

ORDINANCE NUMBER 285

**AN ORDINANCE TO RESTRICT THE TYPES OF FIREWORKS SOLD OR USED WITHIN THE MUNICIPALITY
OR TO BAN THE SALE AND USE OF FIREWORKS ALTOGETHER AND PROVIDING PENALTIES FOR THE
VIOLATION THEREOF.**

WHEREAS, Colorado Revised Statutes 24-33.5-2001, et. seq. sets forth a statewide regulation of fireworks as defined herein; and

WHEREAS, the state statute authorizes local governments, including statutory municipalities, to further restrict the types of fireworks sold or used within the municipality or to ban the sale and use of fireworks altogether, and to enforce the regulations in local municipal courts; and

WHEREAS, the Board of Trustees of the Town of Hugo, has determined that alleged violation of the fireworks regulations should be summoned into the Hugo Municipal Court;

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE TOWN OF HUGO DOES HEREBY RESOLVE AND ORDAIN TO ADOPT THE FOLLOWING STATED PROVISIONS:

Section 1.-DEFINITIONS. As used in this ordinance, the following terms shall have the meanings indicated therein:

"**Authorized Officer**" shall mean and include any marshal, deputy marshal, and any code enforcement officer of the Town.

"**Fireworks**" means any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, Roman candles, dayglo bombs, and torches, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

"**Fireworks**" does not include:

- (1) Toy caps, party poppers, and items similar to toy caps and party poppers that do not contain more than sixteen milligrams of pyrotechnic composition per item and snappers that do not contain more than one milligram of explosive composition per item;
- (2) Highway flares, railway fuses, ship distress signals, smoke candles, and other emergency signal devices.
- (3) Educational rockets, toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges designed to be ignited by electrical means, or fireworks which are used in testing or research by a licensed explosive laboratory.

"**Permissible Fireworks**" means the following items designed primarily to produce visual or audible effects by combustion, including certain devices designed to produce audible or visual effects, except that no device or component shall, upon functioning, project or disburse any metal, glass, or brittle plastic fragments:

- (a) Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five grams each for a single tube or, when more than one tube is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;
- (b) Cone fountains, total pyrotechnic composition not to exceed fifty grams each for a single cone or, when more than one cone is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;
- (c) Wheels, total pyrotechnic composition not to exceed sixty grams for each driver unit or two hundred grams for each complete wheel;

- (d) Ground spinner, a small device containing not more than twenty grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground;
- (e) Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed two hundred grams each;
- (f) Dipped sticks and sparklers, the total pyrotechnic composition of which does not exceed one hundred grams, of which the composition of any chlorate or perchlorate shall not exceed five grams;
- (g) Any of the following that do not contain more than fifty milligrams of explosive composition: Explosive auto alarms; Toy propellant devices; Cigarette loads; Strike-on-box matches; or Other trick noise makers;
- (h) Snake or glow worm pressed pellets of not more than two grams of pyrotechnic composition and packaged in retail packages of not more than twenty-five units;
- (i) Fireworks that are used exclusively for testing or research by a licensed explosives laboratory;
- (j) Multiple tube devices with:
- (k) Each tube individually attached to a wood or plastic base; The tubes separated from each other on the base by a distance of at least one-half of one inch; The effect limited to a shower of sparks to a height of no more than fifteen feet above the ground; Only one external fuse that causes all of the tubes to function in sequence; and A total pyrotechnic composition of no more than five hundred grams.
- (l) "Permissible fireworks" do not include aerial devices or audible ground devices, including, but not limited to, firecrackers.

"Government-sponsored or co-sponsored" shall mean the Town of Hugo, County of Lincoln, the State of Colorado, or any political subdivision of the state or the federal government or an agency thereof.

Section 2. Sale and Use Prohibited.

- (a) Except as specifically provided in this Ordinance, it is unlawful for any person to sell, offer for sale, expose for sale, possess with intent to sell, import, export, or store fireworks.
- (b) Except as specifically provided in this Ordinance, it is unlawful for any person to possess, store, handle, use or explode any fireworks.
- (c) The provisions of this Section 2 may be enforced by any Authorized Officer.

Section 2.1. It shall be unlawful for any person who is under sixteen years of age to purchase any fireworks, including those defined as permissible fireworks. However, at all times that it is lawful for any person over the age of sixteen years to possess and discharge permissible fireworks, it shall also be lawful for a person under the age of sixteen years to possess and discharge permissible fireworks, if such person is under adult supervision.

Section 2.2. Except as set forth in Section 3. it shall be unlawful for any person to possess or discharge any fireworks, other than permissible fireworks.

Section 2.3. Section 2. shall not be construed so as to prevent the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the use of blank cartridges for a show, theatrical production, or for ceremonial purposes in athletic or sporting events, or use by military organizations. Further this section shall not be construed to prevent the sale, purchase, possession, or use of fireworks distributed by the division of wildlife for agricultural purposes under condition approved by the division or the sale, delivery, consignment, gift, or furnishing of fireworks among display retailers, wholesalers, or exporters licensed under the laws of this state.

Section 3. Fireworks Displays. Fireworks displays are allowed in the Town only for government sponsored or co-sponsored events. Permitting of any such fireworks display shall be done in accordance with the version of the International Fire Code then in effect.

Section 4. EMERGENCY PROHIBITION OF THE USE OF FIREWORKS AND PERMISSIBLE FIREWORKS BY

RESOLUTION. In the event that the Governor of the State of Colorado, State Legislature, or other local, state, or federal governmental entity, endowed with decision making authority concerning the use of

fireworks or permissible fireworks, or in the event that the Town Board, due to dry weather conditions, or other factors which through the danger of fire present a health and safety concern to the citizens and property of the Town, determine that a total prohibition of the use, sale, and possession of fireworks and permissible fireworks is necessary and required, then the Board through emergency Resolution, may prohibit the use, sale, and possession of fireworks for such time and under such conditions as the Board deems necessary for the health, safety, and welfare of its citizens and property.

Section 5. Seizure of Fireworks. Any Authorized Officer of the Town shall be authorized to seize, take and remove at the expense of the violator, all stocks of fireworks or combustibles offered or exposed for sale, or otherwise possessed, held or stored in violation of this Ordinance.

Section 6. Penalty.

- (a) It shall be unlawful for any person to violate any provision of this Ordinance. A violation of this Ordinance shall be fined in a sum of not less than the mandatory minimum listed in Section 6 (C) or more than Two Thousand Six Hundred and Fifty Dollars (\$2650.00). In addition, the Municipal Court Judge may require restitution and costs from the violator in an amount sufficient to cover any damage or injury caused by the unauthorized use, sale, or possession of fireworks or permitted fireworks.

- (b) Any violation of this Ordinance shall also be deemed a public nuisance within the meaning of the Town of Hugo Municipal Ordinance 254. In addition to an individual who is observed to be violating the provisions of this Ordinance, any person who owns or possesses the property upon which fireworks are sold or used in violation of Section 1.2 of this Ordinance shall be deemed to be the author of the public nuisance and shall be subject to the penalties set forth herein.

- (c) **Mandatory Minimum Penalty.** Any person who pleads guilty or is found guilty shall be subject to the following mandatory minimum penalties:
 - (1) A mandatory minimum fine of \$1,000 for a first violation;
 - (2) A mandatory minimum fine of \$1,500 for a second violation within a two-year period; and
 - (3) A mandatory minimum fine of \$2,000 for a third violation within a two-year period.

- (d) All remedies set forth herein are cumulative, and the exercise of any one shall not be deemed to prevent the exercise of another, nor to bar, nor abate, any prosecution or petition for injunction hereunder.

SEVERABILITY. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

EFFECTIVE DATE. This Ordinance shall be effective thirty (30) days following publication and shall be filed in the Town Book of Ordinances.

Adopted and approved this 13th day of March 2023.

Lora Bledsoe, Mayor

ATTEST:

Maria Nestor, Town Clerk