

City of Scottsbluff, Nebraska

Monday, June 7, 2021

Regular Meeting

Item Resolut.2

Council to discuss and consider action on amending language in Chapter 8, sections 8-1-30 to 8-1-31, of the Municipal Code, relating to fireworks and adding 8-1-32, relating to lantern-type devices, and approve the Ordinance.

Staff Contact: Thomas Schingle, Fire Chief

Agenda Statement

Item No.

For Meeting of: June 7, 2021

AGENDA TITLE: Council to discuss and consider action on amending the language in Chapter 8, sections 8-1-30 to 8-1-31, of the Municipal Code, relating to fireworks and adding 8-1-32, relating to lantern-type devices, and approve the ordinance

SUBMITTED BY DEPARTMENT/ORGANIZATION: Fire

PRESENTATION BY: Thomas Schingle, Fire Chief

SUMMARY EXPLANATION: The recent passage of LB 152 was signed by Governor Ricketts on the 5th of May, 2021. LB 152 modified the language relating to permissible fireworks in the State of Nebraska. The revision proposed to the Municipal Code reflects the changes by the State, which allows the sale and use of fireworks not previously approved. In addition, no language existed in the Municipal Code relating to lantern-type devices, which use a flame to float the device in the air. These devices are prohibited by Nebraska Revised Statute §28-1255. Adding this language to the Municipal Code will assist in enforcing this prohibition.

BOARD/COMMISSION RECOMMENDATION:

STAFF RECOMMENDATION: Approve the ordinance

EXHIBITS

Resolution ☐ Ordinance ☐ Contract ☐ Minutes ☐ Plan/Map ☐

Other (specify) _____

NOTIFICATION LIST: Yes ☐ No ☐ Further Instructions ☐
Please list names and addresses required for notification.

APPROVAL FOR SUBMITTAL: _____
City Manager

Rev: 11/15/12 City Clerk

8-1-30. Same; definitions.

The following terms defined in this section shall have the meaning herein provided for purposes of section 8-1-29:

~~Aerial Shell: A firework fired from a cylinder, such as a mortar, but excluding rockets.~~

Consumer Fireworks: Any **device** ~~of the following devices~~ that (i) meets the requirements set forth in 16 C.F.R. parts 1500 and 1507, as such regulations existed on January 1, 2010 **2021**, and (ii) ~~are~~ **is** tested and approved by a nationally recognized testing facility or by the State Fire Marshal:

- ~~a. Any small firework device designed to produce visible effects by combustion and which is required to comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission set forth in 16 C.F.R., as such regulations existed on January 1, 2010;~~
- ~~b. Any small device designed to produce audible effects such as a whistling device;~~
- ~~c. Any ground device or firecracker containing fifty milligrams or less of explosive composition; or~~
- ~~d. Any aerial device containing one hundred thirty milligrams or less of explosive composition.~~
- ~~e. Class C explosives as classified by the United States Department of Transportation shall be considered consumer fireworks.~~

Consumer fireworks does not include:

- ~~a. Rockets that are mounted on a stick or wire and project into the air when ignited, with or without report;~~
- ~~b. Wire sparklers, except that silver and gold sparklers are deemed to be consumer fireworks until January 1, 2014; **and**~~
- ~~c. Nighttime parachutes;~~
- ~~d. Fireworks that are shot into the air and after coming to the ground cause automatic ignition due to sufficient temperature;~~
- ~~e. Firecrackers that contain more than fifty milligrams of explosive composition; and~~
- ~~f. Fireworks that have been tested by the State Fire Marshal as a response to complaints and have been deemed to be unsafe.~~

~~Rocket: A device consisting of a container containing a combustible substance which is attached to a guiding stick, the whole being projected through the air by pressure exerted by the rearward discharge of gases liberated by combustion. (Ord. 4037, 2010)~~

8-1-31. Same; permissible list; additions to.

~~Fireworks not specifically listed in section 8-1-29 may be added to the permissible list by the Fire Chief, by regulation, after investigation and a finding by him or her that they are safe for general use.~~

A regulation by the State Fire Marshal adding fireworks to the list of permissible fireworks as authorized by the Nebraska statutes shall constitute prima facie evidence that the fireworks are safe for general use for purposes of this ordinance. ~~(Ord. 1895, 1971; Ord. 1116)~~

8-1-32. Flying lantern-type devices; prohibited

It shall be unlawful for any person, firm, partnership, or corporation to use, sell, offer for sale, or possess flying lantern-type devices. Flying lantern-type devices means devices that require a flame which produces heated air trapped in a balloon-type covering allowing the device to float in the air, as defined in Nebraska Revised Statute, §28-1255. Flying lantern-type devices shall not include hot-air balloons used for transporting persons.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA, AMENDING CHAPTER 8, ARTICLE 1, SECTIONS 30, 31 AND 32 OF THE SCOTTSBLUFF MUNICIPAL CODE DEALING WITH FIREWORKS, REPEALING PRIOR SECTIONS OF THE MUNICIPAL CODE, PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA.

Section 1. Section 8-1-30 of the Scottsbluff Municipal Code is amended to provide as follows:
"8-1-30. Same; definitions.

The following terms defined in this Section shall have the same meaning herein provided for purposes of Section 8-1-29.

Consumer Fireworks: Any device that (i) meets the requirements set forth in 16 C.F.R. parts 1500 and 1507, as such regulations existed on January 1, 2021, and (ii) is tested and approved by a nationally recognized testing facility or by the State Fire Marshal.

1. Consumer Fireworks does not include:
 - a. Wire sparklers; and
 - b. Fireworks that have been tested by the State Fire Marshal as a response to complaints and have been deemed unsafe."

Section 2. Section 8-1-31 of the Scottsbluff Municipal Code is amended to provide as follows:
"8-1-31. Same; permissible list; additions to.

A regulation by the State Fire Marshal adding fireworks to the list of permissible fireworks as authorized by the Nebraska statutes shall constitute prima facie evidence that the fireworks are safe for general use for the purposes of the City Municipal Code."

Section 3. Section 8-1-32 of the Scottsbluff Municipal Code is amended to provide as follows:
"8-1-32. Flying lantern-type devices; prohibited.

It shall be unlawful for any person, firm, partnership, or corporation to use, sell, offer for sale, or possess flying lantern-type devices. Flying lantern-type devices means devices that require a flame which produces heated air trapped in a balloon-type covering allowing the device to float in the air, as defined in Nebraska Revised Statute §28-1255. Flying lantern-type devices shall not include hot-air balloons used for transporting persons."

Section 4.

Previously existing sections 8-1-30, 8-1-31 and 8-1-32 and all other Ordinances and parts of Ordinances in conflict herewith are repealed

Section 5.

This Ordinance shall become effective upon its passage, approval and publication shall be in pamphlet form.

PASSED and APPROVED on _____, 2021

Mayor

Attest:

City Clerk (Seal)

Approved as to Form:

City Attorney