

AN ORDINANCE AMENDING THE CITY CODE OF SIBLEY, IOWA BY  
AMENDING TITLE 4, PUBLIC HEALTH AND SAFETY, CHAPTER 4 (FIREWORKS)

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 time frames and pursuant to applicable state licensure.

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.

NOW, THEREFORE, BE IT ORDAINED, by the City of Sibley, Iowa.

SECTION I. AMENDING TITLE 4, PUBLIC HEALTH AND SAFETY, CHAPTER 4 (FIREWORKS). The Code of Ordinances of the City of Sibley, Iowa is amended by repealing Chapter 4, Fireworks and adopting the new sections stated as follows:

CHAPTER 4, FIREWORKS

The sale use or exploding of fireworks within the City is subject to the following:  
(Code of Iowa, Sec. 727.2)

1. Definition. For purposes of this section:

A. "Consumer fireworks" includes first-class consumer fireworks and second-class consumer fireworks as those terms are defined in Chapter 100 of the Code of Iowa. "Consumer fireworks" does not include novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Stand 87-1 or display fireworks enumerated in Chapter 4 of the American Pyrotechnics Association's Standard 87-1.

B. "Display 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 fireworks containing any explosive or flammable compound or other device containing any explosive substance. "Display fireworks" does not include novelties or consumer fireworks enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1.

C. "Novelties" includes all novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1 and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

2. FIREWORKS PERMIT FOR DISPLAY.

A. Supervised public exhibitions or displays shall be conducted only in accordance with Section (4.1) along with any rules and regulations issued by the Fire Chief for the area included with the permit application boundaries of the City.

B. Upon written application the City may grant a permit for the display of fireworks by a City agency, fair association or other organizations or groups as may be approved by the City and when such fireworks to be displayed are under the direct

control of a licensed and competent operator. Any application shall have attached thereto proof of insurance with limits not less than \$2,000,000.00 per occurrence and \$5,000,000.00 aggregate.

C. No person shall use, explode, discharge, possess or display fireworks or consumer fireworks on any publicly owned property unless authorized under this section.

### **3. FIREWORKS PERMIT FOR SALE.**

A. No person, retailer, consumer group or otherwise shall sell, display or offer to keep for sale consumer fireworks within the City without a valid consumer fireworks seller license issued by the Iowa State Fire Marshal and a permit issued by the City providing evidence of insurance in the amount not less than \$2,000,000.00 per Occurrence and \$5,000,000.00 in the Aggregate.

B. The sale or display of fireworks shall be permitted within the City of Sibley only in a permanent or temporary building that meets the requirements of Iowa Code Section, 100.19, upon receipt of consumer firework seller license as stated in Iowa Code Section 100.19, upon receipt of documentation that the permanent and temporary building meets or exceeds the national fire protection association (NFPA) standard 1124, published in the code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles, 2006 edition, as required in Iowa Code Section 100.19. No sale or display of fireworks shall occur within 100' of a public right-of-way or 500' of the following:

1. Any residential use, zoning district or area designated for residential use on the City's adopted future land use plan.
2. Schools, child day care centers, day nurseries and nursing schools.
3. Nursing Homes, adult day care centers, hospitals and medical clinics.
4. Underground pipelines, local gas service facilities or any electrical transmission lines or electrical transformers.

### **4. APPLICATION AND FEE.**

A. A completed application on a form provided by the City shall be filed with the City Administrator. A fee of \$500.00 for the City fireworks permit shall be payable with the submissions of an application. Applications for permits for the selling period of June 1 through July 8 may be submitted starting May 2 of each calendar year. Permits for the selling period December 10 through January 3 may be submitted starting November 10 for the December-January period.

B. An applicant shall provide all information required on the application, including any documentation required. In addition to a copy of a valid consumer fireworks seller license issued by the Iowa State Fire Marshal to the applicant and an additional information, if necessary to allow proper identification and contact information for the applicant.

### **5. ISSUANCE AND EXPIRATION.**

A. Upon receipt of proper application, additional requested documentation and fee, the application will be reviewed and voted upon by the Sibley City Council at a regular Council Meeting. If complete and not in conflict with any State law, rules or regulations or any City ordinances, the Council shall issue a fireworks permits good for one year from the date of issuance.

**6. LIMITATIONS.**

**A. Firework sales shall only be conducted in accordance with dates and times designated by Iowa Code Section 727.2. It shall be unlawful to sell fireworks without meeting the requirements specified in this Ordinance or to sell fireworks outside of the dates specified.**

**B. No person shall sell fireworks to a person under the age of 18.**

**C. 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.**

**7. VIOLATIONS.** All violations of any provisions of this Chapter 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 the Fire Chief or peace officer. Fines shall be set by Ordinance of the City Council. Violations of this Chapter shall be reported to the state fire marshal.

**8. 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.

**9. FIREWORKS LIMITATIONS**

**A. A person shall not use or explode consumer fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive.**

**B. A person shall not use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:**

**(1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.**

**(2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.**

**(3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.**

**C. A person shall not use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property.**

**D. A person who violates this subsection commits a simple misdemeanor. A court shall not order imprisonment for violation of this subsection.**

**SECTION 2. REPEALER.** All ordinances or parts thereof 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 this

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 APPROVED** this 14<sup>th</sup> day of May 2018.

Jerry L. Johnson  
Mayor

ATTEST:

Susan Sembach  
City Clerk