

# Fireworks Ordinance

## ARTICLE 3. FIREWORKS

7-301. DEFINITIONS. As used in this article, the following words and phrases shall have the following meaning:

(a) “Fireworks” means and includes any combustible or deflagrating composition, article or device suitable for use of the public for the purpose of producing a visible or audible effect by combustion, deflagration or detonation.

(b) “Class C fireworks” (common fireworks) means fireworks designed primarily to produce visible effects by combustion.

(c) Nothing in this article shall be construed as applying to: storage, sale or use of signals necessary for safe operation of railroads or other class of public or private transportation, 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 a school instructor, and shall not apply to those items excepted by the regulations of the state fire marshal as set forth in the Kansas Administrative Regulations. (Ord. 520, Sec. 1; Code 1997)

7-302. POSSESSION; APPROVED. The sale, use, manufacture and possession of the following fireworks are hereby approved within the city, except that prohibited items may be used for public display purposes subject to provisions of this article, and except possession of prohibited items by jobbers, wholesalers and manufacturers for shipment to other states:

Approved: All pyrotechnic items classified as Class C fireworks (common fireworks) and listed as follows:

(a) Roman candles, not exceeding 10 balls with total pyrotechnic composition not exceeding 20 grams in weight and inside tube diameter not exceeding 3/8 inch.

(b) Helicopter-type rockets, with total pyrotechnic composition not exceeding 20 grams in weight and inside tube diameter not exceeding 1/2 inch.

(c) Cylindrical fountains with total pyrotechnic composition not exceed 75 grams in weight and inside tube diameter not exceeding 1/2 inch.

(d) Cone fountains, with total pyrotechnic composition not exceeding 50 grams in weight.

(e) Firecrackers with casings with external dimensions not exceeding 1 1/2 inches in length and 1/4 inch in diameter, and total pyrotechnic composition not exceeding two grains each in weight.

(f) Wheels with total pyrotechnic composition not exceeding 60 grams for each driver unit or 240 grams for each wheel, and with inside tube diameter of driver units not exceeding 1/2 inch.

(g) Illuminating torches and colored fire in any form, with total pyrotechnic composition not exceeding 100 grams.

(h) Dipped sticks, the pyrotechnic composition of which contains any chlorate or perchlorate not exceeding five grams, and all sparklers.

(i) Mines and shells, of which the mortar is an integral part, with total pyrotechnic composition not exceeding 40 grams in weight.

(j) Novelties consisting of two or more devices enumerated in items (a)-(k) of this section. (Ord. 520, Sec. 1; Code 1997)

7-303. PUBLIC EXHIBITIONS. Fireworks prohibited herein may be sold for use by a competent operator approved by the fire chief for use in public exhibition or displays, who holds a valid and current permit issued by the city clerk. A display for family and friends is not a public display. Operators desiring to purchase such fireworks shall exhibit to and file with the seller a copy of the permit for public fireworks display issued by the city clerk.

(Ord. 520, Sec. 1; Code 1997)

7-304. STORAGE, SALE AND HANDLING. (a) 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. Four approved and fully charged fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all buildings where fireworks are sold. All fire extinguishers required herein shall be at least of type A standard (2A-10BC). Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have two fire extinguishers.

(b) No person shall offer fireworks for sale to individuals before the 28<sup>th</sup> day of June and after the 4<sup>th</sup> day of July.

(c) Retail Sales Restricted. Persons desiring to sell fireworks at retail in the city must be residents, and shall secure a permit each year from the city clerk. Such permit shall be issued upon payment of the required fee. A separate permit for fireworks sale only shall be required for each separate sales location, but there is a limit of one permit and sales location per person. There shall be a limit of three permits issued in the city per year.

(d) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where fireworks are in the original package, and all fireworks kept for sale on front counters must remain in original packages, except where an attendant is on constant duty. All retail stands will display "No Smoking" signs.

(e) It shall be unlawful for fireworks to be stored, kept, sold or discharged within 200 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold.

(f) It shall be unlawful to offer for sale any fireworks of a type that have not been treated and approved for sale and use within the State of Kansas by the state fire marshal. All new pieces of fireworks not having been tested by the state fire marshal shall be submitted to the state fire marshal for test and approval or rejection before being offered for sale to retailers or individuals within the city. It shall be unlawful to sell any fireworks item that is not properly labeled as to the manufacturer and contents of the item. It shall be unlawful to sell, possess, manufacture, fire or transport, except as provided herein, all fireworks as defined herein, not bearing the label "I.C.C. or D.O.T. Class C common fireworks."

(g) In addition to the above requirements, and the requirements of the city building and fire codes, prohibited fireworks to be sold at wholesale or retail for public displays as permitted under this article, shall be in a room or building set aside for the storage of fireworks only. Construction shall be of brick, block, concrete or 5/8 inch dry wall interior and brick, block or concrete exterior wall. All exterior doors and frames shall be of metal with metal doors and windows (wooden frames shall be allowed if metal bars are over doors and windows). A sign reading "Fireworks - No Smoking" shall be posted over the entrance. (Ord. 520, Sec. 1; Code 1997)

7-305.

#### DISCHARGING OF FIREWORKS

(a) Except when otherwise expressly authorized under a permit issued pursuant to section 7-306, discharging of fireworks shall be allowed only between the hours of 9:00 a.m. and 12:00

p.m. on July 1 through July 4. Discharging fireworks at any other time or day is unlawful. Fireworks shall not be ignited or discharged within 200 feet of any hospital, sanitarium or infirmary. No person shall ignite or discharge any fireworks into, under or on a car or vehicle, whether moving or standing still. Fireworks shall not be discharged within 200 feet of any retail stand or facility where fireworks are stored. Discharging or igniting fireworks in violation of the provisions of this section shall be unlawful.

(b) It shall be unlawful for any person to discharge fireworks by throwing, placing or discharging any fireworks in any gathering of persons or to direct fireworks toward any person.

(c) Except when otherwise expressly authorized under a permit issued pursuant to section 7-306, it shall be unlawful for any person to throw, place or ignite or discharge any fireworks on the sidewalks, streets, alleys or within the City Parks of the City of Edwardsville, Kansas.

(d) It shall be unlawful for any person to set off or discharge any fireworks in any building. (Ord. 746)

7.305.1 BOTTLE ROCKETS. As used in this article, bottle rocket means any pyrotechnic device which is classified as a " Division 1.4" (formerly "Class C") explosive, by the United States Department of Transportation under 49 C.F.R. 173.2 and 173.50 (2003), and which is:

(1) A bottle rocket with or without reports, or

(2) A device with the same configuration as a bottle rocket with or without reports, which may be classified as a pipe or through rocket.

(3) Notwithstanding any other city laws to the contrary, the sale, use, manufacture and possession of bottle rockets is unlawful and is hereby prohibited. (Ord. 520, Sec. 1; Code 1997)

7-306. PERMIT FOR PUBLIC DISPLAY REQUIRED. All persons discharging fireworks for public display within the city limits shall obtain a city permit. Permits will be issued only to those persons with the requisite competence and skill in the opinion of the

fire chief and only when in the opinion of the fire chief the proposed display will be conducted in a manner not hazardous to persons or property. A display for family and friends does not qualify as a public display. An applicant shall file a resume showing at least three previous public displays of fireworks of the type prohibited herein, in which applicant supervised or handled such fireworks and showing the names and phone numbers of a contact person with the organization putting on the display. (Ord. 520, Sec. 1; Code 1997)

7-306.1 APPLICATION FOR PERMIT. (a) An applicant for permit for sale of fireworks or for a public exhibition or display of fireworks shall file with the city clerk a written application duly subscribed and sworn to by the applicant.

(b) Such application shall set forth the following:

(1) The name of the association, organization or corporation, together with the names of the persons to be in charge of the sales or of the firing and discharging of the display;

(2) The date and time of the day at which the sales or display is to be held;

(3) The exact location planned for the display;

(4) In case of a display, a description setting forth the age, experience, residence and physical characteristics of the persons who are to do the actual firing and discharging of the fireworks;

(5) The number and kinds of fireworks to be discharged at the display;

(6) The manner and place of the storage of fireworks for the display between the date of purchase and the date of display;

(7) A diagram or sketch of the grounds on which the display is to be held, showing the point at which the fireworks are to be discharged; the location of all buildings, streets and other lines of communication; the lines behind which the public will be restrained; and the location of all nearby trees, telegraph, telephone lines, or other overhead obstructions.

(8) A sales tax number or else the applicant shall supply one to the city clerk two weeks before July 1.

(c) An application fee for display may be charged in an amount to be set by the city.

(d) A license fee for the sale of fireworks at each location shall be in the sum of \$500. (Ord. 758; Code 1997)

7-306.2 INSURANCE POLICY REQUIRED. Before a permit will be issued for the sale of fireworks or for a display exhibition or display of fireworks, the applicant shall file with the city clerk a certificate of liability insurance approved as to form by the city attorney stating that the applicant has a liability insurance policy in the minimum amount of \$100,000 for one person and \$500,000 for injury to or death of more than one person, and \$100,000 coverage for damage to property. The certificate of insurance shall name the city as an additional named insured or loss payee. (Ord. 520, Sec. 1; Code 1997)

7-307. CONDUCT OF PUBLIC DISPLAY. No fireworks shall be discharged, ignited, or exploded at any point in the city within 200 feet of any hospital, sanitarium, nursing home, health care facility, infirmary or similar facility.

The audience at a public display of fireworks shall be restrained a safe distance from which the fireworks are discharged, and only persons in active charge of the display shall be allowed inside these lines.

All fireworks that fire a projectile shall be set up so that the projectile will go into the air as nearly as possible at an angle of not more than 15 degrees from vertical and directed away from spectators. Where such fireworks are to be fired beside a lake or other large body of water, they may be directed in such a manner that the falling residue from the deflagration will fall into such body of water.

Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a safe manner for the particular type of fireworks and as directed by the fire chief.

No fireworks display shall be held during any windstorm in which the wind reaches a velocity of more than 30 miles per hour. In such cases the fire chief may authorize the display at a future date suitable to the group holding the display. There shall be at all times at least two operators of the display constantly on duty during the discharge, at least one of which shall be an adult. (Ord. 520, Sec. 1; Code 1997)

7-308. FIRE EXTINGUISHERS AT PUBLIC DISPLAY. At a public display of fireworks, at least two fire extinguishers of a type approved by the fire chief shall be kept at as widely separated points as possible within the actual area in which the discharging is being done. (Ord. 520, Sec. 1; Code 1997)

7-309. ENFORCEMENT OF PROVISIONS. The fire chief and all law enforcement officers are charged with the duty of enforcing all of the provisions, terms, and regulations of this article.

The fire chief and law enforcement officers may confiscate or cause to be confiscated and removed and stored, retained and disposed of at the owner's expense, all stocks of fireworks offered or exposed for sale, sold at retail, stored, possessed or held in violation of this article or in violation of the laws of the State of Kansas and the rules and regulations of the Kansas State Fire Marshal. The storage, retention and disposition of such confiscated fireworks shall be subject to and governed by Kansas State Fire Marshal Regulations, including but not limited to Kansas Administrative Regulations 22-6-13 and 22-6-13 and amendments thereto. (Ord. 520, Sec. 1; Code 1997)

7-310. EXEMPTIONS FROM CHAPTER. Nothing in this chapter shall be construed as prohibiting any resident wholesaler, dealer or jobber from selling at wholesale such fireworks as are not herein prohibited, or the selling of any kind of fireworks, if the fireworks are to be shipped out of the city. Nothing in this chapter shall be construed as prohibiting the manufacture, storage, sale, or use of signals, fuses, or fireworks necessary for the sole operation of railroads, trucks, aircraft, or other instrumentalities of transportation or of blank cartridges and blank pistols for a show or theater or for signal or ceremonial purposes in athletic events or for use by governmental agencies or licensed contractors for the eradication, removal or relocation of birds or other pests, or for use by military organizations or for use by a science class under the supervision of a school instructor when the place and time of firing have been approved by the fire chief. Nothing in this article shall be construed to

prevent, prohibit or regulate the manufacture, storage, sale or use of model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models not considered to be fireworks. Nothing in this article shall be construed to prevent, prohibit, or regulate the use of explosives of any nature or any substance or device used in connection with such explosives in any building or construction work or activities within the city as provided in the Fire Prevention Code of the city. (Ord. 520, Sec.1; Code 1997)

7-311. VIOLATION; PENALTY. (a) Violation of any provision of this article shall be unlawful and shall be punishable by a fine of not less than \$500 nor more than \$1,500, or by imprisonment for a period not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court. Each violation shall constitute a separate offense.

(b) In addition, any violations of the provisions of this article which result in a conviction in the municipal court of the city, or any state court within Kansas, shall

bar the person so convicted from obtaining city permits and licenses relating to fireworks for a period of two years. (Ord. 520, Sec. 1; Code 1997)

7-312.                   EMERGENCY PROCLAMATIONS. If in the opinion of the fire chief, city administrator and mayor a fireworks- related disaster has occurred, or the threat thereof is imminent within the city, a proclamation may be issued pursuant to the limitations, conditions, restrictions and requirements set out in the laws of the State of Kansas including but not limited to K.S.A. 48-932, which proclamation may prohibit the sale, use and discharge of fireworks within the city. (Ord. 520, Sec. 1; Code 1997)