

ORDINANCE NO. 2017-04

ORDINANCE AMENDING TITLE 3 OF THE MENLO MUNICIPAL CODE OF ORDINANCES REGARDING FIREWORKS THAT PROVIDES FOR THE SALE, USE AND EXPLODING OF FIREWORKS WITHIN THE CITY.

WHEREAS, the General Assembly of the State of Iowa has taken measures to allow the sale and use of consumer fireworks in the State of Iowa during specific timeframes and pursuant to applicable state licensure; and

WHEREAS, the new legislation provides for city councils, by ordinance, to prohibit or limit the use of consumer fireworks within their jurisdiction, if determined a public safety risk or a nuisance to neighbors.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF MENLO, IOWA:

Section 1: Title 3 of the Menlo Municipal Code is amended by adding the following new Chapter:

Chapter 9
FIREWORKS

- 3-9-1 Definitions.
- 3-9-2 Fireworks – Discharging General Requirements.
- 3-9-3 Manufacture of Fireworks.
- 3-9-4 Violations.
- 3-9-5 Exceptions.
- 3-9-6 Sale and retail display

3-9-1 Definitions. The sale, use or exploding of fireworks within the City is subject to the definitions enumerated in Iowa Code Section 727.2 and Iowa Code Section 100.19, which definitions are incorporated herein by reference. (Code of Iowa, Sec. 727.2 and 100.19)

3-9-2 Fireworks – Discharging General Requirements.

1. No Person under the age of 18 shall possess or discharge a consumer firework without parental supervision.
2. A person shall only discharge a consumer fireworks device on real property they own or on property where consent has been given. Discharge of fireworks in a public park is strictly prohibited.
3. Consumer fireworks shall not be possessed or discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.
4. Any person discharging a consumer fireworks device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.
5. No person shall discharge a consumer fireworks device outside the following dates and hours:

- a. July 1 through July 8 from the hours of 9:00 A.M. until 10:00 P.M. (Exception: discharge hours are extended to 11:00 P.M. on July 4th and the Saturdays and Sundays immediately preceding and following July 4th)
- b. December 10 through January 3 from the hours of 9:00 A.M. until 10:00 P.M. (Exception: discharge hours are extended to 12:30 A.M. on January 1 and the Saturdays and Sundays immediately preceding and following January 1st)
6. It shall be unlawful to alter, remove, or discharge components of a consumer fireworks device from its intended method of discharging.
7. Sky lantern open flame devices are not permitted to be released within the city limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.
8. The City may, upon application in writing, grant a permit for the display of display fireworks on public property by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such display 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 as required under Iowa Code Section 727.2 and under this Chapter.

3-9-3 Manufacture of Fireworks. It shall be unlawful for a person to manufacture fireworks within the city limits without a permit as may be required by local, state, or federal laws and regulations.

3-9-4 Violations. All violations of any provisions of this Chapter are hereby declared simple misdemeanors. Violations of this chapter shall be reported to the state fire marshal.

3-9-5 Exceptions. 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 theater, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by recognized military organizations, composition prepared and sold for medicinal or fumigation purposes.

3-9-6 Sale and retail display. Persons shall not construct, display nor offer for sale explosives, explosive materials or fireworks upon highways, sidewalks, public property. Any site used for the sale and display of fireworks must also comply with Planning and Zoning Code of Ordinances of the City of Menlo.

Section 2: Title 3, Chapter 1, Section 5 (6) of the Menlo Municipal Code of Ordinances is amended to read.

6. Discharging firearms and fireworks.

- a. No person, firm, or corporations shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms ~~or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound,~~ or other device containing any explosive, except as allowed under Title 3, Chapter 9.

- ~~b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator.~~
- b. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.
- c. In the interest of public health and safety and at such times as approved by the Mayor, law enforcement or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.
- ~~e. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.~~

Section 3: Title 3, Chapter 1, Section 5 (7) of the Menlo Municipal Code of Ordinances is deleted in its entirety.

7. Possession of Fireworks.

- ~~a. Definition. The term "fireworks" includes any explosive composition, or combination of explosives, substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation and includes blank cartridges, firecrackers, torpedoes, sky rockets, Roman Candles or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "fireworks" does not include gold star producing sparklers on wires that contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 inch in diameter, toy snakes that contain no mercury, or caps used in cap pistols.~~
- ~~b. Exemption. The use of blank cartridges for a show or the theater, or for signal purposes in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations is exempt from this Subsection.~~
- ~~c. Prohibition. No person shall possess fireworks except as provided in this Chapter.~~

Section 4: Penalty Clause. Anyone violating the provisions of this ordinance shall upon conviction be punished as provided in Title 1 Chapter 3 of the Menlo Code of Ordinances.

Section 5: Severability Clause. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

Section 6: Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are: Section 3-1-5.7 of the Menlo Code of Ordinances.

Section 7: Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

Motion by Culver and second by Korradi to suspend the 1st and 2nd readings of Ordinance 2017-04 and to place said Ordinance on its final reading.

Roll call vote:

BEHNKEN	<u> Aye </u>	KORRADI	<u> Aye </u>
CULVER	<u> Aye </u>	MILLER	<u> Aye </u>
JACOBSON	<u> Aye </u>		

Motion by Behnken and second by Jacobson to adopt Ordinance 2017-04. Roll call vote:

BEHNKEN	<u> Aye </u>	KORRADI	<u> Aye </u>
CULVER	<u> Aye </u>	MILLER	<u> Aye </u>
JACOBSON	<u> Aye </u>		

Passed, approved and adopted by the city council this 4th day of October 2017.

Michael Clarke
Michael Clarke, Mayor

ATTEST: Gwen Blass
Gwen Blass, City Clerk

ATTEST:

I, Gwen Blass, City Clerk of the City of Menlo, hereby certify that the above and foregoing is a true copy of Ordinance 2017-04 passed by the City Council of said City at the meeting held on October 4, 2017 and published as provided by law in The Stuart Herald on October 19, 2017.

Gwen Blass
Gwen Blass, City Clerk