

ORDINANCE NO. 2017-1

AN ORDINANCE AMENDING THE 2007 WEST OKOBOJI ZONING ORDINANCE BY AMENDING ARTICLE XI ADDITIONAL USE REGULATIONS.

WHEREAS, the 2007 West Okoboji Zoning Ordinance on file in the office of the City Clerk designates certain standards as provided by Chapter 414, Iowa Code, and

WHEREAS, it is deemed advisable and recommended by the Planning and Zoning Commission to amend Article XI Additional Use Regulations by creating a new Section 11.10 titled Sale of Fireworks Regulations.

NOW THEREFORE IT BE ORDAINED, by the City Council of Okoboji, Iowa;

Section 1. ADD NEW ZONING TEXT. The West Okoboji Zoning Ordinance is hereby amended by creating a new Section 11.10 Sale of Fireworks Regulations.

Section 11.10. SALE OF FIREWORKS REGULATIONS.

The City of West Okoboji finds that businesses or establishments that are involved in the retail or wholesale sale of fireworks required special consideration in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of the community. Such businesses or establishments that are involved in the retailer wholesale sale of fireworks, because of their very nature, may have a detrimental effect on both existing uses surrounding them and adjacent residential areas. The concerns over the explosive nature of fireworks and the fire safety aspects of fireworks are legitimate safety concerns of West Okoboji citizens that demand the reasonable regulation of the retail or wholesale sale of fireworks in order to protect the safety and well-being of the community. West Okoboji wants to prevent such adverse effects and thereby protect the health, safety, and welfare of its residents; protect residents from increased fire risk; preserve the quality of life; and preserve the property values and character of the surrounding area.

1. *Definitions.*

- a. Fireworks: Shall mean consumer fireworks as defined under Iowa Code section 727.2, which definitions are incorporated herein by reference.

2. *Locational Requirements and Restrictions.*

Any business or establishment that is involved in the retail or wholesale sale of fireworks shall be permitted within the City of West Okoboji only in a single story at grade permanent building that meets the requirements of Iowa Code Section, 100.19, in the (C) General Commercial zoning district upon receipt of a site plan prepared in accordance with Article XIV, receipt of a special exceptions use permit in accordance with the procedures set forth in Article XIX; upon receipt of consumer firework seller license as state in Iowa Code Section, 100.19, upon receipt of documentation that the permanent building meets or exceeds the national fire protection association (NFPA) standard 1124, published in the code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles, 2006 edition, as required in Iowa Code Section, 100.19; proof of liability insurance separate from the building property insurance

specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000; and only if it meets all of the additional requirements set forth below. Distances provided hereafter shall be measured by following a straight line, without regard to intervening structures or objects, from the main entrance of such business or establishment that is involved in the retail or wholesale sale of fireworks to the point on the property line of such other use.

- a. Businesses or establishments that are involved in the retail or wholesale sale of fireworks shall be prohibited in or within 500 feet of the borders of a residential (R) district.
  - b. Businesses or establishments that are involved in the retail or wholesale sale of fireworks shall be prohibited within 500 feet of any public or private educational uses.
  - c. Businesses or establishments that are involved in the retail or wholesale sale of fireworks shall be prohibited within 500 feet of any recreational uses.
  - d. Businesses or establishments that are involved in the retail or wholesale sale of fireworks shall be prohibited within 500 feet of any daycare home or daycare business.
  - e. Business or establishments that are involved in the retail or wholesale sale of fireworks shall be prohibited within 500 feet of a service station or fuel storage facility.
3. Retail or wholesale sale of fireworks requirements.
- a. Not more than 100 pounds of total aggregate weight of fireworks shall be located inside a commercial business with other mercantile products for sale.
  - b. Not more than 500 pounds of total aggregate weight of fireworks shall be located inside a building where fireworks are the primary business.
  - c. Smoking, open flame source, or matches shall not be located within 50 feet where fireworks are sold. The following exemptions apply:
    1. Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where fireworks are not the primary business.
    2. Businesses or establishments that engage in firework sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.
  - d. All electrical wiring shall meet NFPA 70 *National Electrical Code*. Permanent structures or buildings used primarily for fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.
  - e. Businesses or establishments shall maintain 48-inch clear aisles between firework display shelves.

- f. Businesses or establishments shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; except that, exit signs shall be illuminated in permanent structures.
- g. Firework sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.
- h. Businesses or establishments shall have a minimum of two 10 pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher.
- i. All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are approved exit doors as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within 8 seconds.
- j. No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where fireworks are sold as a primary business.
- k. Individual firework devices or opened firework packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.
- l. No person shall sell fireworks to a person under the age of 18.
- m. Fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.
- n. Firework sales shall only be conducted in accordance with dates and times designated by Iowa Code Section 727.2. It shall be unlawful to sell fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates specified.

Section 2. REPEALER. All ordinances or parts of the previously adopted 2007 West Okoboji Zoning Ordinance in conflict with the provisions of this zoning amendment are hereby repealed.

Section 3. SEVERABILITY CLAUSE. If any section, provision or any part of this zoning amendment is determined to be invalid or unconstitutional, such adjudication shall not affect the validity of the previously adopted West Okoboji Zoning Ordinance in its entirety.

Section 4. EFFECTIVE DATE. This zoning amendment shall be in full force and effect from after passage and publication in a newspaper of general circulation in the City of West Okoboji.

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Larry Traughber, Mayor – City of West Okoboji

ATTEST:

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Lissa Ballis, City Clerk – City of West Okoboji

**1<sup>st</sup> Reading – July 10, 2017**

Motion by Council Member Ladegaard, seconded by Council Member Paxton, first reading of Zoning Ordinance No. 2017-1.

AYES: Hein, Ladegaard, Olson, Paxton, Petersen

NAYS: None

ABSENT: N/A

**2<sup>nd</sup> Reading and 3<sup>rd</sup> Reading Waived – July 10, 2017**

Motion by Council Member Ladegaard, seconded by Council Member Petersen, waiving second and third readings of Zoning Ordinance No. 2017-1.

AYES: Hein, Ladegaard, Olson, Paxton, Petersen

NAYS: None

ABSENT: N/A

**Adopt Ordinance No. 120 – July 10, 2017**

Motion by Council Member Ladegaard, seconded by Council Member Paxton, to adopt Zoning Ordinance No. 2017-1.

AYES: Hein, Ladegaard, Olson, Paxton, Petersen

NAYS: None

ABSENT: N/A

The Mayor declared Zoning Ordinance No.2017-1 was passed on July 10, 2017.

I certify that the foregoing was published as Zoning Ordinance No. 2017-1 on the 19<sup>st</sup> day of July, 2017.

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Lissa Ballis, City Clerk