

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 20, "FIREWORKS," OF CHAPTER 5 OF THE INDEPENDENCE CITY CODE AND MAKING OTHER NECESSARY REVISIONS.

WHEREAS, The City Council of the City of Independence, Missouri desires to amend Chapter 5 relating to the sale, retail display, possession, manufacturing, storage, handling and use of fireworks .

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That Article 20, "Fireworks" of Chapter 5 of the Independence City Code, be and is hereby amended, to read as follows:

"ARTICLE 20. FIREWORKS

SEC. 5.20.001. SALE AND RETAIL DISPLAY.

1. General. No person shall construct a retail display for, sell, or offer for sale, explosives, explosive materials, or fireworks within the City, except as allowed for permitted blasting operations and commercial fireworks displays, and except that the seasonal retail display and sale of certain Division 1.4G fireworks shall be permitted within the City by not-for-profit organizations whose primary purpose is religious, education, youth related or community service and which are located within the City for the period beginning ~~10:00 a.m. on June 23~~ **8:00 a.m. on July 1** and extending through noon on July 5. All not-for-profit organizations whose primary purpose is religious, education, youth related or community service and which are located within the City selling Division 1.4G fireworks as authorized herein shall comply with Chapter 320 of the Revised Statutes of Missouri, 11 CSR 40-3.010, CPSC 16 CFR, Parts 1500-1507, DOT 49 CFR, Parts 100-178, and all applicable ordinances of the City.

2. Occupation License Required. No person shall construct a retail display for, sell, or offer for sale at retail, Division 1.4G fireworks as authorized by Subsection 1 of this Section 5.20.001 without a license issued pursuant to this Subsection 2. It shall be unlawful for any person to sell fireworks from a vehicle or in any other manner except from a structure or stand licensed to sell fireworks pursuant to this Section.

A. There shall be up to sixteen (16) fireworks stand licenses available for issuance within the City annually:

- (1) for not-for-profit organizations whose primary purpose is religious, education, youth related or community service and which are located within the City; or,
- (2) for not-for-profit organizations whose primary purpose is religious, education, youth related or community service whose principal business is located within one thousand five hundred (1,500) feet of the City Limits, serving residents and businesses within the City Limits as their primary audience, and who own property within the City.
- (3) Applications shall be made to the City's Community Development Director or his designee on a form provided by the City between the 2nd Monday of April and the following Friday in April, for a license to be issued for July of the same year. The Director shall first consider those applications from the organizations which held a license in 2017 and remained licensed each year thereafter.

- (4) After licenses are issued pursuant to 5.20.001.2.A(1), any remaining licenses shall be issued as follows: The Community Development Director or his designee shall randomly select applications properly filed by the deadline and shall process such applications in the order selected.
- (5) A not-for-profit organization shall be limited to one (1) application submission each year and may be issued not more than one (1) fireworks stand license.
- (6) Incomplete applications shall be rejected and further randomly selected applications considered until all licenses have been issued.

B. Site Plan. No application will be accepted without a site plan showing the following:

- (1) Address or site location (no sales or storage will be permitted in a residentially zoned district or within three hundred feet of any permanent storage of ignitable liquid, gases, gasoline pump, or gasoline filling station) ;
- (2) Property owner and operators' names, addresses and phone numbers;
- (3) Size of lot and tent;
- (4) Location of tent(s) and all other structures and equipment including trailers and storage units on the lot (a maximum of two semi-truck storage trailers or the equivalent of trailer storage shall be permitted per location);
- (5) Location of all existing driveway entrances and temporary parking lots (construction of new driveway entrances and surfacing of parking areas require a permit from the Public Works Department);
- (6) Location of required restroom facilities (a minimum of one portable facility on-site is required);
- (7) Location of required dumpsters (a minimum of one 2-yard dumpster for a location having 1,000 square feet or less and a minimum of two 2-yard dumpsters, or one 4-yard dumpster for a location having more than 1,000 square feet of sales area);
- (8) Location of permanent or proposed temporary electrical service;
- (9) Location of required on-site, off-street customer parking spaces (a minimum of one space per 300 square feet of sales area required);
- (10) Location of nearest fire hydrant;
- (11) Location of signs (no off-premises signage is permitted; no sign may extend above or beyond the limits of the primary structure);
- (12) Other information as may be required by the City to ensure public health and safety.

C. Security Plan. No application will be accepted without a plan to secure the premises when not open to the public and shall include the name of the licensed security company to be used for this purpose.

D. License Fee. Applications must be accompanied by a fee established by the City Council. Any application that is not accompanied by the required fee will be returned to the applicant as incomplete and no further processing of the application will occur.

E. Proof of State Permit. Within thirty (30) days of notification of the acceptance on an application the applicant shall provide proof of a valid permit issued by the Missouri Department of Public Safety for the retail sale of consumer fireworks.

F. Proof of Insurance. Within thirty (30) days of notification of the acceptance on an application the applicant shall provide proof of general liability insurance in the amount of no less than \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit, and covering liabilities arising from the retail sale of fireworks during the term of the coverage shall be submitted with every application. The amount of the insurance shall not be subject to reduction of the aggregate limit as a result of occurrences at locations not operated by the seasonal retailer.

G. Sales Tax Collection. All vendors licensed by the City to sell fireworks shall collect all sales taxes on the retail sales of fireworks. Within thirty (30) days of notification of the acceptance of an application, the applicant shall provide proof of a valid retail sales license issued by the Missouri Department of Revenue for the retail sale of consumer fireworks at a location within the City.

3. Operation of Temporary Fireworks Structures or Stands.

A. It shall be unlawful for any person to construct a retail display for, sell, or offer for sale, within the City, the following Division 1.4G fireworks:

- (1) Sparkler bombs
- (2) Altered or combined fireworks
- (3) **"Sky lanterns", which are small hot air balloons commonly made of paper or other combustible material with an opening at the bottom where a small fire is suspended, and are sometimes known as Chinese lanterns, Kongming lanterns and sky candles. For purposes of this section, "sky lanterns" shall not include hot air balloons piloted by human beings, devices designed to loft scientific payloads (weather balloons) or any lantern that is tethered so as to not become free floating.**
- (4) **Rockets on a stick (example: bottle rockets)**
- (5) **Missiles with fins or rudders for the purpose of achieving aerodynamic flight; and**
- (6) **Roman Candles, California Candles, Illuminating Torches, or similar items, with or without spikes, which contain wording on the caution label that is substantially similar to the following:: "WARNING SHOTS FLAMING BALLS" or "WARNING SHOTS FLAMING BALLS AND REPORTS**
- (7) **Single or multi-shot parachutes, with night effects.**

B. Fireworks stands or structures shall comply with the provisions of the currently adopted International Building Code relative to temporary structures and a certificate of occupancy shall be obtained prior to opening.

C. No temporary stand or structure shall be set up before June 19 of each year.

D. All weeds and combustible materials shall be kept clear of the sales location and a distance of twenty five feet surrounding the sales location.

E. A minimum 3-foot wide, unobstructed aisle running the length of the stand, inside and behind, the sales counter shall be provided.

F. Each stand up to 24 feet in length must have at least two exits. Each stand in excess of 24 feet must have at least three exits. Exit locking devices, if any, shall be easily released from the inside without special knowledge, key or effort.

G. Each stand shall maintain a 2.5 gallon, 2A rated water-pressure type fire extinguisher or an ABC minimum 2A:10BC rated fire extinguisher near each exit and such extinguishers shall be kept in good working order and shall be easily accessible.

H. The stand shall have sufficient security to protect firework inventory from theft and vandalism.

I. The stand shall display in a prominent location, visible to the public, signage with red letters at least one-half inch high on a white background specifying hours of lawful use of fireworks within the City of Independence.”

J. Temporary structures or stands will only be allowed to conduct business/sales starting no sooner than 8:00 am on July 1 and no later than ~~12:00 am~~ noon on July 5th.

SEC. 5.20.002 POSSESSION, MANUFACTURING, STORAGE, SALE, HANDLING AND USE

1. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the City, except as follows:

A. Except as authorized below for the storage and handling of certain Division 1.4G fireworks, the storage and handling of fireworks shall be permitted only in compliance with applicable sections of the currently adopted International Fire Code.

B. The manufacture, assembly and testing of fireworks shall be permitted only in compliance with applicable sections of the currently adopted International Fire Code.

C. The possession and use of Division 1.3G fireworks shall be permitted only in accordance with applicable sections of the currently adopted International Fire Code.

D. The possession, storage, handling and use of certain Division 1.4G fireworks shall be permitted within the City, provided such fireworks comply with Chapter 320 of the Revised Statutes of Missouri, 11 CSR 40-3.010, CPSC 16 CFR, Parts 1500-1507, DOT 49 CFR, Parts 100-178, and all applicable ordinances of the City, except that it shall be unlawful for any person to possess, store, handle, or use, within the City, the following Division 1.4G fireworks and sky lanterns:

- (1) Sparkler bombs
- (2) Altered or combined fireworks
- (3) “Sky lanterns”, which are small hot air balloons commonly made of paper or other combustible material with an opening at the bottom where a small fire is suspended, and are sometimes known as Chinese lanterns, Kongming lanterns and sky candles. For purposes of this section, “sky lanterns” shall not include hot air balloons piloted by human beings, devices designed to loft scientific payloads (weather balloons) or any lantern that is tethered so as to not become free floating.
- (4) **Rockets on a stick (example: bottle rockets)**
- (5) **Missiles with fins or rudders for the purpose of achieving aerodynamic flight; and**
- (6) **Roman Candles, California Candles, Illuminating Torches, or similar items, with or without spikes, which contain wording on the caution label that is substantially similar to the following:: “WARNING SHOOTS FLAMING BALLS” or “WARNING SHOOTS FLAMING BALLS AND REPORTS**
- (7) **Single or multi-shot parachutes, with night effects.**

E. The use of Division 1.4G fireworks within the City limits shall only be permitted on July 3 and July 5 of each year between the hours of 10:00 a.m. and 11:00 p.m., on July 4 of each year between the hours of 10:00 a.m. and midnight.

F. It shall be unlawful for any person to throw, use, explode, detonate, aim, point or shoot fireworks, including pyrotechnic devices, in such a manner that, after it is ignited, will propel it, or any part thereof, such that it, or any part thereof, lands on property not owned by the person shooting the fireworks.

G. It shall be unlawful for any person to throw, use, explode, detonate, or shoot fireworks within any structure.

H. It shall be unlawful for any person to throw, use, explode, detonate, or shoot fireworks within six hundred feet of any church, hospital, mental health facility, or school, or within one hundred feet of any location where fireworks are stored, sold or offered for sale or a designated historical structure.

I. No person shall use, explode, detonate, or shoot fireworks within, or throw the same from, a motorized vehicle, nor shall any person place or throw any ignited firework into, at, or under a motorized vehicle or any other means of transportation, or at or near any person or animal.

J. No person shall throw, use, explode, detonate, or shoot fireworks within three hundred feet of any permanent storage of ignitable liquid, gases, gasoline pump, gasoline filling station, or any nonpermanent structure where fireworks are stored, sold or offered for sale.

K. It shall be unlawful for any person under the age of sixteen (16) years, unless under the supervision of a parent or guardian, to possess or discharge Division 1.4G fireworks within the City limits.”

SECTION 2. That it is the intent of the Council that the latter passed code shall prevail and that the stricter language shall control in any conflicts between the provisions of any codes adopted by the City except where the Council has adopted specific exceptions or amendments to any code in which case the latter passed specific amendment shall prevail.

SECTION 3. That Ordinance No. 18974 and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. That all other parts and provisions of Chapter 5 not amended or repealed herein shall remain in full force and effect.

SECTION 5. That correction of any scrivener's errors identified within Article 20 of this Chapter are hereby authorized by this ordinance.

PASSED THIS _____ DAY OF _____, 2020, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

NOTE: Text being eliminated by this ordinance is bolded and lined through and text being added by this ordinance is bolded and underscored.