

STATE OF KANSAS
RENO COUNTY
CITY OF THE HIGHLANDS

ORDINANCE 2022-26

AN ORDINANCE REGULATING THE SALE, HANDLING, USE OR STORAGE OF FIREWORKS WITHIN THE CITY OF THE HIGHLANDS, KANSAS, PROHIBITING THE USE OF AERIAL LUMINARIES AND BOTTLE ROCKETS

WHEREAS, the health and safety of the residents of The Highlands is crucial; and

WHEREAS, the city of The Highlands is located in a high fire risk area,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE HIGHLANDS, KANSAS, that the sale, handling, use and storage of fireworks in the City of The Highlands, Kansas, is hereby regulated as hereinafter provided.

Section 1. DEFINITIONS--Unless otherwise clearly indicated by the context as used in this ordinance:

1. Consumer Fireworks (aka Class "C" Fireworks) shall mean and include any combustible or explosive composition, or any substance or combination of substances, or devices prepared for the purposes of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, torpedoes, Roman candles, Daygo bombs, sparklers, or other devices of like construction and devices containing any explosive or flammable compound, or any tablet or other device containing any explosive substance, except that the term "fireworks" shall not include any safety flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, any toy pistols, toy canes, toy guns or other devices for use of such caps, the use of which shall be permitted at all times.
2. Display Fireworks (aka "Class "B" Special Fireworks) means large fireworks designed primarily to produce audible or visible effects by combustion, deflagration, or detonation. This term includes, but is not limited to salutes/firecrackers containing more than 2 grains (130 mg.) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits for classification as consumer fireworks and fused set pieces containing components which together exceed 50 mg. of salute powder.
3. Bottle Rocket shall mean any pyrotechnic device which is mounted on a stick or wire and projects into the air when ignited, with or without reports, and includes any device with the same configuration, with or without reports, which may be classified as a pipe or trough rocket. "Bottle Rocket" does not include helicopter-type fireworks.

4. The term Fireworks Stand shall mean and include any location where fireworks are offered for sale such as, but not limited to, permanent or portable stands, tents, trailers, stores, etc.
5. "Aerial luminary" shall be understood to mean airborne paper objects containing a device for fuel that heats air from inside causing it to rise into the air and to remain airborne until extinguished, commonly known as sky lanterns or flying luminaries.
6. "Public" includes all residents of the City of The Highlands.

Section 2. MANUFACTURE, STORAGE, SALE, POSSESSION, AND DISCHARGE OF CONSUMER FIREWORKS.

1. Neither Consumer nor Display Fireworks may be offered for sale within the City Limits of the City of The Highlands.
2. It shall be unlawful for any person to discharge bottle rockets and Roman candles within the City Limits of the City of The Highlands.
3. The use or discharge of any fireworks emitting a shower of sparks more than six (6) feet in any direction is prohibited and unlawful.
4. The use and discharge of fireworks labeled as emitting flaming balls is prohibited and unlawful.
5. It shall be unlawful for any person to store, sell, possess with intent to sell, or offer for sale, or to ignite, fire, set-off or otherwise use any pyrotechnic device not permitted by this ordinance.
6. Acceptable fireworks as described in Section 2, item 3, may be discharged within the City Limits of The Highlands from 8:00 a.m. to 11 p.m. on the 30th day of June through July 4th; provided, however, the discharge of consumer fireworks shall be on property owned by the person(s) so discharging, or owned by the immediate family thereof.
7. "Single limit policy" means the maximum amount of money that can be paid out by an insurance company and covers all aspects of damage, including but not limited to, bodily injury and property damage, even if the damage exceeds the amount of the insurance policy.

Section 3. COMMERCIAL FIREWORKS DISPLAY

All individuals, corporations, or organizations desiring to engage in the commercial PUBLIC display of fireworks shall apply for and obtain a permit for the same from the City Clerk of The Highlands. This permit will allow for the storage, handling, use and display, but not the sale, of Display Fireworks commonly used in commercial fireworks displays. It shall be a violation of this ordinance for any person, corporation or organization to engage in the commercial PUBLIC display of fireworks without a permit. The following procedures, terms and conditions pertain to the issuance of such permits:

1. All permits shall be reviewed and are subject to the prior approval, recommendations and conditions of the Fire Chief of Reno County Fire District 3 who exercises jurisdiction over the city of The Highlands.

2. The City Council of The Highlands must approve the PUBLIC permit at a regularly scheduled City Council meeting prior to the issuance of a permit.
3. Each display shall be of such character and so located, discharged or fired, as in the written opinion of the District No. 3 Fire Chief, after proper investigation, does not create a hazard to property or endanger any person.
4. Applications for permits shall be valid only for one day, and the date shall be specifically stated on said permit. An alternate date may be granted by the District No. 3 Fire Chief in the event of inclement weather or burning ban.
5. Applications for permits shall be made in writing at least twenty (20) days in advance of the date of display and shall be accompanied by a fee of \$25.00 payable to the City of The Highlands City Clerk.
6. An application must be accompanied with a copy of a valid Kansas Pyrotechnic shooter's license.
7. All permits issued hereunder shall be valid only at the location specifically stated on such permit. Such permits shall be issued only to those organizations or individuals wishing to provide a display for the PUBLIC. Any individual, corporation, or organization seeking a permit must display to the City Clerk of The Highlands proof of insurance insuring against bodily injury and property damage in the amount of \$1,000,000 (one million dollars) by single limit policy for damages arising out of any incident(s) occurring during the fireworks display.
8. No permit granted shall be transferable.
9. There shall be no structure of any type within 100 yards in any direction of the discharge site. Any tree located within that circumference shall be less than 10 feet in height.
10. All grasses and other shrubs within 50 yards of the fireworks detonation site shall be mowed to no taller than three (3) inches.

Section 4. SEIZURE, PENALTY AND VIOLATIONS

1. No stocks of fireworks stored, offered for sale, exposed for sale, sold or held in violation of this Section shall be seized from the owner except by an order or a search warrant of a court of competent jurisdiction. Such court order may be enforced by the Sheriff of Reno County or his duly authorized deputies. The stocks of fireworks seized hereunder shall be held by the Sheriff of Reno County. The Sheriff of Reno County shall hold such fireworks under seal in a safe place until final disposition of the charges against the owner; thereupon, the Sheriff of Reno County shall dispose of the fireworks in accordance with the Court's order.
2. Any person, firm, or corporation who shall be convicted in a court of competent jurisdiction for violating the provisions of this Section shall be deemed guilty of a Class C Misdemeanor and in accordance with K.S.A. 21-4502 and K.S.A. 21-4503 shall be subject to a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one (1) month and/or a fine not to exceed \$500.00.

Section 5. PROHIBITION OF USE OR DISCHARGE

Notwithstanding any other provision or permit authority herein to the contrary, the use or discharge of any consumer fireworks shall be prohibited whenever a Governor's ban on fires is in effect or when the County Emergency Preparedness Director declares an emergency, and the use or discharge of all consumer fireworks shall not be permitted until said ban or emergency is officially lifted.

Section 6. AERIAL LUMINARIES PROHIBITED

It shall be unlawful to ignite or otherwise use aerial luminaries, commonly known as sky lanterns or flying luminaries, within the City Limits of the city of The Highlands,

Section 7. INVALIDITY IN PART

If any section, sentence, subdivision, clause or provision of this ordinance or application thereof to any person, firm, corporation, partnership, or other entity or circumstances is held invalid or unconstitutional in a court of competent jurisdiction, the remainder of the ordinance and the application of the section, sentence, subdivision, clause or provision to other persons, firms, corporations, partnerships, or entities not similarly situated or to other circumstances shall not be affected thereby.

Section 8. This ordinance shall take effect and be enforced from and after its adoption and publication in the official city newspaper.

ADOPTED AND APPROVED this 9th day of May, 2022.



Carol L. Moore

Mayor

ATTEST:

Cindy Dale

City Clerk

Approved as to form and content

Shelby Tucker

City Attorney