

ORDINANCE NO. 2017-003

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF SUTHERLAND, IOWA – 2016, BY REPEALING SUBSECTION 45.23 AND RE-ADOPTING THE SAME AS REVISED FOR THE PURPOSE OF UPDATING TO INCLUDE STATE LAW AND SPECIAL CITY PROVISIONS; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Sutherland, Iowa, that:

Section One. The Municipal Code of the City of Sutherland, Iowa shall be and the same is hereby AMENDED BY REPEALING Chapter 45, subsection 45.23 and reenacting the same to state as follows:

Section 45.23 FIREWORKS.

The sale, use or exploding of fireworks within the City are subject to the following:

1. Definitions. For the purposes of this section:
 - a. The term "Consumer fireworks" includes first-class consumer fireworks and second-class consumer fireworks, as described in Code of Iowa, Sec. 100.19:
 - i. First-Class consumer fireworks:
 1. Aerial shell kits and reloadable tubes.
 2. Chasers.
 3. Helicopter and aerial spinners.
 4. Firecrackers.
 5. Mine and Shell devices.
 6. Missile-type rockets.
 7. Roman candles.
 8. Sky rockets and bottle rockets.
 9. Multiple tube devises under this paragraph "c: that are manufactured in accordance with APA 87-1, section 3.5.
 - ii. Second-Class consumer fireworks:
 1. Cone fountains.
 2. Cylindrical fountains.
 3. Flitter sparklers.
 4. Ground and hand-held sparkling devises, including multiple tube ground and hand-held sparkling devises that are manufactured in accordance with APA 87-1, section 3.5.
 5. Ground spinners.
 6. Illuminating torches.
 7. Toy smoke devices that are not classified as novelties pursuant to APA 87-1, section 3.2.
 8. Wheels.
 9. Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.

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- b. The term "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. The term "*display fireworks*" novelties or consumer fireworks enumerated in chapter 3 of the American pyrotechnics association's standard 87-1.

(Code of Iowa, Sec. 727.2)

- 2. Regulations for sales in City limits. It is unlawful for any person to offer for sale, expose for sale, or sell at retail any fireworks without possessing a consumer fireworks seller license from the state fire marshal.
 - a. Furthermore it is unlawful for any person to offer for sale, expose for sale, or sell at retail any fireworks in a non-permanent structure; to include but not limited to: tents, RV's, pickup beds, trailers, or any structure not set in permanent foundation.

(Code of Iowa. Sec. 100.19)

- 3. Regulations for use in City limits. A person or a firm, partnership, or corporation may possess, use, or explode consumer fireworks in accordance with the following stipulations:

- a. Limitations.

- i. A person shall not use or explode consumer fireworks on days other than June 28 through July 8 and December 31 through January 1 of each year, all dates inclusive.

- ii. A person shall not use or explode consumer fireworks at times other than between the hours of 1:00 p.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 1:00 p.m. and 12:30 a.m. on July 4th through July 5th.

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

- b. 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.

- c. A person shall not use consumer fireworks on any commercial property within the city limits.

- d. A person shall not use consumer fireworks on any public property within the city limits; this includes by is not limited to:

- i. City parks, ball fields, streets, city owned properties

- e. The City may, upon application in writing; grant a permit for the display of fireworks by a

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City agency for a period of time not listed in this ordinance; fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- i. Personal Injury: \$250,000 per person
- ii. Property Damage: \$50,000
- iii. Total Exposure: \$1,000,000

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

4. Fines:

- a. (1) A person who uses or explodes display fireworks, consumer fireworks, or novelties while the use of such devices is prohibited 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, consumer fireworks, or novelties while the use of such devices is prohibited; specifically in public areas such as, but not limited to city parks, ball fields, streets, city owned properties; commits a simple misdemeanor, punishable by a fine of not less than five hundred dollars.
- (3) A person who uses or explodes display fireworks, 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 fifty dollars.
- (4) A person, 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.
- (5) 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.

(Code of Iowa, Sec. 727.2)

- 6. Applicability. 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 theatre, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization.
 - a. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.
 - b. Unless specifically provided otherwise, this section does not apply to novelties.

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(Code of Iowa, Sec. 727.2)

Section Two. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Three. 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 Four. This ordinance, being deemed of immediate importance, shall be in full force and effect from enactment.

Passed this 1st day of June, 2017.

Elizabeth Peters

Elizabeth Peters, Mayor

Natosha Petitt

Natosha Petitt, City Clerk

ATTEST:

I, Natosha Petitt, City Clerk of the City of Sutherland, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance, passed by the City Council of said City at the meeting held on June 1, 2017 and published as provided by law in the Northwest Iowa Review on June 10, 2017.

Natosha Petitt

, City Clerk