

ORDINANCE NO. 933

**AN ORDINANCE LIMITING THE STORAGE, SALE AND USE OF FIREWORKS
WITHIN THE CITY OF COTTONWOOD FALLS, KANSAS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF
COTTONWOOD FALLS, KANSAS, that:**

SECTION 1. FIREWORKS DEFINED. For the purposes of this ordinance, the term "fireworks" shall mean those items as defined by the rules and regulations of the Kansas State Fire Marshall, and shall include, but not be limited to: firecrackers, torpedoes, sparklers, roman candles, sky rockets, bottle rockets, pin wheels, cones, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the grounds by explosive discharges or any device using blank cartridges.

SECTION 2. FIREWORKS PROHIBITED.

(A) Except as provided in Sections 3:6, it shall be unlawful for any person to keep, store, display for sale, fire, discharge or explode any fireworks.

(B) Nothing in this ordinance shall be construed as to apply to:

- (1) Toy paper caps containing not more than .25 of a grain of explosive composition per cap;
- (2) The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;
- (3) The military or naval forces of the United States or of this state while in the performance of official duty;
- (4) Law enforcement officers while in the performance of official duty; or
- (5) The sale or use of blank cartridges for ceremonial, theatrical or athletic events.

SECTION 3. SAME. EXCEPTIONS; DISCHARGES.

(A) Section 2 of this ordinance shall not apply to the firing or discharge of fireworks in the City between the hours of 8:00 a.m. and 12:00 midnight on June 27 through July 5 and at other time as may be specifically authorized by the City Council.

(B) The governing body of the city may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.

(C) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit therefore.

SECTION 4. SAME. EXCEPTION; SALE OF FIREWORKS . Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m. and 12:00 midnight commencing on June 27th through July 5 of each year.

SECTION 5. PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE.

(A) It shall be unlawful for any person to sell, display for sale, offer for sale or give away any type of fireworks within the city without applying for and securing a permit therefor on or before June 25th of the permit year.

(B) No permit shall be issued until the premises are inspected by the fire department to make certain that there are no fire hazards present. Upon qualifying for the permit, the permittee shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.

(C) No permit shall be issued unless proof of a commercial general liability policy with coverage for personal injury, death and property damage is presented to the City Council for approval.

SECTION 6. PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED.

(A) It shall be unlawful for any person or organized groups to give or provide a fireworks display for the public without first obtaining a permit to do so by making application at least 30 days in advance of the desired display. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$100,000.00, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable except by giving 10 days advance written notice to the city clerk.. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The application for the permit shall clearly state:

- (1) The name of the applicant.
- (2) The group for which the display is planned.
- (3) The location of the display
- (4) The date and time of the display.
- (5) The nature or kind of fireworks to be used.
- (6) The name of the person, firm or corporation that will make the actual discharge of the fireworks.

(B) No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property.

(C) All public displays must conform to the regulations of the State Fire Marshall.

SECTION 7. APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED.

(A) All fireworks offered for sale and discharged within the city shall be of a type that has been tested and approved for sale and use within the state of Kansas by the State Fire Marshall.

(B) Bottle rockets and other similar self-propelled firework or fireworks devices consisting of a tube and attached guiding stock or rod shall not be sold or discharged in the city.

SECTION 8. DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED. It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any public street, alley or avenue or in any park or public place within the city except during the dates permitted in Section 3 of this Ordinance.

SECTION 9. THROWING PROHIBITED . It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind.

SECTION 10. SALE OF FIREWORKS; WHERE PROHIBITED.

(A) It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.

(B) Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.

SECTION 11. RETAIL DISPLAY OF FIREWORKS.

(A) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.

(B) All fireworks displayed for sale must remain in original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided that fireworks in open stock may be kept in show cases or counters out of the

reach of the public without an attendant being on duty.

(C) Signs reading "Fireworks for Sale--No Smoking Allowed" shall be displayed in the section of a store or premises set aside for the sale of fireworks.

SECTION 12. FIRE EXTINGUISHERS REQUIRED.

(A) Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold or displayed for sale.

(B) Small stands, temporarily erected to be used as a place of storing and selling fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguisher, a pressurized water hose with nozzle end within five feet of the fireworks stand.

SECTION 13. RESTRICTIONS AS TO GASOLINE INSTALLATIONS. It shall be unlawful to store, keep, sell, display for sale or discharge any fireworks within 50 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 handled in sealed containers only.

SECTION 14. AUTHORITY OF FIRE CHIEF. The chief of the fire department is authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this Ordinance, and all of the rules of the State Fire Marshall. He or she shall dispose of all such fireworks as may be directed by the governing body.

SECTION 15. PENALTIES. Any person, firm, partnership, corporation or organization violating any of the provisions of this ordinance, maybe sentenced to a fine of not less than \$100 nor more than \$500.00.

SECTION 16. Any sentence, phrase, paragraph, or section of this Ordinance which is found to be unconstitutional by a Court of competent jurisdiction shall not affect the remaining portions of this Ordinance which are not found to be unconstitutional.

SECTION 17. This Ordinance shall take effect upon its publication in the official City newspaper, the Chase County Leader-News.

PASSED AND ADOPTED this 21st day of November, 2011.


Michael D. Swartz, Mayor

ATTEST:


Susan Ring, City Clerk