

ORDINANCE NO. 390

AN ORDINANCE ESTABLISHING CERTAIN DAYS AND HOURS DURING WHICH THE DISCHARGE AND SALE OF CERTAIN FIREWORKS SHALL BE PERMITTED WITHIN THE CITY OF MELVERN, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MELVERN, KANSAS:

Section 1. FIREWORKS DEFINED. For 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, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.

Section 2. FIREWORKS PROHIBITED.

- (a) Except as provided in this ordinance, 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 applying 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 10:00 a.m. and 12:00 midnight on June 27th through July 5th.

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 10:00 a.m. and 12:00 midnight commencing June 27th through July 5th.

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

- (a) It shall be unlawful for any person to sell, display for sell, offer to sell or give away any type of fireworks within the city without first paying a fee of \$50.00 per establishment or premises to the city clerk and applying for and securing a permit thereof on or before June 25th of the permit year.
- (b) Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. 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.

Section 6. PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE

- (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 by the state fire marshal.
- (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 7. 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.

Section 8. 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 9. MISC. PROHIBITED. It shall be unlawful for any person to ignite or discharge any fireworks in any building, or within 200 feet of any retail stand or facility where fireworks are stored.

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 retailer 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 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 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 for 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 withing 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 200 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, paint and oils are handled in sealed containers only.

Section 14. AUTHORITY OF FIRE CHIEF. The chief of the fire department or any law enforcement officer 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 marshal. He or she shall dispose of all such fireworks as may be directed by the governing body.

Section 15. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not less than \$25.00 nor more than \$500.00. Each day fireworks are sold or bartered in violation of this ordinance shall constitute a separate offense.

Section 16. Ordinance No. 69 and any other ordinances or parts of ordinances in conflict with any of the provisions of this ordinance shall be and are hereby repealed.

Section 17. This ordinance shall take effect and be in force from and after its passage, approval, and publication in the official city newspaper, as provided by law.

Passed and Approved by the Governing Body of the City of Melvern, Kansas on May 2, 2011.