

ORDINANCE NO. 2017-287

ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SAC CITY, IOWA, BY AMENDING PROVISIONS PERTAINING TO CHAPTER 41, PUBLIC HEALTH AND SAFETY

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 Sac City, Iowa, that:

SECTION 1. SECTION MODIFIED. Section 41.11 of the Code of Ordinances of the City of Sac City, Iowa, is repealed and the following adopted in lieu thereof:

41.11 FIREWORKS

1. 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 100.9)
2. Sales - General Requirements.
 - a. Prior to any person engaging in the sale of consumer fireworks a Fireworks Sales Permit must be issued by the City Administrator, or his designee, of the City of Sac City. The following shall be provided to the City Administrator for consideration in the issuance of a Fireworks Sales Permit:
 1. Fireworks Sales Permit Application: A completed application must be submitted to the City of Sac City at least 30 days prior to the first date that sales are anticipated to commence. Other than those listed in this subsection, no sales shall be allowed at any other time.
 - a. 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 41.11 (2)(a)(2), as set forth below.
 2. The application form shall be prescribed by the City Administrator.
 - b. State License: At the time the Fireworks Sales Permit Application is submitted to the City Administrator, 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 five hundred dollars (\$500.00) shall be due when the Fireworks Sales Permit Application is submitted to the City of Sac City.
 - d. Liability Insurance: Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of two million dollars (\$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.
- 3. 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 to 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.
- 4. 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 C-2 - Arterial (Suburban) Commercial District.
 - b. Any person engaged in consumer firework sales in any other zone other than C-2 - Arterial (Suburban) Commercial District 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.
- 5. Fireworks - Discharging General Requirements
 - a. No person under the age of 18 shall possess or discharge a consumer firework without parental supervision or in the presence of another responsible adult.
 - b. 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.
 - c. 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.
 - d. Any person discharging 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. No person shall discharge a consumer fireworks device outside the following dates and hours:
 - 1. July 1 through July 8 from the hours of 12:00pm (noon) until 10pm (Exception: discharge hours are extended to 11:00pm on July 4).
 - 2. December 31 from the hours of 12:00pm (noon) until 11:59pm and January 1 from the hours of 12:00am (midnight) until 12:30am and 12:00pm (noon) until 10pm.
 - f. It shall be unlawful to alter, remove, or discharge components of a consumer fireworks device from its intended method of discharging.

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

h. 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, 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.

6. Manufacture of Fireworks.

a. It shall be unlawful for a person to manufacture fireworks within the city limits.

7. Violations. All violations of any provisions of this Chapter are hereby declared simple misdemeanors and/or municipal infractions.

8. 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.

9. Repealer

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

10. 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 COUNCIL OF THE CITY OF SAC CITY, IOWA THE 26TH DAY OF SEPTEMBER, 2017

Scott Bundt

Mayor

ATTEST: Sandy Tellinghuisen
City Clerk

First Reading: August 22, 2017
Second Reading: September 12, 2017
Third Reading: September 26, 2017

Clerks Certificate

I hereby certify that the foregoing Ordinance No. 2017-287 was published as required by law on the 3rd day of October, 2017

SIGNED: Sandy Tellinghuisen
City Clerk