

ORDINANCE No. 58B

AN AMENDMENT TO CERRO GORDO COUNTY ORDINANCE No. 58 CONCERNING THE IGNITION, DISCHARGE, USE, AND SALE OF FIREWORKS IN THE UNINCORPORATED AREAS OF CERRO GORDO COUNTY AND ESTABLISHING PROSCRIBED DAYS AND HOURS; PENALTIES; AND TO PROVIDE FOR THE PUBLIC HEALTH SAFETY AND GENERAL WELFARE

WHEREAS, On May 9, 2017, the State of Iowa legislature and Governor enacted a law relating to the possession, sale, transfer, purchase, and use of fireworks, providing penalties, and including effective date provisions; and

WHEREAS, the law includes provisions that allow local jurisdictions to adopt an ordinance or resolution to regulate the use and sale of consumer fireworks within the County, and the County desires to protect the public health, safety, and general welfare of its citizens; and

WHEREAS on July 19, 2018, the District Court for the Southern District of Iowa Central Division *Bellino Fireworks, Inc. v. City of Ankeny, et al* affirmed the ability for local jurisdictions to exercise and enforce zoning powers granted under Iowa Code Chapter 335 but also clarified details related to permitting and sales of consumer fireworks within temporary structures; and

WHEREAS, the County desires to follow the spirit of Iowa Code Subsection 100.1 and all other applicable State and Federal rules and finds it necessary to amend parts of this ordinance; and

WHEREAS, the Cerro Gordo County Planning and Zoning Commission, after hearing and study, has recommended that Cerro Gordo County Ordinance No. 58 be amended as below.

BE IT THEREFORE ORDAINED by the Cerro Gordo County Board of Supervisors that Ordinance No. 58 is hereby amended as follows:

1. The Preamble of Ordinance No. 58 is hereby repealed and the following adopted in lieu thereof:

WHEREAS, On May 9, 2017, the State of Iowa legislature and Governor enacted a law relating to the possession, sale, transfer, purchase, and use of fireworks, providing penalties, and including effective date provisions; and

WHEREAS, the law includes provisions that allow local jurisdictions to adopt an ordinance or resolution to regulate the use and sale of consumer fireworks within the County; and

WHEREAS, the County restricts and permits the display of fireworks as granted by Iowa Code 727.2, but does not specifically address the sale, use, discharge, and possession of fireworks; and

WHEREAS, the Iowa-Illinois Safety Council's June 2017 newsletter cites 2013 data that 8 fatalities, 11,400 injuries that require medical attention, 1,400 structure fires, and 200 vehicle fires are caused by fireworks each year; and

WHEREAS, to better protect the public health, safety, and general welfare of its citizens within the County; and

BE IT THEREFORE ORDAINED by the Board of Supervisors of Cerro Gordo County, Iowa:

2. A new Section 2.4 is hereby adopted:

2.4 District Restrictions. Article 14.2 of Ordinance No. 15, Zoning Ordinance of Cerro Gordo County, Iowa, is hereby amended by adding the following subsection "D":

D. The requirements of subsection 14.2(B) and (C) shall not apply to the sale, distribution, and storage of consumer fireworks as defined in Cerro Gordo County Ordinance No. 58.

3. Section 4.2 is hereby repealed and the following adopted in lieu thereof:

4.2 Fireworks Sale, Wholesale, and Manufacture. Prior to any person engaging in the retail sale of consumer fireworks, a seller shall obtain a Zoning Permit from the Cerro Gordo County Zoning Administrator for a change in use as required by the Cerro Gordo County Zoning Ordinance.

4.2.1 Prior to the issuance of a Zoning Permit, a Zoning Permit Application shall be submitted to the Cerro Gordo County Planning and Zoning Office accompanied by the following items:

4.2.1.1 A site plan showing all requested structures related to the use, setbacks to all property lines, separation distances to nearby structures, and total area for the requested use.

4.2.1.2 A floor plan showing the total floor area of the structure sales will take place within and locations and floor area for the display for sale of first class consumer fireworks, second class consumer fireworks, and novelties as defined in this ordinance.

4.2.1.3 A copy of the Consumer Fireworks Sellers License issued by the State Fire Marshall's office.

4.2.1.4 A copy of the Certificate of Liability Insurance in the amounts required by this ordinance.

4.2.2 Upon approval of a Zoning Permit Application, a Zoning Permit shall be issued after the required permit fee is paid. The permit fee shall be \$200.

4.2.3 No Zoning Permit for the sale of consumer fireworks shall be issued unless a Consumer Fireworks Sellers License has been issued by the State Fire Marshall's office.

4.2.4 A new Zoning Permit Application shall be required to be filed prior to the installation, erection, or construction of any temporary structure for the sale of consumer fireworks, even if a temporary structure was used for the same purpose at the same location at a prior time.

4.2.5 Any temporary structure used for the purpose of sales of consumer fireworks shall be disassembled and removed from the site within five (5) days from the last day of the respective sales period as outlined by Iowa Code Subsection 100.1.

4. Section 4.4 is hereby repealed and the following adopted in lieu thereof:

4.4 No storage, sales, or display for sale of fireworks may occur within any public right-of-way. No sale or display for sale of consumer fireworks shall take place in any travel trailer or trailer as defined in the Cerro Gordo County Zoning Ordinance.

5. Section 4.6 is hereby repealed and the following adopted in lieu thereof:

4.6 Approval of Property Owner. A copy of a lease agreement or letter of approval from the property owner of the location where sales are requested shall accompany the Zoning Permit Application.

6. Section 4.7 is hereby repealed and the following adopted in lieu thereof:

4.7 Inspections. Prior to the sale of any consumer fireworks, any location intended for the sale of consumer fireworks shall have an inspection completed by the Fire Chief for the area in which sales will take place and the Zoning Administrator within 60 days of the issuance of a Zoning Permit or as directed by the Zoning Administrator if a new structure is to be erected.

Motion was made by Supervisor _____ and seconded by Supervisor _____: To approve the final consideration of Amendment No. ___ to Cerro Gordo County Home Rule Ordinance No. 58, entitled "AN ORDINANCE CONCERNING THE IGNITION, DISCHARGE, USE, AND SALE OF FIREWORKS IN THE UNINCORPORATED AREAS OF CERRO GORDO COUNTY AND ESTABLISHING PROSCRIBED DAYS AND HOURS; PENALTIES; AND TO PROVIDE FOR THE PUBLIC HEALTH SAFETY AND GENERAL WELFARE." The second and third considerations were waived April ____, 2019. The final consideration was approved on April ____, 2019.

Ayes –
Nays –
Absent/Not Voting –

This ordinance shall be effective after its final consideration and publication as provided by law.

Chairman Chris Watts
Board of Supervisors

ATTEST:

Becky Kirchgatter
Deputy County Auditor