

BILL NO. 11-2024

ORDINANCE NO. 1565-2024

AN ORDINANCE AMENDING MUNICIPAL CODE SECTION 210.2210 PERTAINING TO THE SALE AND USE OF FIREWORKS

WHEREAS, the City requires a fireworks permit for seasonal sales of fireworks between June 20th and July 5th;

WHEREAS, the city's fireworks ordinance does not currently consider sales of fireworks at other times of the year that are allowed by state statute and the Missouri Fireworks Regulations administered by the Missouri Division of Fire Safety;

WHEREAS, the Kearney Board of Aldermen deems it to be in the best interest of the City to amend the Municipal Code as it pertains to the sale of fireworks.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF KEARNEY MISSOURI, AS FOLLOWS:

Section 1. Municipal Code Chapter 210, Article XIV, Section 210.2210, related to the Sale and Use of Fireworks, is hereby amended as follows:

Section 210.2210. Sale and Use of Fireworks.

A. Definitions. As used in this Section, the following words shall have the meanings set out herein:

DISTRIBUTOR

Any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified by the State of Missouri, including any persons that imports any fireworks into the State of Missouri

FIRE CHIEF

The Fire Chief of the Kearney Fire and Rescue Protection District unless the Board of Aldermen designates otherwise.

FIREWORKS

1. CONSUMER FIREWORKS

Explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, within 49 CFR Part 172.

2. DISPLAY FIREWORKS

Explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two (2) grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0333 or UN0334 or UN0335, within 49 CFR Part 172.

3. All references hereinafter in Article XIV to fireworks sales or permits refer to Consumer Fireworks only.

JOBBER

Any person engaged in the business of making sales of consumer fireworks at wholesale or retail within the State of Missouri to non-licensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December

WHOLESALER

Any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri

B. Seasonal Fireworks Permits - Applicants — Receiving Permits — Cleanup Fee.

1. The applicant receiving a seasonal fireworks permit for the sale of a fireworks shall display, in plain view and at the point of sale, a sign stating the dates that fireworks may be discharged and the type of fireworks prohibited within the City limits of Kearney. The sign must meet with the approval of the Director of Police Services.
2. All applicants shall indicate on their application that they shall adhere to the laws of the State of Missouri regulating the sale of fireworks, indemnifying and holding the City of Kearney not liable in any way for action or damages resulting from the operation of their fireworks stand or from the sale of their fireworks. Accompanying every application shall be an insurance certificate covering any damage or liability which may be caused from the operation of the fireworks stand or sale of the fireworks. Applicant shall also agree to abide by any rules governing the sale promulgated by the Mayor and Board of Aldermen.
3. Cleanup fee.
 - a. The applicant receiving a permit for the sale of seasonal fireworks shall, in addition to the permit fee, deposit one thousand dollars (\$1,000.00) for a cleanup fee. The full amount of the deposit will be refunded to the permit holder upon successful demonstration to the Codes Enforcement Officer that he/she has cleaned his/her permitted location of trash, litter, debris, signs and temporary structures, including gravel areas, per a uniform checklist developed by the Codes Enforcement Official. Beginning on July 10, site not completely cleaned of its trash, litter, debris, signs, and temporary structures, including gravel areas, shall incur a one-hundred-dollar per day deduction of the cleanup fee.
 - b. Failure to follow said checklist shall constitute forfeiture of the cleanup deposit and shall disqualify him/her from consideration for subsequent permits.
4. Application sketch drawing and description. Applications shall be accompanied by a sketch drawing and description that, at a minimum, clearly outlines existing property lines; adjoining streets; existing and proposed structures, including the location and size of the proposed tent or other structure; signage; parking facilities; restroom facilities; power source; ingress and egress; site circulation; and setback distances between the proposed tent, structures, curbs and property lines in conformance with the underlying zoning district. Parking facilities may consist of a temporary gravel area, provided said gravel is removed from the property as part of site cleanup.

C. Seasonal Fireworks Permit Fee — Sign Regulations.

1. All applications for the sale of seasonal fireworks shall be submitted to the City, including specifications of the fireworks stand, its location and a permit fee of one thousand five hundred dollars (\$1,500.00).
2. Said fee shall include the cost of occupation license and temporary sign permit(s). Permittee agrees to comply with all City ordinances relevant to occupation licenses and to further comply with all temporary sign regulations set forth in City ordinances.

This Section shall not become effective until the fee increase is approved by a vote of the citizens of Kearney.

- D. Before any permit is issued by the Council, the location as well as the following requirements for the sale and safety of the fireworks stand shall first be approved by the Fire Chief exercising reasonable regard for the public welfare and safety and with due regard for Chapter 320, RSMo., 1959, as amended. Two (2) approved fire extinguishers shall be provided and kept in close proximity to the stock of fireworks in all buildings where fireworks are sold. Small stands temporarily erected to be used as a place for storing and selling fireworks only shall have fire extinguishers as required for buildings or, in lieu of the fire extinguisher, may have a barrel of water and two (2) buckets available in close proximity to the stand for use as fire extinguishing equipment. A sign or signs reading "Fireworks For Sale — Keep Open Flame Away — No Smoking Allowed" shall be prominently displayed wherever fireworks are sold.
- E. Approval Of Seasonal Fireworks Permits.
 1. The City Clerk shall approve permits for the sale of seasonal fireworks from all qualified applications received. Qualifications of applicants shall be determined by the terms of this Article.
 2. Applications shall not be accepted from, nor permit granted to, any applicant who is in default on the payment of taxes, licenses or other monies due the City.
- F. Sales Of Seasonal Fireworks — When. Sale of seasonal fireworks within the City of Kearney, Missouri, shall be limited to the hours between 9:00 A.M. and Midnight from June twentieth (20th) to July fifth (5th). Any person who is caught selling during any hours not so stated shall be deemed an ordinance violation.
- G. Sales of Consumer Fireworks By Distributors, Jobbers or Wholesalers Licensed by the State of Missouri — A holder of a distributor, wholesaler, or jobber's permit issued by the State of Missouri may operate out of a permanent structure in compliance with all Missouri Fireworks Regulations, applicable building and fire regulations, and all city ordinances. The number of such business licenses shall be limited to one (1) location per ten thousand (10,000) population, or fraction thereof, as determined by the US Census Bureau annual population estimate.

A seasonal fireworks permit is required for retail sales of seasonal fireworks as described in this Section.
- H. Use Of Display Fireworks. No individual or entity not specifically authorized by the City may sell or discharge Display Fireworks within the City.
- I. Use Of Fireworks By Individuals. No fireworks may be fired or discharged except on the individual's own property or with the permission of the property owners. Fireworks may be discharged from June twenty-eighth (28th) to July third (3rd) between the hours of 9:00 A.M. to 10:00 P.M. On July fourth (4th) fireworks may be discharged between the hours of 9:00 A.M. to 11:00 P.M. No person shall discharge any fireworks in such a manner as to threaten or to injure another. Fireworks may be discharged at other times and places with the permission of the City.

J. Bottle Rockets.

1. No person shall sell bottle rockets in the City limits of Kearney, Missouri.
2. No person shall fire or discharge bottle rockets in the City limits of Kearney, Missouri.

Section 2. This ordinance shall be in full force and effect on after passage by the Board of Aldermen and approval by the Mayor.

**ADOPTED AND APPROVED BY THE MAYOR AND BOARD OF ALDERMEN, CITY OF KEARNEY, MISSOURI,
THIS 18TH DAY OF MARCH, 2024.**

APPROVED:



Randy Pogue, Mayor

ATTEST:



Sheila Ernzen, City Clerk



Proposed additions in **bold** and proposed deletions in ~~striketrough~~.

Chapter 210. Ordinance Violations

Article XIV. Fireworks

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