

HUMAN RESOURCES DEPARTMENT
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Date: October 24, 2017

To: Mahesh Sharma, County Administrator

From: Mary J. Thee, Human Resources Director/Asst. County Administrator

Subject: Fireworks Ordinance

On behalf of the County you have worked with Davenport, Bettendorf, Eldridge, and LeClaire reviews of the fireworks ordinance. The changes are initiated in light of changes to state consumer fireworks law and community response to the consumer fireworks used this past June/July.

I have coordinated a review of with County Attorney's office, Sheriff's office and Planning and Development to update our current ordinance to comply with the state law changes and be consistent with the Davenport and Bettendorf ordinance. The changes include:

1. Updates to the definitions.
2. Updates section 19-2 on sale to comply with state law
3. Adds a new section 19-3 to address times for consumer fireworks to be used. This language mirrors the language and times in Davenport and Bettendorf ordinances.
4. Modifies sections 19-4, 19-6 and 19-7 to clarify permits are only required for display fireworks.
5. Modifies section 19-5 permit fees and insurance requirements for display fireworks.
6. Eliminates old sections 19-7 and 19-8 and unnecessary.
7. Modifies section 19-9 to allow for changes in state law regarding simple misdemeanor fines.

The ordinance will require three readings by the Board for final approval.

ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER 19 FIREWORKS OF THE SCOTT COUNTY IOWA CODE, BY AMENDING NUMEROUS SECTIONS THERETO

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF SCOTT COUNTY IOWA:

Section 1. That Chapter 19 of the Scott County Iowa Code, be and the same is hereby amended to read as follows:

CHAPTER 19 FIREWORKS

SECTIONS:

19-1. DEFINITIONS

19-2. SALE OF ~~CONSUMER R DISPLAY OF~~ FIREWORKS ~~PROHIBITED~~

~~19-3. CONSUMER FIREWORKS ALLOWED AS SPECIFIED~~

~~19-43. PERMIT FOR PUBLIC DISPLAY FIREWORKS DISPLAY~~

~~19-54. REQUIREMENTS OF APPLICATION FOR PERMIT~~

~~19-65. SHERIFF'S INVESTIGATION~~

~~19-76. CRITERIA FOR DETERMINATION AND BASIS FOR DENIAL~~

~~19-7. UNUSED FIREWORKS~~

~~19-8. EXCEPTED FIREWORKS APPLICATIONS~~

19-89. SEIZURE OF PROHIBITED FIREWORKS

19-910. PENALTY PROVISION

SEC. 19-1. DEFINITIONS

~~A. A. For purposes of this chapter, the terms "Consumer Fireworks", "Display Fireworks", and "Novelties" shall have the respective meanings enumerated in Iowa Code §727.2, which definitions are incorporated by reference. Consumer Fireworks do not include "Novelties" or "Display Fireworks" as defined herein.~~

~~The term "fireworks" shall mean and include 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 shall include blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance. The term "fireworks" shall not include gold star producing sparklers on wires which contain no magnesium or chlorate or perchlorate, no flutter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, nor toy snakes which contain no mercury nor caps used in cap pistols.~~

B. The term "Organized Group" shall mean any firm, partnership, corporation, association, or other organization of individuals which was not formed solely or primarily for the purpose of obtaining a fireworks permit as hereinafter provided.

SEC. 19-2 SALE ~~OF CONSUMER FIREWORKS OR DISPLAY OF FIREWORKS~~
~~PROHIBITED~~

~~The sale of any consumer fireworks shall at all times be conducted in accordance with all federal, state and local laws, including, but not limited to, Iowa Code Chapters 100 and 727 and the administrative rules adopted by the Iowa State Fire Marshal relating to the sale, transfer, and purchase of fireworks. For avoidance of doubt, any person desiring to sell fireworks within the unincorporated boundaries of the County shall obtain the applicable permit, including, but not limited to, a casual sales license and zoning regulations, as prescribed by County Code. Except as hereinafter provided, it shall be unlawful for any person or association of persons to offer for sale, expose for sale, sell at retail, or use to explode any fireworks within the unincorporated boundaries of Scott County, Iowa.~~

SEC. 19-3 CONSUMER FIREWORKS ALLOWED AS SPECIFIED

Consumer Fireworks may be used on July 3 and July 4 from 2 PM until 11 PM and on the night of December 31 from 10 PM until 12:30 AM on the immediate following day. A person shall not use, explode or discharge 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. A person that uses, explodes or discharges Consumer Fireworks shall have responsibility to clean up all debris created by the fireworks. A person shall not release or cause to be released an untethered sky lantern.

SEC. 19-~~43~~ PERMIT FOR ~~PUBLIC DISPLAY~~ FIREWORKS ~~DISPLAY~~

The authority to grant permits for the supervised public ~~exhibit display~~ of ~~display~~ fireworks which is granted to the County Board of Supervisors in accordance with the provisions of Chapter 727 of the Code of Iowa is specifically delegated to the Sheriff's ~~DepartmentOffice~~. The Sheriff's ~~DepartmentOffice~~ may upon application grant a permit for the supervised public display of fireworks by a municipality, fair association, amusement park, government entity, or other organized group. If such permit is granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferrable.

The County Board of Supervisors may upon its own motion review any application for a permit which has been granted or denied by the Sheriff's ~~DepartmentOffice~~, and may affirm or reverse the decision of the Sheriff's ~~DepartmentOffice~~.

SEC. 19-~~54~~ REQUIREMENTS OF APPLICATION FOR PERMIT

An application for a permit shall be available in the Sheriff's ~~DepartmentOffice~~. Application for permit ~~for display fireworks~~ shall be made in writing at least fourteen (14) days in advance of date of the display to the Sheriff's ~~DepartmentOffice~~ and include:

- A. A request for permit and a statement concerning the reason for proposed display;
- B. The name of the organized group applying for the permit and the name(s), social security number, date of birth and the address of the person or persons who will act as its agent or representative(s);

C. Location, date and time of the proposed display in case of rain, an alternative date may be indicated;

D. The name of the person or persons who will conduct the proposed display and a copy of the current certificate or license as a pyro technician.

E. At the time application is made for a permit; attach thereto a certificate of insurance naming the applicant as insured and Scott County shall be named as an additional insured on the policy. The applicant shall maintain bodily injury liability insurance/property damage liability insurance in the amount of \$1,000,000 per occurrence / 2,000,000 aggregate.

In addition the applicant agrees by the execution hereof the permit to indemnify and hold harmless Scott County against all liabilities, costs and expenses which may arise in consequence of the granting of this permit; except as may result from the sole negligence or willful misconduct of Scott County.

~~indemnifying and holding harmless Scott County from any liability which may arise as a result of the proposed display.~~

~~F. A signed and dated bond or certificate of insurance in the required sum as set out below for the payment of damages which may be caused either to a person or persons or to property by reason of the permitted display and arising from any acts of the applicant, its agents, employees or sub-contractors:~~

~~(1) A minimum of \$500,000 for fireworks displays expected to attract fewer than 100 spectators; and~~

~~(2) A minimum of \$1,000,000 for fireworks displays expected to attract more than 100 spectators.~~

~~FG.~~ A one hundred~~ten~~ dollar (\$100.00) fee. Said fee shall be refundable if the application is denied. Subject to approval of said application, the fee shall be deposited in the county general fund.

SEC. 19-~~65~~. SHERIFF'S INVESTIGATION

The Sheriff's ~~Department~~Office who may conduct any investigation deemed necessary to determine whether a permit should be granted for display fireworks. The applicant shall immediately provide to the Sheriff's ~~Department~~Office all additional information requested to further this investigation. The Sheriff's ~~Department~~Office shall grant or deny the application within seven (7) days of the date it is received. Upon making its determination, the Sheriff's ~~Department~~Office shall immediately inform the applicant whether the application was granted or denied.

SEC. 19-~~76~~. CRITERIA FOR DETERMINATION AND BASIS FOR DENIAL

The Sheriff's ~~Department~~Office shall consider each of the following criteria in making its determination whether to grant or deny an application for display fireworks. In the event that an application is denied, the Sheriff's ~~Department~~Office shall submit to the applicant a written statement which will briefly detail which of the following criteria the denial was

based upon, as well as any other factors which were considered as basis for denying the application.

- A. The size and location of the proposed display site as each relates to the potential for damage to nearby property or injury to persons;
- B. The training, experience and past reliability of the person or persons named in the application to conduct the proposed display. Specifically, whether a certified and licensed pyro technician will conduct the display may be taken under consideration.
- C. The manner in which the organized group making the application conducted past fireworks displays;
- D. Whether or not all of the requirements of an application per permit as set forth in Section 19-54 were complied with by the applicant. Specifically, any application which is not accompanied by a bond or certificate of insurance as required in Section 19-54 (F) shall be denied;
- E. The likelihood that the time or date of the display would unreasonably disturb nearby residents;
- F. Any special safety considerations which the Sheriff's DepartmentOffice might determine to be unique to the particular proposed display and the applicant's proposed manner of dealing with those special safety considerations.

If an application is denied, the applicant shall be given an opportunity to amend the application and to resubmit it to the Sheriff's DepartmentOffice. The Sheriff's DepartmentOffice shall consider the amended application in light of its written statement of the reasons for denial of the original application. If it appears that the amendments to the application adequately remedy the situation or situations which gave rise to denial of the original application, then the amended application for a permit shall be granted.

~~SEC. 19-7. UNUSED FIREWORKS~~

~~Any fireworks that remain unexploded or unfired after the permitted display is concluded shall be immediately disposed of in a safe manner considering the particular type of fireworks remaining.~~

~~SEC. 19-8. EXCEPTED FIREWORKS APPLICATIONS~~

~~Nothing in this Chapter shall be construed to prohibit or regulate the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal for ceremonial purposes in athletics or sports events, or for use by military organizations or for use for medicinal or fumigation purposes. Nor shall this Chapter be construed to prohibit any resident, dealer, manufacturer or jobber from selling fireworks, provided that the same are to be shipped out of state.~~

SEC. 19-89. SEIZURE OF PROHIBITED FIREWORKS

The Sheriff's Office shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored or held in violation of this Chapter.

SEC. 19-~~910~~. PENALTY PROVISION

A person who violates this chapter commits a simple misdemeanor punishable as follows:

A. First Offense \$250

B. Second Offense \$400

C. Third and Subsequent \$625

~~A. Violation of this Chapter shall be punishable by a fine not to exceed one hundred dollars (\$100) or by imprisonment not to exceed thirty (30) days.~~

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.

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

EFFECTIVE DATE. This ordinance shall be in full force and effective after its final passage and publication as by law provided.

First Consideration _____,

Second Consideration _____,

Third Consideration _____,

Carol Earnhardt
Chairman, Board of Supervisors

Attest: _____
Roxanna Moritz
County Auditor

Published on _____.