

**REGULAR MEETING OF THE OACOMA TOWN BOARD**  
**May 3, 2021**

The Oacoma Town Board met in regular session at 7:00 P.M. on May 3, 2021 in Meeting Room #2 at the Oacoma Community Center. Board members present were Gary Dominiack, President; Richard Kirkpatrick, Vice President; Kyle Fuchs; Roger Twamley; and Robin Hutmacher. Also present were Valerie Moore, Finance Officer; Mitch and Robyne Bunnell; Jason and Elisa Sillaway; Kirk Brandstrom; and Doug Bellinger.

**MINUTES**

Motion by Twamley, second by Kirkpatrick, to approve the minutes of the regular meeting on April 19, 2021.  
Motion carried.

**BUNNELL COMPLAINT**

Mitch Bunnell addressed the board about drainage concerns on his property caused by fill dirt placed on adjacent private property and to revisit his request for the town to widen a 10 ft access lane leading to his property west of West 2<sup>nd</sup> Street. Bunnell asked the board to either correct the drainage and access issues or he would identify and report a list of other issues throughout the town which he believes violate city ordinances. Bunnell shared photos as examples of possible violations. Discussion was held pertaining to reports of individuals living in campers and enforcement of a city ordinance which prohibits campers to be used as living quarters on residential property. Past discussions about proposals to widen the 10 ft access lane were also discussed including a failed agreement between private property owners to widen the lane by executing easements. Dominiack and Twamley explained that, based on the city attorney's opinion, Bunnell's complaints about drainage issues and the 10 ft access lane are private matters.

**PUBLIC COMMENTS**

Time was reserved for public comments pursuant to SDCL 1-25-1. No comments were offered.

**OATHS**

Having been nominated and unopposed for election as Trustees for the Town of Oacoma, Dominiack, Fuchs and Hutmacher performed oaths of office. Dominiack and Fuchs will each serve three-year terms and Hutmacher will serve the remaining one year of the three-year term vacated by Holly Reis.

**2021 APPOINTMENTS**

Motion by Kirkpatrick, second by Hutmacher, to nominate Dominiack as President of the Board of Trustees for the next year. Motion carried. There being no other nominations, Dominiack was appointed President with all members voting aye.

Motion by Hutmacher, second by Fuchs, to nominate Kirkpatrick as Vice President of the Board of Trustees for the next year. Motion carried. There being no other nominations, Kirkpatrick was appointed Vice President with all members voting aye.

Motion by Kirkpatrick, second by Twamley, to nominate Moore as Finance Officer for the next year. Motion carried. There being no other nominations, Moore was appointed Finance Officer with all members voting aye.

Dominiack announced the following committee appointments: Streets and Park-Twamley and Fuchs; Water and Sewer-Dominiack and Kirkpatrick; Police and Fire-Kirkpatrick and Hutmacher; Zoning Official-Dominiack; Ambulance-Twamley; Landfill-Kirkpatrick; Promotion-Dominiack; E911-Dominiack; Three-year terms on Planning Commission-Russ Bunker and Kevin Rabern with one seat vacant due to the death of Jim Steckelberg. Motion by Kirkpatrick, second by Hutmacher, to approve all appointments as announced. Motion carried.

**2021 DESIGNATIONS**

Motion by Fuchs, second by Twamley, to designate the *Central Dakota Times* as the legal newspaper for publication of notices and proceedings for the Town of Oacoma during the next year and to designate First Dakota Bank as depository. Motion carried.

FIREWORKS ORDINANCE

The second reading was held for Ordinance No. 2021-01, an ordinance to regulate the sale of fireworks in the Town of Oacoma. Doug Bellinger was present and stated he was satisfied with the ordinance. Motion by Twamley, second by Fuchs, to approve the second reading and adoption of Ordinance No. 2021-01, an ordinance to regulate the sale of fireworks in the Town of Oacoma. Voting yes: Dominiack; Kirkpatrick; Fuchs; Twamley; and Hutmacher. Voting no: None. Motion carried.

**TOWN OF OACOMA ORDINANCE NO. 2021-01  
AN ORDINANCE TO REGULATE THE SALE OF FIREWORKS**

BE IT ORDAINED by the Town Board of Trustees of the Town of Oacoma that Ordinance No. 2021-01 be enacted and Ordinance No. 95-4 and any other ordinance or parts of ordinances in conflict with Ordinance No. 2021-01 are hereby repealed.

**ARTICLE I – PURPOSE AND JURISDICTION**

1.01 PURPOSE.

Ordinance #2021-01 is an ordinance to regulate the sale of fireworks in the Town of Oacoma. The Town Board of the Town of Oacoma has deemed these regulations and controls to be reasonable and reasonably related to the purpose of promoting the health, safety, and general welfare of the Town of Oacoma.

1.02 JURISDICTION.

This Ordinance shall govern all territory within the statutory jurisdiction of the Town of Oacoma, South Dakota (the “Town”).

1.03 SEVERABILITY AND SEPARABILITY.

Should any Article Section, Subsection, or Provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

**ARTICLE II – SALE OF FIREWORKS**

2.01 DEFINITIONS.

FIREWORKS: Devices designed to produce audible and/or visible effects by combustion as set forth in SDCL 34-37.

FIREWORKS SALES: The retail or wholesale sale of fireworks as set forth in SDCL 34-37.

2.02 FIREWORKS SALES LICENSE REQUIRED.

- A. With the exception of the June twenty-seventh through July fifth sales period permitted by SDCL 34-37-10, no person shall sell fireworks within the Town’s jurisdiction without first obtaining an approved Fireworks Sales License from the Town of Oacoma for retail sales to out-of-state residents pursuant to SDCL-37-2.2.
- B. Any person licensed under this Ordinance must also hold a retailer license from the State of South Dakota under SDCL 34-37-2.
- C. Fireworks shall be considered consumer goods for zoning purposes of the Town’s municipal code.
- D. The holder of an approved Fireworks Sales License may sell fireworks within the Town’s jurisdiction during the term of the Fireworks Sales License at retail to individuals from 8:00 A.M. to 12:00 A.M. during the following periods:

- (1) May first and extending through June twenty-sixth; or
- (2) July sixth through August thirty-first and during the period beginning December twenty-eighth and extending through January first.

### 2.03 FIREWORKS SALES LICENSE APPLICATION.

- A. Any person who is required by this Ordinance to possess a Fireworks Sales License shall first submit an Application to the Finance Officer.
- B. A Fireworks Sales License Application shall consist of an application form provided by the Finance Officer, a Fireworks Sales License Application Fee, proof of liability insurance coverage of at least \$1,000,000, a scaled site plan of the proposed sales site, a copy of the applicant's South Dakota Sales Tax License, and a copy of the appropriate state fireworks sales license(s).
- C. The Fireworks Sales License Application Fee shall be One Thousand dollars (\$1000.00) for each licensed sales period and is non-refundable.

### 2.04 FIREWORKS SALES LICENSE APPLICATION REVIEW.

- A. The Town Board shall review each Fireworks Sales License Application after the complete Application is received by the Finance Officer. The Application may be approved or denied based upon the Applicant's proposed sales location, zoning, proposed signage, building code compliance of the sales location, code enforcement compliance history, record of compliance with Town fireworks regulations, record of compliance with state fireworks regulations, and/or other factors considered relevant by the Town Board. The Town Board shall, in their sole discretion, issue a Fireworks Sales License as it deems are compliant with the purpose of this Ordinance.
- B. The Town Board shall approve no more than two (2) Fireworks Sales Licenses for each licensed sales period in any given year.
- C. The Fireworks Sales License, if approved by the Town Board, shall expire on the last day of April the year following approval.

### 2.05 STORAGE AND SALES.

- A. No person shall store or sell fireworks within the Town's jurisdiction without first obtaining the written permission of the landowner of the sales location.
- B. The storage and sale of fireworks within the Town shall be restricted to permanent structures that are no closer than fifty feet (50') to any other structure used for agricultural, commercial, industrial, or residential use except that during the period of June twenty-seventh through July fifth, fireworks may be sold from temporary structures. Storage of Inventory is not permitted in temporary structures.
- C. Inventory shall not be delivered to the sales location after the last day of the licensed sales period until no more than seven (7) days prior to the beginning date of next licensed sales period.
- D. All structures used for the storage and/or sale of fireworks shall comply with the Town's currently adopted building code and shall have adequate means of egress before commencement of and during said storage or sales. One or more inspections by a Building Official may be required as a condition of approval of a Fireworks Sales License. Random, unannounced inspections by a Building Official or Code Enforcement Official may be conducted to ensure continuing compliance with the adopted building code and/or the requirements of this Ordinance.
- E. The requirements of this subsection 2.05 shall apply to persons licensed pursuant to this Ordinance and persons only selling during resident sales period.

2.06 USE OR DISCHARGE OF FIREWORKS.

The use or discharge of fireworks as defined in SDCL 34-37 within the jurisdiction of the Town is subject to the regulations set out in Ordinance 2013-01.

2.07 EXEMPTIONS TO REGULATIONS.

Nothing in this Ordinance shall be construed to prohibit the manufacture, storage, sale, use, or possession within the Town of pyrotechnical signal devices necessary for the safe operation of railroads or other classes of public or private transportation, nor applying to the military forces of the United States or its various states, or to peace officers, nor blank cartridges for ceremonial, theatrical, or athletic events, nor items commonly known as sparklers or toy paper caps.

**ARTICLE III – VIOLATIONS AND PENALTIES**

3.01 CRIMINAL PENALTY.

A violation of any provision of this Ordinance or any amendment thereto, or failure to perform any act required hereunder, is a Class II Misdemeanor. In addition to any penalty assessed herein or any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case.

BE IT FURTHER ORDAINED by the Board of Trustees of the Town of Oacoma, South Dakota that this Ordinance shall become effective in accordance to law.

TOWN OF OACOMA

/s/Gary Dominiack, President

Board of Trustees

ATTEST:

/s/Valerie J. Moore, Finance Officer

(SEAL)

First Reading: 04/19/2021

Second Reading: 05/06/2021

Published: 05/12/2021

Effective: 06/01/2021

**MALT BEVERAGE LICENSES**

The following applications for renewal of retail malt beverage and SD farm wine licenses for 2021-2022 were presented for consideration: GF Buche Co, dba Buche Foods; Dakota Shell, Inc., dba Dakota Shell; Oasis Pump n Camp LLC, dba Oasis Pump n Pak; Ray's Western Wear & Saddlery, Inc., dba Ray's Western Wear; US Hotels ACS Ventures, LLLP, dba Al's Oasis; US Hotels ACS Ventures, LLLP, dba Arrowwood Resort at Cedar Shore; US Hotels ACS Ventures, LLLP, dba Arrowwood Resort at Cedar Shore-Marina; West Forty, Inc., dba West Forty Plaza. Motion by Hutmacher, second by Kirkpatrick, to approve the 2021-2022 retail malt beverage license applications as presented. Motion carried.

**AUTHORIZE TRAVEL**

Motion by Kirkpatrick, second by Twamley, to authorize travel for Moore to attend Governmental Finance Officers' School in Pierre on June 9-11, 2021. Motion carried.

**SURPLUS PROPERTY**

Motion by Hutmacher, second by Fuchs, to declare 32 tables located at the Oacoma Community Center as surplus property and authorize donation of resin tables to the Chamber of Commerce and Fire Department and disposal or sale of laminated wood tables to the public at best offer. Motion carried.

#### SET PUBLIC HEARING FOR ORDINANCE NO. 2021-02

A public hearing in joint session between the Oacoma Planning Commission and the Oacoma Town Board of Trustees was scheduled for Monday, May 17, 2021 at 7:00 P.M. to consider Ordinance No. 2021-02, a temporary ordinance regarding the issuance of local medical cannabis establishment permits and/or licenses.

#### OTHER DISCUSSION

Dominiack offered a reminder of Oacoma's clean up day scheduled for Saturday, May 8, at the city maintenance shop from 8:00 am to 3:00 pm.

Dominiack offered thanks and appreciation to Chamber of Commerce Manager, Taryn Reidt, for her dedication and efforts with hosting the National Walleye Tour event held the previous weekend at Arrowwood Resort.

#### PAY BILLS

The following bills were approved for payment: Payroll: Gov Board-1200.00, Finance-3741.20, Streets-2885.31, Sewer-2447.17, Water-5042.68, Cemetery-151.03, Parks/Rec-303.41; Ace Hardware, trash cans-104.97; AFLAC, withholdings-96.20; Bomgaars, tools & supplies-652.88; Buche Foods, bleach-18.16; Byre Bros., garbage service-122.00; C&B Operations, grease, coolant & blade-172.81; Central Dakota Times, publishing-109.78; Chamber of Commerce/CVB, subsidy-2937.00; City of Chamberlain, summer rec subsidy-1000.00; Cozine Electric, parts & repairs-148.80; Dakota Pump, replace pump-4554.55; Jack Dooley, OCC custodian contract-500.00; First National Bank-Omaha, postage, supplies & software subscription-670.57; GF Advertising Services, billboard lease-1158.00; Hawkins Inc, chemicals-1056.87; IRS, payroll tax-3915.18; Midstate Communications, phones & internet-277.35; Office Products Center, service contract & tables-9405.99; SD Gov't Finance Officers' Assoc., conference registration-75.00; SD Public Health Lab, lab samples-212.00; SD Dept. of Revenue, 50% of malt beverage license fees-1200.00; SD Retirement System, contributions-1742.96; Servall, OCC supplies-136.29; Variety Plus, supplies-55.27; Verizon Wireless, cell phones-166.16; Wall Drug Store, Inc., billboard lease-200.00; WEERC, lab samples-178.00; Wellmark BCBS, health insurance-2760.42; West Central Electric Coop, utilities-5302.42; Willrodt Motor Co., mower parts & supplies-236.97; JTZ Properties, refund deposit-3.00; Jerry Kramer, refund deposit-30.00; Steve Richardson, refund deposit-30.00.

#### ADJOURNMENT

Motion by Fuchs, second by Kirkpatrick, to adjourn. Motion carried. The next regular meeting is scheduled for Monday, May 17, 2021 beginning at 7:00 P.M. in Meeting Room #2 at the Oacoma Community Center.

Gary Dominiack, President

Valerie J. Moore, Finance Officer

Published once, May 12, 2021, at a total cost of \$