

CITY OF CASSELTON, NORTH DAKOTA
ORDINANCE NO. 276

Whereas, the City of Casselton has, under the provisions of Section 40-05-01 (38) of the North Dakota Century Code the authority to regulate the use and sale of fireworks; and

Whereas, the City of Casselton desires to protect the health and safety of persons within the City as well as to protect property within the City from fire hazards; so

Now Therefore, be it ordained by the City Council of the City of Casselton:

1. DEFINITION. As used in this ordinance the term "fireworks" means and includes any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation and includes blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sky rockets, Roman candles, daygo bombs, sparklers, or other fireworks of like construction, any fireworks containing any explosive or flammable compound, or any tablets or other devices containing any explosive substance. The term "fireworks" shall not include toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap.

2. PROHIBITION ON SALE OR USE. Except as otherwise provided in this ordinance, it shall be unlawful for any person to offer for sale, expose for sale, sell at retail or wholesale, use, explode or possess any fireworks within the limits of the City of Casselton.

3. EXCEPTIONS.

A. Any individual who is at least 12 years of age may use, explode or possess any retail fireworks within the limits of the City of Casselton, commencing July 3 at 8:00 a.m. CST, and ending July 3 at 10:59 p.m., commencing July 4 at 8:00 a.m. CST, and ending on July 4 at 11:59 p.m. CST, commencing July 5, at 8:00 a.m. CST, and ending July 5, at 10:59 p.m. CST. The individual use, explosion, or possession of fireworks at any other time during the year, except by permit as provided in Section 3(B) is prohibited.

B. Any person wanting to use, explode, or display fireworks at any time other than those specified in Section 3(A) or wanting to explode or display any fireworks other than retail fireworks must obtain a permit pursuant to this section from City Council.

The application for such permit, in such form and fee as may be required by the City Council, shall be filed with the City Auditor and by her referred to the Chief of the Fire

Department for investigation to determine whether the operator of the display is competent and whether the display is of such character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. The Chief of the Fire Department shall **recommend approval or disapproval** of the proposed display in writing. **The City Council shall decide whether to approve or disapprove of the permit at a regular or special meeting.** In issuing such permit, the City assumes no liability for any damage to persons or property resulting from such displays. Nothing in this ordinance shall be construed to prohibit the use of fireworks by airplanes and railroads or other transportation agencies for signal purposes or illumination; or the sale or use of blank cartridges or pyrotechnic special effects for a motion picture, television, show or theater, or sale or possession of powder for reloading cartridges or firearms used for hunting or trap shooting, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations.

C. No person shall ignite, discharge or use fireworks on publicly owned or controlled property, including but not limited to, park property, city or county property, school property or federally owned property without prior written authorization from the governing board or authorized representative of the public entity, which owns or controls the property.

D. No person shall ignite, discharge or use fireworks on any property owned or controlled by another person or entity without the express permission of the owner or person or entity in control of the property.

E. The exceptions set forth in subsections A and B of this section may be suspended by the Chief of the Casselton Fire Department when a burning ban has been issued for either the State of North Dakota, Cass County or the City of Casselton. In the event the Chief of Casselton Fire Department suspends the use of fireworks, he shall notify the Casselton Police Department and the Public. The purpose of this subsection is to protect the property and provide for the safety and well-being of the residents of Casselton.

F. This ordinance also shall not prohibit sales of fireworks in compliance with North Dakota statutes if the person, organization, or association attempting to sell fireworks first obtains a permit from the City Council. The application for such permit, in such form as may be required by the City Council, shall be filed with the City Auditor 60 days before the proposed date of sale and referred by the City Auditor to the Chief of the Fire Department for investigation to determine whether the proposed seller is competent and whether the place of selling and/or storage of fireworks is of such character and is so located so that it will not be hazardous to property or endanger any person. The Chief of the Fire Department shall report the results of the investigation to the City Council who shall determine whether such permit shall be issued or the application rejected. The City Council, in determining whether to grant a permit for the sales of fireworks, shall base its

decision on the following factors: 1) whether the seller complies with all relevant laws, restrictions and regulations having to do with the transportation, storage, and sales of fireworks; 2) the recommendation of the Chief of the Fire Department; 3) the location of the proposed place of selling and its proximity to businesses, residences, and major traffic arteries; 4) the zoning district classification that the proposed place of selling is located in; and 5) such other factor as the City Council deems relevant. In issuing a permit for the display or sales of fireworks, the City assumes no liability for any damage to persons or property resulting from such displays or sales.

4. PENALTY. The penalty for violation of this ordinance shall be an infraction, punishable by a maximum fine of \$1,000. The Municipal Judge shall have the authority to establish the penalty for each infraction which is an offense up to a maximum of \$1,000. In addition to the penalty provided above, any violation of this section may result in the seizure or removal by the state fire marshal, sheriff or sheriff's deputy, police officer, or local fire marshal, at the expense of the owner, of all fireworks or combustibles offered or exposed for sale, stored, or held.

5. EFFECTIVE DATE. This ordinance shall go into effect upon final passage, approval by the Mayor and publication in the official newspaper of the City.

APPROVED:

Lee Anderson, Mayor

ATTEST:

Sheila Klevgard, City Auditor

FIRST READING: May 5, 2014

SECOND READING: June 24, 2014

PUBLICATION: July 2, 2014