

**ORDINANCE NO. 2017- \_\_\_\_\_**

ORDINANCE AMENDING TITLE 19 OF THE SIOUX CITY MUNICIPAL CODE TO ADD A NEW CHAPTER ENTITLED "FIREWORKS" THAT PROVIDES FOR THE SALE, USE AND EXPLODING OF FIREWORKS WITHIN THE CITY.

WHEREAS, the General Assembly of the State of Iowa has taken measures to allow the sale and use of consumer fireworks in the State of Iowa during specific timeframes and pursuant to applicable state licensure; and

WHEREAS, the new legislation provides for city councils, by ordinance, to prohibit or limit the use of consumer fireworks within their jurisdiction, if determined a public safety risk or a nuisance to neighbors.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, IOWA:

Section 1: Title 19 of the Sioux City Municipal Code is amended by adding the following new Chapter:

Chapter 19.20  
FIREWORKS

- 19.20.010 Definitions.
- 19.20.020 Sales - General Requirements.
- 19.20.030 Fireworks -Discharging General Requirements.
- 19.20.040 Manufacture of Fireworks.
- 19.20.050 Violations.
- 19.20.060 Exceptions.

**19.20.010 Definitions.** The sale, use or exploding of fireworks within the City is subject to the definitions enumerated in Iowa Code Section 727.2 and Iowa Code Section 100.19, which definitions are incorporated herein by reference. (Code of Iowa, Sec. 727.2 and 100.19)

**19.20.020 Sales - General Requirements.**

1. Prior to any person engaging in the sale of consumer fireworks a Fireworks Sales Permit must be issued by the Fire Chief, or his designee, of the City of Sioux City. The following shall be provided to the Fire Chief for consideration in the issuance of a Fireworks Sales Permit:

a. Fireworks Sales Permit Application: A completed application must be submitted to Sioux City Fire Rescue at least 30 days prior to the first date that sales are anticipated to commence. Exception: An exception shall be granted for the first sales period of 2017, running from June 1 to July 8, which shall allow applications to be turned in at least 14 days prior to the first sale period. This one time exception shall be granted due to the newly implemented state law.

(1) A separate application must be submitted for the June 1 to July 8 sales period and for the December 10 to January 3 sales period set forth in Subsection 19.20.020(2), as set forth below.

(2) The application form shall be prescribed by the Fire Chief.

b. State License: At the time the Fireworks Sales Permit Application is submitted to the Fire Chief, it is recognized that the license from the state fire marshal may not have been issued. If the license has not been issued, the applicant must provide proof that an application for the state license has been submitted to the state fire marshal. Proof of valid license issued from the state fire marshal must be provided upon receipt by the applicant. Failure to provide proof of a

valid license will preclude the issuance of a Fireworks Sales Permit.

c. Fireworks Sales Permit Fee: A fee of \$500 shall be due when the Fireworks Sales Permit Application is submitted to Sioux City Fire Rescue.

d. Liability Insurance: Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000.

e. Site Plan: A site plan of the location where sales are requested must accompany the Fireworks Sales Permit Application. Two paper copies and one electronic copy shall be provided.

f. Building Floor Plan: A building floor plan of the location where sales are requested must accompany the Fireworks Sales Permit Application. Two paper copies and one electronic copy shall be provided.

g. Approval of Property Owner: A copy of a lease agreement or letter of approval from the property owner of the location where sales are requested must accompany the Fireworks Sales Permit Application.

h. Fire Inspection: Any property, building, or premise whether it be permanent or temporary, intended for the sale of consumer fireworks shall have a fire inspection completed by the Fire Chief prior to engaging in the sale of consumer fireworks for each sales period set forth in Iowa Code Section 727.2. The Fire Chief or his designee shall cause an inspection to occur meeting the requirements of the current fire code adopted by the City of Sioux City. A Fireworks Sales Permit shall only be issued upon completion of a satisfactory inspection.

2. Dates of Sale. Consumer fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code Section 727.2. It shall be unlawful to sell consumer fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates specified.

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.

3. Safety Requirements: The following safety requirements shall be adopted for all locations where consumer fireworks are sold:

a. Consumer fireworks sales shall only be allowed in areas zoned General Commercial (GC) in Fire Zone 3.

b. Any person engaged in consumer firework sales in any other zone other than General Commercial (GC) areas inside Fire Zone 3 shall not be approved for sales within the city limits.

c. No person shall sell consumer fireworks to a person under the age of 18.

d. Consumer fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.

### **19.20.030 Fireworks -Discharging General Requirements.**

1. No person under the age 18 shall possess or discharge a consumer firework without parental supervision.

2. A person shall only discharge a consumer fireworks device on real property they own or on property where consent has been given. Discharge of fireworks in a public park is strictly prohibited.

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

4. 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.

5. No person shall discharge a consumer fireworks device outside the following dates and hours:

a. June 1 through July 8 from the hours of 9:00 A.M. until 10:00 P.M. (Exception: discharge hours are extended to 11:00 P.M. on July 4<sup>th</sup> and the Saturdays and Sundays immediately preceding and following July 4<sup>th</sup>)

b. December 10 through January 3 from the hours of 9:00 A.M. until 10:00 P.M. (Exception: discharge hours are extended to 12:30 A.M. on January 1 and the Saturdays and Sundays immediately preceding and following January 1<sup>st</sup>)

6. It shall be unlawful to alter, remove, or discharge components of a consumer fireworks device from its intended method of discharging.

7. Sky lantern open flame devices are not permitted to be released within the city limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.

8. The City may, upon application in writing, grant a permit for the display of display fireworks on public property by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such display fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance as required under Iowa Code Section 727.2 and under this Chapter.

**19.20.040 Manufacture of Fireworks.** It shall be unlawful for a person to manufacture fireworks within the city limits without a permit as may be required by local, state, or federal laws and regulations.

**19.20.050 Violations.** All violations of any provisions of this Chapter are hereby declared simple misdemeanors. Violations of this chapter shall be reported to the state fire marshal.

**19.20.060 Exceptions.** This section does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theater, 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.

Section 2: Section 8.48.090 of the Sioux City Municipal Code is deleted in its entirety.

**~~8.48.090 Fireworks.~~**

~~—1. It shall be unlawful for any person to manufacture fireworks within the city limits without a permit as may be required by local, state or federal laws and regulations.~~

~~—2. It shall be unlawful for any person to possess, use or explode any fireworks within the city without having first obtained from the fire chief a permit as provided in Chapter 19.04 of this code.~~

~~—3. For purposes of this section, the term “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 blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. “Snaps” are also considered fireworks.~~

~~—The term "fireworks" does not include goldstar producing sparklers on wires which contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, toy snakes which contain no mercury, or caps used in cap pistols.~~

~~—4. Any person violating this section is guilty of a simple misdemeanor and upon conviction shall be punished as provided by section 1.04.010 except that the penalty for using or exploding fireworks in a public place shall be a fine of not less than \$100.00 or imprisonment for not more than thirty days.~~

Section 3: Chapter 19.04 of the Sioux City Municipal Code is amended by adding the following new section:

**19.04.5601.2.2. Sale and retail display.** Persons shall not construct, display nor offer for sale explosives, explosive materials or fireworks upon highways, sidewalks, public property, in Group A or E occupancies or within Fire Zones 1 and 2 as defined in Section 19.04.9000 of the Sioux City Municipal Code. Any site used for the sale and display of fireworks must also comply with Title 25, Zoning and Sign Code, of the Sioux City Municipal Code.

Section 4: Penalty Clause. Anyone violating the provisions of this ordinance shall upon conviction be punished as provided in Section 1.04.100 of the Sioux City Municipal Code.

Section 5: Severability Clause. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

Section 6: Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are: Section 8.48.090 of the Sioux City Municipal Code.

Section 7: Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED BY THE CITY COUNCIL ON, AND APPROVED ON: \_\_\_\_\_

\_\_\_\_\_  
Robert E. Scott, Mayor

ATTEST: \_\_\_\_\_  
Lisa L. McCardle, City Clerk

I hereby certify that the foregoing was published in the Sioux City Journal on \_\_\_\_\_

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Lisa L. McCardle, City Clerk