied the Iowa Pyrotechnic Association Display Operator Course online.

B. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

1. Personal Injury.....\$250,000 per person
2. Property Damage.....\$50,000
3. Total Exposure.....\$1,000,000

4. **Other Exceptions.** This section does not prohibit 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.

5. **Sales.** No person shall sell or offer for sale consumer grade fireworks without first securing a Retail Fireworks License through the State Fire Marshal's Office for the State of Iowa.

A. City Permit. An application must be filed with City Hall that includes:

1. The location and dates for the sale of fireworks. Sales of consumer fireworks are allowed only within districts zoned as Commercial C-1 or C-2 and Industrial M-1.
2. Proof of Licensing from the Office of the State Fire Marshal.
3. Proof of Liability Insurance covering all aspects of consumer fireworks sales for a minimum amount per occurrence of \$1,000,000 and a minimum aggregate amount of \$2,000,000.
4. Sales within a permanent structure or building shall be allowed between June 1 and July 8 and December 10 until January 3.

5. Approved temporary structure or stand sales shall be allowed between June 13 and July 8.
6. The following information must be stated in an easily readable type size and prominently posted at the place of payment at each location selling Consumer Fireworks:
 - (a) The use or explosion of Consumer Fireworks within the city limits is prohibited on days other than July 3rd between the hours of 9:00 a.m. and 10:00 p.m. and July 4th between 9:00 a.m. and 11:00 p.m.; and
 - (b) A violation of City of Cresco Code Section 41.13 (2) constitutes a simple misdemeanor, punishable by a fine of not less than \$250.00 up to \$625.00.

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 AND APPROVED THIS _____ DAY OF _____, 2020.

Mayor Mark Bohle

ATTEST: _____
City Clerk Michelle Girolamo

1st Reading Summary _____ 2nd Reading Summary _____ 3rd Reading Summary _____

I certify that a summary of the foregoing was published as Ordinance No. 486 on the ____ day of _____, 2020.

City Clerk Michelle Girolamo