

ORDINANCE NO. 052018-CPA

First Consideration: 05/09/18

Second & Third Considerations Waived: 05/09/18

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DUNCOMBE, IOWA, BY AMENDING PORTIONS OF TITLE III, "COMMUNITY PROTECTION".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNCOMBE, IOWA:

SECTION 1. AMEND CHAPTER 3-1-7 (PUBLIC SAFETY AND HEALTH). That the Code of Ordinances of the City of Duncombe, Iowa, be amended by repealing portions of 3-1-7.6 and 3-1-7.7 that pertain to the Discharge and Possession of Fireworks and the following adopted in lieu thereof:

3-1-7.6 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:

A. "Consumer fireworks" includes first-class consumer fireworks and second-class consumer fireworks as those terms are defined in section 100.19, subsection 1 of the Code of Iowa. "Consumer fireworks" does not include novelties enumerated 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.

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. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided the City Council 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 when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa state fairgrounds by the Iowa state fair board, at incorporated county fairs, or at district fairs receiving state aid. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- A. Personal Injury: \$250,000.00 per person
- B. Property Damage: \$50,000.00
- C. Total Exposure: \$1,000,000.00

3. Consumer Fireworks.

A. It is unlawful for any person to use or explode consumer fireworks on days other than June 30 through July 8 of each year, and December 24 through January 3 of each year, all dates inclusive.

B. It is unlawful for any person to 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.

(2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on January 1.

C. It is unlawful for any person to 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. Novelties, including snakes, sparklers, or caps, can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.

D. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

E. Any person discharging a 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.

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 released within the city limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.

4. 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. Violations of this chapter shall be reported to the state fire marshal.

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.

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 effect from and after its final passage, approval and publication as provided by law.

Passed, approved and adopted this 9th day of May, 2018.