City of Carroll

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MEMO TO: Honorable Mayor and City Council Members

FROM: Mike Pogge-Weaver, City Manager MSP-W

DATE: June 8, 2017

SUBJECT: Fireworks

1. Consider approving the first reading of an ordinance pertaining to the use of fireworks along with waving the second and third reading and moving final adoption of said ordinance.
2. Consider approving the first reading of an ordinance pertaining to criteria considered for issuing transient merchants permits along with waving the second and third reading and moving final adoption of said ordinance.

At the May 22, 2017 City Council meeting, the City Council discussed how to make changes related to the use and sale of fireworks in the City based on the new legislation adopted by the State of Iowa. Based on that discussion, staff drafted two ordinances for the Council's consideration which includes:

1. An ordinance that repeals the current section 41.13 of the City Code that makes it illegal to use, sale, and possess fireworks along with regulating professional display fireworks and replaces that with a new ban on the use of first-class and second-class consumer fireworks in City Limit along with rules on professional display fireworks.

2. An ordinance that bars "transient merchants" from using temporary structures, such as tents, for more than 5 days in a 60 day period. The intent of this change is to continue to allow occasional "weekend" sales business but prohibit longer term sale periods. By definition, transient merchants are merchants who operate in a location for less than 60 days. This change would not apply to business that operate in the City year-round, like Hy-Vee, Bomgaars, etc. It should also be noted that farmers markets and sellers of agricultural products are exempt from the transient merchant regulations.

In addition to the proposed ordinances, attached for reference in the memo from the May 22nd council meeting.

RECOMMENDATION: Consider approving the first reading of attached ordinances along with waving the second and third reading and move to final adopting in order for the ordinances to be in effect for the upcoming July 4th season.

ORDINANCE NO _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE CITY OF CARROLL, IOWA, BY REPEALING AND REPLACING
SECTION 41.13 PERTAINING TO THE USE OF FIREWORKS

BE IT ENACTED by the City Council of the City of Carroll, Iowa:

SECTION 1. Chapter 41, section 13 of the Code of Ordinances of the City of Carroll, Iowa, is repealed in its entirety and replaced with the following provisions:

41.13 FIREWORKS. The use and exploding of fireworks within the City are subject to the following:

1. Definitions. For purposes of this section:

A. "First Class Consumer Fireworks" shall mean the following consumer fireworks as described in the American Pyrotechnics Association ("APA") Standard 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 "A" that are manufactured in accordance with APA 87-1, section 3.5.

B. "Second Class Consumer Fireworks" shall mean the following consumer fireworks, as described in APA Standard 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.

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

C. "Display Fireworks" includes any explosive composition or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. "Display fireworks" does not include novelties or consumer fireworks enumerated in chapter 3 of the American Pyrotechnics Association's Standard 87-1.

D. "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.

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided the City Council 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 when the display fireworks 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 in the following amounts.

A.	Personal injury:	$1,000,000.00 per person $2,000,000.00 aggregate
B.	Property Damage	$500,000.00 per building $1,000,000.00 aggregate
C.	Per Occurrence:	$1,000,000.00
D.	Aggregate:	$2,000,000.00

Violation of this provision, is a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250)

3. Consumer Fireworks. It is unlawful for any person to use or explode First Class Consumer Fireworks and Second Class Consumer Fireworks within the City limits of Carroll, Iowa.

Violation of this provision, is a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250)

4. Novelties. This section does not apply to novelties.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or 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 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this _____ day of _____, 2017.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

_____
Eric P. Jensen

ATTEST:

_____
Laura A. Schaefer, City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the _____ day of _____, 2017.

_____
Laura A. Schaefer, City Clerk

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ORDINANCE NO _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARROLL, IOWA, BY AMENDING SECTION 122.08 PERTAINING TO CRITERIA CONSIDERED FOR ISSUING TRANSIENT MERCHANTS PERMITS

BE IT ENACTED by the City Council of the City of Carroll, Iowa:

SECTION 1. Chapter 122, section 8 of the Code of Ordinances of the City of Carroll, Iowa, is amended to add the following new subsection 6:

> 6. If the proposed activity is located in a structure other than a permanent building or an accessory building of less than 120 square feet. Permits shall be denied for activities that will be conducted in temporary structures, trailers, tents, or other similar temporary arrangements for more than 5 days in a 60 day period.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or 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 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this _____ day of _____, 2017.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

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Eric P. Jensen

ATTEST:

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Laura A. Schaefer, City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the _____ day of _____, 2017.

Laura A. Schaefer, City Clerk