

ORDINANCE NO. 2020-4

AN ORDINANCE AMENDING TITLE III COMMUNITY PROTECTION 3-1-5 PUBLIC SAFETY PARAGRAPH 7 POSSESSION OF FIREWORKS

BE IT ENACTED by the City Council of the City of Shambaugh, Iowa:

SECTION 1. SECTION MODIFIED. Title III Community Protection 3-1-5 Public Safety paragraph 7 of the Code of Ordinances of the Shambaugh, Iowa, is amended to read as follows:

7. Fireworks Regulations

a. Definitions. For purposes of this section:

i. “*Consumer fireworks*” includes first-class consumer fireworks and second-class consumer fireworks as those terms are defined in Iowa Code “*Consumer fireworks*” does not include novelties enumerated in in chapter 3 of the American pyrotechnics association’s standard 87-1 or display fireworks enumerated in chapter 4 of the American pyrotechnics association’s standard 87-1.

ii. “*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.

iii. “*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.

b. Display Fireworks.

i. A person, firm, partnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any display fireworks, commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. However, a city council of a city or a county board of supervisors may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the city or the county board of supervisors when the display fireworks will be handled by a competent operator.

(1) A person who uses or explodes display fireworks while the use of such devices is prohibited or limited by an ordinance or resolution adopted by the county or city in which the firework is used commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

(2) A person who uses or explodes display fireworks while the use of such devices is suspended by an order of the state fire marshal commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

c. Consumer fireworks and novelties.

i. A person or firm, partnership, or corporation may possess, use or explode consumer fireworks in accordance with this subsection and subsection d.

ii. . A person or firm, partnership, or corporation who sells consumer fireworks to a person who is less than eighteen years of age commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. A person who is less than eighteen years of age who purchases consumer fireworks commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

iii. (1) A person who uses or explodes consumer fireworks or novelties while the use of such devices is prohibited or limited by an ordinance adopted by the city in which the fireworks are used commits a simple misdemeanor, punishable by a fine of not less than two hundred dollars.

(2) A person who uses or explodes consumer fireworks or novelties while the use of such devices is suspended by an order of the state fire marshal commits a simple misdemeanor, punishable by a fine of not less than two hundred dollars.

d. Limitations.

i. A person shall not use or explode consumer fireworks on days other than June 20 through July 5 and December 31 through January 3 of each year, all dates inclusive.

ii. 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 days specified in d. i. above.

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

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

e. Applicability.

i. This section does not prohibit the sale by a resident, dealer, manufacturer, or jobber of such fireworks as are not prohibited by this section, or the sale of any kind of fireworks if they are to be shipped out of the state, or the sale or use of blank cartridges for a show or the theater, or for signal purposes in athletic sports or by railroads or trucks, for signal purposes, or by a recognized military organization.

ii. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

iii. Unless specifically provided otherwise, this section does not apply to novelties.

f. The City refers to and relies on State Law for all other aspects of Fireworks Regulations.

SECTION 2. 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 ordinances as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

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

PASSED AND APPROVED by the Council this 5th day of October, 2020.

Ron Peterman, Mayor

ATTEST:

Sandra LaNelle Bilokonsky, City Clerk

I certify that the foregoing was published as Ordinance No. 2020- _____ on the _____ day of October, 2020.

Sandra LaNelle Bilokonsky, City Clerk