

ORDINANCE NO. 1753

AN ORDINANCE DEFINING AND REGULATING THE DISCHARGE OF FIREWORKS IN AUGUSTA, KANSAS; PROHIBITING CERTAIN ACTIVITIES RELATING TO THE SALE AND DISCHARGE OF FIREWORKS; PROVIDING FOR THE INSPECTION, SEIZURE AND TESTING OF FIREWORKS; PROVIDING FOR TERMINATION OF PERMITS FOR PUBLIC DISPLAY OF FIREWORKS; PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE AND REPEALING CERTAIN SECTIONS OF ARTICLE 3 OF CHAPTER 7 OF THE CODE OF THE CITY OF AUGUSTA, KANSAS 1991.

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

SECTION 1. Article 3 of Chapter 7 of the Code of the City of Augusta, Kansas 1991, shall be amended by adding the following:

ARTICLE 3

7-301. DEFINITIONS. For the purpose of this article, the words and phrases used herein shall have the following meanings unless otherwise clearly indicated by the context:

(a) "Fireworks" shall mean and include any combustible and deflagrating composition, article, or device suitable for use of the public for producing a visible or audible effect by combustion, deflagration, or by detonation and previously approved by the chemical laboratory of the United States Department of Transportation, by the Kansas State Fire Marshal's Office and by the Augusta Department of Safety. The following devices are not classified as common fireworks by the U.S. Department of Transportation but are generically known as novelties, tricks and noisemakers, including but not limited to, the following items; snakes or glow worms, tubs or spheres that upon ignition produce white or colored smoke as the primary effect, wire sparklers not containing magnesium and riot exceeding one hundred grams of composition material per sparkler, and the following noise maker devices that produce a small report, including what is commonly known as a party popper, booby trap, snapper, trick match, cigarette load, and auto burglar alarm not exceeding .25 grams of explosive material. This term shall not include any auto flares, paper caps not in excess of an average of .25 grams of explosive per cap, toy pistols, cannons and guns or other devices for the use of such caps.

(b) "Prohibited fireworks" shall mean and include any combustible or deflagration device other than Interstate Commerce Commission Class "C"

fireworks not approved for sale within the State of Kansas by the Kansas State Fire Marshal or by the Augusta Department of Safety. The following shall be unlawful fireworks within the City of Augusta; firecrackers greater than one and one-half inch in length, torpedoes, sky rockets, bottle rockets as defined by the State Fire Marshal, roman candles, any other device which when ignited becomes airborne or will emit any airborne projectiles, and any other fireworks deemed to pose an unusual risk or hazard to the health and welfare of the City of Augusta, but only after conducting actual field test of such items.

7-302 DISCHARGE OF FIREWORKS. It shall be unlawful for any person, firm, corporation or partnership to discharge fireworks within the limits of the city except as permitted by this article. The discharge of lawful fireworks will be permitted on July 3 between the hours of 8:00 a.m. and 10:00 p.m. and on July 4 between the hours of 8:00 a.m. as 12:00 midnight. The discharge of fireworks will be allowed on private property but there shall be no discharge of fireworks on city property unless a permit is granted by city for such discharge.

7-303 PUBLIC DISPLAY. It shall be unlawful for any person, firm, corporation or partnership to provide a public fireworks display within the limits of the city without first obtaining a permit to do so. An application for a public display permit can be obtained from the City Clerk and should be filed at least thirty (30) days in advance of the date of the proposed display. The application shall clearly state the name of the applicant, the location, date and time of display, the nature of the fireworks used in the display, the name of the person, firm or corporation who will be in charge of the detonation of the fireworks, and the anticipated need for police, fire or other municipal services. The permit may be denied if it is determined that the nature of the fireworks or other relevant factors create an undue risk of harm or damage to persons or property.

7-304 MANUFACTURE, STORAGE AND SALE OF FIREWORKS, (a) It shall be unlawful for any person, firm, corporation or partnership to manufacture or assemble fireworks within the city. It shall also be unlawful for any person, firm, corporation or partnership to store, possess or offer for sale fireworks within the limits of the city.

(b) No entity may store fireworks within the city without the express written approval of city. Any requests for storage must be submitted in writing and investigated by the Department of Safety.

7-305 SEIZURE OF FIREWORKS. The Department of Safety is authorized to seize, take and remove any fireworks stored within the city without permit at the expense of the person in possession of such fireworks. Any seized fireworks shall be disposed of in a procedure provided by the State Fire Marshal.

7-306 INSURANCE. Any person, firm, corporation or partnership applying for a permit for a public display of fireworks must provide evidence or a certificate of insurance in an amount not less than \$500,000.00 currently in force to the City Clerk along with the application for the permit. Failure to provide the certificate to the City Clerk may result in a permit being denied. Any permits issued by the city under this article will be subject to immediate revocation at any time it is determined that insurance coverage is not in force as required above.

7-307 TERMINATION. Whenever the city has issued a public display permit under the provisions of this article and it is determined by the Department of Safety that the permitted function is in violation of this article or is operating in an unsafe manner, the Department of Safety shall immediately report the violation to the City Manager who shall determine whether to terminate, the operations or permanently cancel the permit.

7-308 EMERGENCY. At any time special circumstances exist including but not limited to a state wide ban on burning and/or fireworks detonation or any other circumstances which indicate the detonation of fireworks will create a public hazard, the time, place and manner of detonation of fireworks may be altered or suspended ,by the City Manager.

7-309 EXCEPTIONS. Nothing in this article shall prohibit the use of fireworks by railroads or other public transportation companies or agencies for signal or illumination purposes. The sale or use of blank pistol cartridges for any commercial, theater or entertainment, for signal or ceremonial purposes at athletic or sporting contests or the use of fireworks or similar devices by military, law enforcement or fire service agencies shall not constitute a violation of this article.

7-310 TESTING. The Director of the Department of Safety shall set-up testing procedures for use in determining whether certain fireworks allowed to be discharged within the City of Augusta comply with requirements of this article and regulations adopted by the City Council. The results of such testing will be made known to the City Manager who will in turn take appropriate action under the terms of this article.

7-311 PENALTIES. Any person, firm, corporation or partnership who violates the provisions of this article may be fined in an amount not less than \$50.00 nor more than \$1,000.00 for each occurrence.

SECTION 2. Article 3 of Chapter 7 of the Code of the City of Augusta, Kansas 1991, is hereby repealed as it existed prior to the adoption of this ordinance.

SECTION 3. This ordinance shall take effect from and after its publication in the official city newspaper.

APPROVED AND ADOPTED by the Governing Body of the City of Augusta, Kansas, this 18TH day of May, 1998.

Ross Rountree, Mayor

ATTEST:

Elsie E. George, City