

ORDINANCE NO. 2017-1802

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEBSTER CITY, IOWA, BY AMENDING CHAPTER 48 PUBLIC HEALTH AND SAFETY: FIREWORKS.

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

WHEREAS, the General Assembly of the State of Iowa has enacted new legislation relating to the possession, sale, transfer, purchase, and use of fireworks, providing penalties, and including effective date provisions; 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; and

WHEREAS, the City of Webster City has previously enacted under its Public Health and Safety Chapter of its Code of Ordinances, being Chapter 48 and specific section 48.02, an Ordinance relating to the restrictions on sale, use, discharge and possession of Fireworks; and

WHEREAS, to avoid conflict of laws and to better protect the public health, safety and welfare of its citizens the City desires to amend its Ordinance to effectively eliminate any inconsistent measures of both the State and the City.

NOW THEREFORE, be it resolved by the City Council of the City of Webster City, Iowa, as follows:

SECTION 1. SECTION MODIFIED. Chapter 48, Section .02, of Public Health and Safety: Fireworks, of the Code of Ordinances of the City of Webster City, Iowa, is hereby repealed and the following adopted in lieu thereof:

48.02 FIREWORKS. The sale, use or exploding of fireworks within the City shall be subject to the following:

1. **Definition.** For purposes of this section, definitions are enumerated in the Iowa Code section 727.2, which definitions are incorporated herein by reference.

2. **Discharging - General Requirements.**

A. **Dates of Discharging:** Discharging of consumer fireworks shall only be conducted in accordance with dates and times designated by Iowa Code section 727.2. It shall be unlawful to discharge consumer fireworks without meeting the requirements specified in this ordinance, or to discharge fireworks outside of the dates and times specified.

B. No person under the age of eighteen (18) shall discharge consumer fireworks.

C. A person shall only discharge consumer fireworks and novelties on real property they own or on property where consent has been given.

D. Any person discharging consumer fireworks assumes all responsibility for its operation and the consequences thereof.

E. No person shall discharge consumer fireworks if he or she is showing visible signs of, or determined to be, intoxicated or under the influence of a drug, narcotic, or alcohol.

F. No person shall discharge consumer fireworks in a reckless manner or manner likely to cause death, injury, fire, or property damage.

G. No person shall alter, remove, or discharge components of consumer fireworks other than in its intended method of discharging.

H. No person shall release a sky lantern or similar open flame device within the city limits.

I. The City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals along with any rules and regulations issued by the Fire Chief and approved by the City Council when such fireworks display will be handled by a competent operator. Any applications shall have attached thereto proof of insurance with limits not less than \$2,000,000.00 per occurrence and \$5,000,000.00 aggregate.

3. Sales – General Requirements.

A. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the City Manager:

- 1) License: Proof of valid license issued from the state fire marshal.
- 2) Liability Insurance: Proof of commercial general liability insurance separate from the building property insurance specifically showing coverage of fireworks sales in the amount not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.
- 3) Fire Inspection: Any property, building, or premise whether it be permanent or temporary, intended for the sale of consumer fireworks shall have an initial inspection completed by the fire chief and/or building inspector prior to engaging in the sale of

consumer fireworks to ensure that all relevant requirements of the National Fire Protection Association Code 1124 (2017 edition), and the City of Webster City's applicable building code sections are complied with. This initial inspection shall take place prior to both selling periods outlined in subsection 48.02(3)(B) below. The fire chief and/or building inspector shall then inspect the consumer fireworks sale locations regularly throughout the date of sales to ensure their continued compliance. Inspection Costs shall be assessed as follows:

- a. Permanent Structure where fireworks are sold – Initial inspection fee of \$150.
- b. Temporary or Non-Brick or Mortar Building where fireworks are sold – Initial inspection fee of \$250.

B. Dates of Sale: Consumer fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code section 100.19. 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.

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

- 1) Any structure used for the purpose of consumer fireworks sales shall not be located on public property. Additionally, any structure used for the purpose of consumer fireworks sales shall be located 50 feet from a property line, public right-of-way, public roadway, alley, or highway; and 300 feet from any structure currently occupied or inhabited or built to be occupied or inhabited.
- 2) Consumer fireworks sales shall only be allowed in areas zoned for commercial or industrial use.
- 3) Consumer fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.
- 4) Consumer fireworks sales housed in a temporary building or structure shall have twenty-four (24) hour per day on-site, manned security during the dates of sale.
- 5) Smoking and/or any open flame sources shall not be located within 50 feet of where consumer fireworks are sold.
- 6) Consumer fireworks sale locations shall maintain a minimum of two approved exits or more if required by the City of Webster City's applicable building code. All approved exits shall be clearly

marked with proper signage and easily accessible without obstruction in case of emergency.

- 7) Consumer fireworks shall not be sold to a person under the age of eighteen (18).
- 8) No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where consumer fireworks are sold.
- 9) 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.

4. **Violations.** All violations of any provisions of this section are hereby declared simple misdemeanors and/or municipal infractions. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of any officer authorized by the City to enforce the Code of Ordinances. Fines shall be set by resolution of the City Council. Violations of this section shall be reported to the state fire marshal and all fireworks shall be confiscated and/or destroyed.

5. **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. Unless specifically provided otherwise, this section does not apply to novelties as defined by Iowa Code section 727.2.

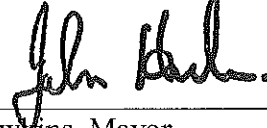
SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. 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 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

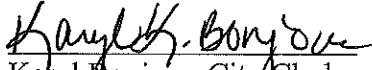
Passed and adopted this 26th day of June, 2017.

CITY OF WEBSTER CITY, IOWA



John Hawkins, Mayor

ATTEST:


Karyl Bonjour, City Clerk