

ORDINANCE NO. 2018- 06

AN ORDINANCE REGULATING THE STORAGE, SALE AND DISCHARGE OF FIREWORKS WITHIN THE CITY OF FRONTENAC, KANSAS; AND REPEALING ORDINANCES IN CONFLICT WITH THE SAME, SPECIFICALLY ORDINANCE NO. 1982-107, FIREWORKS ORDINANCE 2009-04 AND ALL AMENDMENTS THERETO.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FRONTENAC, KANSAS.

Section 1. Fireworks.

Except as hereinafter provided, it shall be unlawful for any person to sell or discharge fireworks as defined by the regulations of the Fire Marshal of the State of Kansas within the City of Frontenac, Kansas.

Section 2. Sale of Fireworks.

Upon application to the City, a permit to sell fireworks shall be granted upon the following conditions:

- (a) All applications for a permit to sell fireworks shall be submitted to the City at least 10 days prior to the granting of such permit. No permits shall be granted prior to June 24 of the year in which fireworks will be sold pursuant to such permit.
- (b) Approval of the location upon which fireworks are to be stored and/or sold, provided, however, that no such location shall be within 50 feet of another location measured structure to structure and provided further that each such location upon which fireworks are to be sold shall provide for the public not less than one off street parking stall per 200 square feet of sales structure floor area and adequate ingress and egress aisles. Fireworks shall not be stored or sold within 50 feet of any source of flame, sparks, or flammable or volatile liquids in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.

A description of each location referred to herein with a scale drawing showing the location of the retail sales space and the location of the surrounding improvement and structures with distances shown thereon shall be provided to and approved by the Director of Public Works, or his designee, prior to the issuance of a permit to sell fireworks. Unattended fireworks storage may be on the vendor site for only 5 days prior to and 5 days following the end of the permitted sales.

- (c) Approval of all safety precautions and equipment at each sales site by the Fire Department designee; such precautions to include fire extinguishers and such other equipment as required by applicable state laws and regulations.
- (d) Each vendor shall obtain a policy of general comprehensive liability insurance for a minimum coverage of \$1,000,000.00 per occurrence, with City of Frontenac, Kansas, named as an additional insured, and shall provide the City with a copy of the certificate of such insurance. Such policy or policies shall not be cancellable by vendor upon less than thirty (30) days' notice.
- (e) Each vendor shall obtain a policy of product liability insurance for a minimum coverage of \$1,000,000.00 per occurrence for products sold and/or stored within the City by the vendor, and shall provide the City with a copy of the certificate of such insurance. Such policy or policies shall not be cancelable by vendor upon less than thirty (30) days' notice.
- (f) Each vendor shall at all times indemnify the City of Frontenac, Kansas, its officials, agents and employees, and shall save and hold them harmless, from and against any and all claims, actions, damages, liability and expense, including but not limited to attorneys' and other professional fees, in connection with loss of life, personal injury and/or damage to property arising from or out of the storage, sale, discharge and/or transportation of fireworks by such vendor and vendor's customers, employees contractors and agents.
- (g) All fireworks stored or sold shall be of the type allowed by applicable state laws and regulations.
- (h) Payment of a permit fee in the amount of \$500.00 per sales site which shall be allowed within the City of Frontenac only along Parkview Drive.
- (i) All permits to sell fireworks issued pursuant to this section shall be in writing, shall contain thereon such restrictions as may have been imposed by the City Council and shall be permanently displayed at each location upon which the fireworks are to be sold. Each permit so issued shall be valid through July 5th of the year in which it is issued. Fireworks may be sold only from June 27 through July 5 of each year.
- (j) No permit shall be issued or renewed to a holder who has failed to demonstrate financial responsibility. In this regard and by way of illustration, evidence that the holder of a permit has failed to pay the cost of merchandise when due, failed to pay costs associated with leased land or facilities when due, or failed to pay wages of employees when due in connection with sales of fireworks in prior years, may constitute sufficient grounds for the rejection of an application for a permit.

Section 3. Sales and use of Fireworks – Time and date limitations.

The sale of fireworks within the City of Frontenac, Kansas shall be subject to the laws of the state of Kansas regulating the same.

The use of fireworks within the City of Frontenac, Kansas shall be permitted only upon the following dates and times:

| <u>Dates</u> | <u>Times</u> |
|--|---|
| June 27 – July 5 (inclusive) | 8:00 AM – 10:00 PM for discharge |
| If any of the above dates are Friday and Saturday, then in that event, the times of discharge are: | 8:00 AM – 12:00 AM midnight for discharge |
| July 4 | 8:00 AM – 12:00 AM midnight for discharge |

Section 4. Public Displays.

Notwithstanding any other provisions within this ordinance, special permits may be issued by the City Council for firework displays upon such terms and conditions as the council shall establish.

Section 5. Bottle rockets – Sale or use prohibited – Exceptions.

- A. Except as provided in subsection C of this section 5:
 - 1. It is unlawful to sell, offer to sell, or to possess with intent to sell or offer for sale a bottle rocket; and
 - 2. It is unlawful to ignite, fire, set-off or otherwise use a bottle rocket.
- B. The provisions of this section shall not prohibit the possession or transportation of bottle rockets by a manufacturer or wholesaler thereof for sale outside this state if such manufacturer or wholesaler is currently registered with the state fire marshal pursuant to K.S.A. 31-501.
- C. As used in this section, "bottle rocket" means any pyrotechnic device which:
 - 1. Is classified as a Class C explosive by the United States Department of Transportation under 49 C.F.R. 173.100 (1977);

2. Is mounted on a stick or wire; and
3. Projects into the air when ignited, with or without reports, and includes any device with the same configuration, with or without reports, which may be classified as a pipe or trough rocket. "Bottle rocket" does not include helicopter-type rockets.

Section 6. Exceptions.

Nothing in this chapter shall be construed as applying to toy smoke devices defined as smoke balls, or tubes containing a pyrotechnic mixture which upon ignition produces a visible cloud of colored smoke (white and black smokes are considered colored); or to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap, and to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, not applying to the military or naval forces of the United States or of this state, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial or theatrical or athletic events, nor as prohibiting the firing of sky rockets or missiles when produced by a science class of any school and when under supervision of the science instructor and when the place and time of firing the sky rockets or missiles has been approved by the fire chief.

Section 7. Storage.

Fireworks to be sold at wholesale shall be stored in a room set aside for the storage of fireworks only. Over the entrance to this room shall be posted a sign reading, "FIREWORKS-NO SMOKING-KEEP OPEN FLAMES AWAY."

Section 8. Near flammable materials.

Fireworks shall not be sold or kept for sale in a place of business where paints, oils, varnishes, turpentine or gasoline or other flammable substances are kept in unbroken containers, unless in a separate and distinct section or department of the store.

Section 9. Fire extinguishers required.

Two approved Class 2A fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all buildings where fireworks are sold.

Section 10. Storage, sale and discharge of fireworks prohibited in certain locations.

- A. No person shall sell, store, keep or discharge fireworks:

1. Within one hundred feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints, and oils are stored in sealed containers only; or
 2. Within fifty feet of an inhabited commercial or industrial structure.
- B. No person shall sell fireworks, or keep or store fireworks for the purpose of sale, within fifty feet of a residence.
- C. Unless expressly authorized by the city, no person shall discharge fireworks:
1. Within one hundred feet of any retail fireworks stand or facility where fireworks are stored;
 2. Within 50 feet of any publicly owned structure;
 3. Without thereafter cleaning up, removing, and properly disposing of all resulting debris and scattered materials caused by the use and discharge of said fireworks.
 4. From, into, out of, on, under or in the direction of a car or other vehicle, whether moving or stationary; or
 5. In a manner which interferes with the flow of vehicular or pedestrian traffic on a public street.

Section 11. Subject to seizure.

Pyrotechnic devices which are sold, offered for sale, ignited or discharged, possessed or transported in violation of the provisions of this ordinance shall be subject to seizure by the state fire marshal, any deputy state fire marshal, the City's Director of Public Safety or his designee, any law enforcement officer, or any member of the City's Fire Department.

Section 12. Discharge of fireworks; emergency conditions.

Upon the determination of the Director of Public Safety or his designee, the discharge of fireworks may be limited, suspended or prohibited within the City limits of the City of Frontenac, Kansas, even during those times generally permitted by resolution. Such determination shall be made if it appears to the Director of Public Safety or his designee that the discharge of fireworks constitutes an immediate hazard to the safety of property or persons within the City of Frontenac, Kansas. Such limitation, suspension or

prohibition shall be by emergency proclamation signed by the Mayor which shall be publicized and posted at the City Hall of Frontenac, Kansas, and at each vendor site of sale. If thereafter circumstances occur which minimize or eliminate the hazardous condition resulting in such proclamation, the proclamation may be rescinded or modified by subsequent proclamation with similar postings. In the absence of the Mayor or in the event that the Mayor's ability to issue such proclamation is impaired by virtue of a conflict of interest, the then serving President of the Council shall be empowered to issue such proclamation.

Section 13. Penalty.

The violation of any provision of this ordinance shall be punishable by a fine not to exceed \$2,500.00 and/or imprisonment for not more than sixty (60) days and/or revocation of any permit to sell fireworks.

Any permit holder violating any provision of this Ordinance shall first be issued a warning by the City of Frontenac Police Department, and on any second or subsequent violation of this Ordinance, the City of Frontenac Police Department shall revoke the permit for sale and terminate the sale of fireworks by the violator. Any permit holder whose permit is revoked hereunder may appeal to the Municipal Court of the City of Frontenac, Kansas, by notice served upon the Municipal Court Clerk or City Administrator, and a hearing shall be noticed up to the city and appealing party and held not less than forty-eight (48) hours from the date of the filing of such notice of appeal.

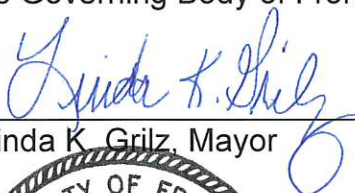
Section 14. Repealing.

This Ordinance repeals Ordinance No. 1982-107, Fireworks Ordinance 2009-04 and all amendments thereto, and any other Ordinance or part thereof in conflict with the same.

Section 15. Effective date.

This Ordinance shall take effect upon its adoption and publication in the City's designated newspaper for legal publications.

ADOPTED AND APPROVED by the Governing Body of Frontenac, Kansas, on this 16th day of April, 2018.



Linda K. Grilz, Mayor

(SEAL)
ATTEST:



Terri Kutz, City Clerk

