

(Published in the High Plains Daily Leader & Times, Liberal, Kansas, this 29<sup>th</sup> day of April, 2021.)

## **ORDINANCE NO. 4555**

### **AN ORDINANCE REGULATING FIREWORKS WITHIN THE CITY OF LIBERAL, SEWARD COUNTY, KANSAS; AMENDING CODE CHAPTER 7 FIRE; ADDING ARTICLE 7 TO THE CODE OF ORDINANCES OF THE CITY OF LIBERAL, KANSAS.**

**BE IT ORDAINED** by the Governing Body of the City of Liberal, Kansas:

**Section 1.** Ordinance No. 4520, which allows and restricts the use of fireworks within the City of Liberal, Seward County, Kansas, and establishes penalties for violations, is hereby repealed in its entirety.

**Section 2.** Chapter 7 of the Code of Ordinances of the City of Liberal is hereby amended and Article 7 is added, to read as follows:

#### **Article 7. Fireworks**

**SECTION 3.** Article 7 of the Code of Ordinances of the City of Liberal, Kansas, is hereby added to read as follows:

#### **Sec. 7-701. FIREWORKS DEFINED.**

For the purpose of this ordinance, the term “fireworks” shall mean those items as defined by the rules and regulations of the Kansas State Fire Marshal, 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 devices 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.

#### **Sec. 7-702. FIREWORKS PROHIBITED.**

- a.) Except as provided herein and in Sections 703:706; it shall be unlawful for any person, firm, company or corporations to possess, store, display for sale, fire, discharge, explode, give or otherwise provide to another any of the following types of fireworks;
- 1) Firecrackers greater than one and one half inch (1 ½”) in length.

- 2) Sky rockets and bottle rockets as defined by the State Fire Marshal.
- 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 signal 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.

**Sec. 7-703. EXCEPTIONS RELATING TO DISCHARGE.**

- a.) Section 702 of this ordinance shall not apply to the firing or discharging of fireworks in the City between the hours of 8:00 A.M. and 11:00 P.M. on July 3<sup>rd</sup>, between the hours of 8:00 A.M. and 12:00 midnight on July 4<sup>th</sup> and then again between the hours of 8:00 A.M. and 11:00 P.M. on July 5<sup>th</sup>.
- b.) A public display shall only be allowed as set forth in 7-706.

**Sec. 7-704. EXCEPTIONS RELATING TO THE 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 10:00 P.M. commencing June 27<sup>th</sup> through July 3<sup>rd</sup> and between the hours of 8:00 A.M. and 12:00 midnight on July 4<sup>th</sup> of each year.

**Sec. 7-705. 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 of Liberal without first paying a fee of two thousand, five hundred dollars (\$2,500) per establishment or premises to the City Clerk and to apply for and secure a permit therefore on or before June 24<sup>th</sup> of the permit year.
- b.) No permit shall be issued for any location where retail sales are not permitted under the zoning laws. Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this Article 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 permit holder shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. In the event that an entity does

not qualify for the permit, then \$2,000 shall be refunded back to the applicant. The remaining \$500 shall be kept by the City for the processing and review of the application. In the event the permit is later withdrawn or cancelled as per Section 7-705(c) then the permit shall not be refunded.

- c.) Conditions which cause withdrawal or cancellation of the permit;
  - a. Incomplete application;
  - b. No insurance or cancellation of insurance after permit is issued;
  - c. Operator who has previously failed to comply with any or all of the provisions of this Article;
  - d. The firework stand does not or will not comply with the provisions of this Ordinance;
  - e. Any sale of prohibited fireworks.

**Sec. 7-706. PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED.**

- a.) The Governing Body of the City of Liberal, in conjunction with the City Fire Chief may, in their 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.
- b.) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtaining a permit thereof.
- c.) It shall be unlawful for any person to give or provide a fireworks display for the public or organized groups 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 display in a minimum of five hundred thousand dollars (\$500,000), written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable with the exception of giving ten (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 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.

- 7.) Anticipated need for police, fire or other municipal service. Any need for police, fire or other municipal service, whether for one or for all, shall be at the applicant's expense.
- d.) No permit shall be issued if the location, nature of the fireworks or other relevant factor will create an undue hazard, risk of harm or damage to persons or property.

**Sec. 7-707. 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 by the 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.

**Sec. 7-708. 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 in the City or private property without written permission from the property owner.

**Sec. 7-709. 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 the direction of or into any vehicle of any kind.

**Sec. 7-710. 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, 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.

**Sec. 7-711. RETAIL DISPLAY OF FIREWORKS.**

- a.) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise display.
- b.) All fireworks displayed for sale must remain in the 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 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.
  - d.) Signage providing information regarding prohibited fireworks, prohibited discharge locations, allowable discharge dates & times and fireworks safety guidelines shall be displayed in the section of a store or premises set aside for the sale of fireworks.

**Sec. 7-712. FIRE EXTINGUISHERS REQUIRED.**

- a.) Two functioning and approved Type 4A 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 extinguisher, a pressurized water hose with nozzle end within five (5) feet of the fireworks stand.

**Sec. 7-713. RESTRICTIONS AS TO GASOLINE INSTALLATIONS.**

It shall be unlawful to store keep, sell, display for sale or discharge any fireworks within one hundred fifty (150) 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 (1) gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.

**Sec. 7-714. AUTHORITY OF FIRE CHIEF.**

The Fire Chief or his or her designee 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.

**Sec. 7-715. EMERGENCY BAN RELATING TO DISCHARGE.**

Notwithstanding any of the provisions contained in this Ordinance, there shall be no firing or discharge of any fireworks in the City at any time the Fire Chief or his or her designee, determines that weather conditions or local circumstances make such firing and discharge of fireworks hazardous.

**Sec. 7-716. VIOLATION; PENALTY.**

- a.) Violation of any provision of this article shall be unlawful and shall be punishable by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), by imprisonment for a period not exceeding ninety (90) days, or by both such fine and imprisonment in the discretion of the Municipal Court. Violations relating to the public display and/or the sale of fireworks shall be a minimum five hundred dollar (\$500) fine. 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 of Liberal, or any State Court within Kansas, shall bar the person so convicted from obtaining city permits and licenses related to fireworks for a period of two (2) years.

**Sec. 7-717. CONFLICTING ORDINANCES.**

That all ordinances and parts of ordinances in conflict herewith, specifically Ordinance No.4520, are hereby amended and repealed. That in the event part or portion of this ordinance is found to be invalid, the invalidity of such shall not affect the other provisions or applications of the ordinance which can be given without the invalid part or portions.

**Sec. 7-718. PUBLICATION.**

That this ordinance shall be in full force and effect from and after its publication in the High Plains Daily Leader & Times, the Official City Newspaper.

**APPROVED AND PASSED** by the Governing Body of the City of Liberal, Kansas, the 27<sup>th</sup> day of April, 2021.

**CITY OF LIBERAL, KANSAS**

**(SEAL)**

\_\_\_\_\_  
Taylor Harden, Mayor

Attest.

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Alicia Hidalgo, CMC, City Clerk