

ORDINANCE 17-05

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALTA, IOWA, 2014 BY REPEALING TITLE III, CHAPTER 1 MISDEMEANORS, ARTICLE 4 - PUBLIC HEALTH AND SAFETY, SECTION 4.03 FIREWORKS AND REPLACING WITH A NEW SECTION 4.03 FIREWORKS AND BY ADDING A NEW SECTION 4.03A CONSUMER FIREWORKS

WHEREAS, the Iowa Legislature has adopted and the Governor has signed Senate File 489 (SF489) which permits the sale and the use of “First Class Fireworks” as now defined in Iowa Code Section 100.19(1)©; and,

WHEREAS, SF 489 amends Iowa Code Section 364.2 by adopting a new Subsection 6 which provides that “a city council may by ordinance or resolution prohibit or limit the use of consumer fireworks, display fireworks, or novelties, as described in Iowa Code Section 727.2; and,

WHEREAS, it is the judgement of the Alta City Council that the use of First Class Consumer Fireworks in the City of Alta constitutes a threat to the public safety and to private property and a nuisance to the neighboring land owners.

NOW THEREFORE, BE IT ENACTED by the City Council of the City of Alta, Iowa:

Section 1. Title III, Chapter 1 Misdemeanors, Article 4, Public Health and Safety, Section 4.03 Fireworks is repealed and replaced with a new Section 4.03 Display Fireworks to read as follows:

4.03 DISPLAY FIREWORKS. The City Council, pursuant to section 727.2 of the Code of Iowa as amended, upon application in writing upon forms provided by the city clerk, may grant a permit for the display of fireworks (“Display Fireworks) by municipalities, fair associations, amusement parks and other organizations or groups of individuals; provided, such fireworks displays will be handled and supervised by a competent operator with prior experience in the handling of fireworks displays and who provides proof of certification by ATF, the State of Iowa, or a certificate of compliance issued by the Pyrotechnic Guild. The denial of a permit may be appealed to the city council.

CRITERIA. In approving or denying a request for a permit to conduct a fireworks display, the council shall consider:

- A. The type and nature of displays;
- B. The location;
- C. The anticipated or invited attendance;
- D. The qualifications of the operator;
- E. Safety and fire protection planning; and
- F. All other factors relevant to a particular application.

Different criteria apply to pyrotechnics before a proximate crowd and outdoor displays. Applicable standards include IFC chapter 33; NFPA 1123, 1126; ATF safe firework practices.

1. PERMIT FEE. No permit fee shall be required for a fireworks permit if the fireworks display is open to the public without charge. If the fireworks display is presented at an event to which admission is charged, a permit fee of fifty dollars (\$50.00) is required.
2. LIABILITY INSURANCE. An applicant for a fireworks permit shall provide a certificate of liability insurance for the specific event with a single limit of not less than two million dollars (\$2,000,000.00) naming the city of Alta, its officers, agents and employees as additional insureds.
3. 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, the 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 display 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. Sales of display fireworks for such display may be made for that purpose only.
(Code of Iowa, Sec. 727.2)
4. 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.
(Code of Iowa, Sec. 727.2)

Section 2. Title III, Chapter 1 Misdemeanors, Article 4, Public Health and Safety, Section is hereby amended by adding a new section 4.03A Consumer Fireworks to read as follows:

4.04A CONSUMER FIREWORKS.

1. DEFINITIONS.

- a. "Consumer fireworks" includes first-class consumer fireworks and second-class consumer fireworks as those terms are defined in section 100.19, subsection 1. "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.

(Code of Iowa 727.2)

- b. "First-class consumer fireworks" means the following consumer fireworks, as described in APA 87-1, chapter 3:

- (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 devices under this paragraph “c” that are manufactured in accordance with APA 87-1, section 3.5.

(Code of Iowa, Sec. 100.19)

- 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

(Code of Iowa 727.2)

- d. “Second-class consumer fireworks” means the following consumer fireworks, as described in APA 87-1, chapter 3:

- (1) Cone fountains.
- (2) Cylindrical fountains.
- (3) Flitter sparklers.
- (4) Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices 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.

(Code of Iowa, Sec. 100.19)

2. SALE OF CONSUMER FIREWORKS TO THE PUBLIC.

(Code of Iowa, Sec. 100.19)

- a. The state fire marshal shall establish a consumer fireworks seller license. An application for a consumer fireworks seller license shall be made on a form provided by the state fire marshal. The state fire marshal shall adopt rules consistent with this section establishing minimum requirements for a retailer or community group to be issued a consumer fireworks seller license.
- b. A person shall possess a consumer fireworks seller license under this section in order to sell consumer fireworks.
 - a. A person who violates a provision of this section 4.04(2) or Code of Iowa, Section 100.19 or a rule adopted pursuant to this section of the Code of Iowa is guilty of a simple misdemeanor

3. USE, POSSESSION, OR EXPLODE CONSUMER FIREWORKS.
(Code of Iowa, Sec. 727.2)

1. FIRST CLASS CONSUMER FIREWORKS PROHIBITED. The use of "First Class Consumer Fireworks" within the corporate limits of the City of Alta, except as otherwise provided in this Article, is prohibited. A violation of this section is a simple misdemeanor punishable by a fine of not less than \$250.00

Section 3. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. Severability Clause. If any section, provision, or part of this ordinance shall be adjudged 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 5. When Effective. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Pass and approved by the City Council of the City of Alta, Iowa, this 6th day of November, 2017.

Attest:



City Clerk



Mayor