

ORDINANCE NO. O21-24

AN ORDINANCE AMENDING CHAPTER 9 ARTICLE III OF THE CENTRALIA MUNICIPAL CODE AUTHORIZING THE REGULATION OF SALE AND POSSESSION OF FIREWORKS

WHEREAS, regulation governing the sale and possession of fireworks is included in the Illinois Fireworks Use Act (425 ILCS 35); and

WHEREAS, it is in the best interest of public safety that the City of Centralia establish rules and regulations in compliance with the law; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTRALIA, ILLINOIS, that:

SECTION ONE: Section 9-22 of Article III of Chapter 9 of the Centralia Municipal Code be and same is hereby added to read as follows:

Section 9-55 – Regulation Of Sale and Possession Of Fireworks

A. Definitions

“Fireworks” are any explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect of a temporary exhibitional nature by combustion, explosion, deflagration or detonation; fireworks shall include “Consumer Fireworks”, “Display Fireworks”, and “Permitted Fireworks” as hereinafter described.

“Consumer Fireworks” mean those fireworks that must comply with the construction, chemical composition, and labeling regulations of the Consumer Products Safety Commission, as set forth in 16 CFR, Parts 1500 and 1507 and classified as fireworks UN0336 or UN0337 by the United States Department of Transportation under 47 CFR 142101. Consumer Fireworks (1.4G Fireworks) do not include “Permitted Fireworks” described within Section 3 herein and shall not include “Display Fireworks” (1.3G Fireworks) as defined within the Illinois Fireworks Use Act, but Consumer Fireworks shall include (but shall not be limited to) the following:

- (a) Blank cartridges;
- (b) Toy cannons in which explosives are used;
- (c) The type of balloons which require fire underneath to propel the same;
- (d) Firecrackers, torpedoes, skyrocket, Roman candles, bombs or other devices of similar construction;
- (e) Any fireworks containing any explosive compound;
- (f) Any tablets or other devices containing any explosive substance, or containing

combustible substances providing visual effects;

- (g) Sparkling devices which produce a shower of sparks upon ignition (except Sparklers, defined below) including, but not limited to items commonly known as “fountains”, “spinners”, “wheels”, or similar devices.

“Permitted Fireworks” shall mean and include snake or glow worm pellets, smoke devices, trick noisemakers known as party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms; sparklers, toy pistols, toy canes, toy guns, or other similar devices and toy pistol paper or plastic caps as hereinafter specifically defined:

- (a) Snakes, glow worm - Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.
- (b) Smoke devices - Tube or skewer containing pyrotechnic composition that upon ignition produces white or colored smoke as a primary effect.
- (c) Trick noisemaker - Item that produces a small report intended to surprise the user; these devices include:
 - (1) Party popper - Small plastic or paper item containing not more than 16 mg of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.
 - (2) Booby trap - Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.
 - (3) Snapper - Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.
 - (4) Trick match - Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.
 - (5) Cigarette load - Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.
 - (6) Auto burglar alarm - Tube which contains pyrotechnic composition that produces a loud whistle and/or smoke when ignited. A small quantity of explosive, not exceeding 50 mg, may also be used to produce a small report. A squib is used to ignite the device.
- (d) Sparklers - A wire or stick coated with pyrotechnic composition which shall not

exceed one hundred grams per item that produces a shower of sparks upon ignition.

- (e) Toy pistols, toy canes, toy guns, and other similar devices - Devices in which paper or plastic caps containing twenty-five-hundredths grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosive.
- (f) Toy pistol paper or plastic caps - Item which contains less than twenty five-hundredths grains of explosive material.

Any term used within this Ordinance not otherwise defined herein shall have the same meaning as provided within the Illinois Fireworks Use Act (425 ILCS 35/0.01 et seq).

Neither the State of Illinois nor the City of Centralia recognize the term “Safe and Sane Fireworks” and any item labeled as such are subject to the definitions contained herein. The labeling of a device shall not determine whether the device is a permitted firework or is a consumer firework. If the possession, use, or sale of a firework is not authorized within this Ordinance then it is prohibited; and if authorized, such possession, use, or sale is restricted as provided within this Ordinance.

B. Sale or Possession.

No person may sell or hold for sale or distribute or offer for sale or possess or purchase or discharge any “Consumer Firework” within the City of Centralia, without first strictly complying with the provisions of the Illinois Fireworks Use Act, and without first complying with the provisions of Section 9-55 of the Revised Code of Ordinances; provided that in the event of a conflict between said Illinois Fireworks Use Act and Section 9-55 of the Code of Ordinances, the more restrictive provision shall control. Only such “Consumer Fireworks” as are authorized by the Illinois State Fire Marshal’s Office pursuant to the Illinois Fireworks Use Act and as are authorized and approved by the Fire Chief of the City of Centralia shall be permitted for sale, distribution, or possession within the City of Centralia.

C. Permit.

- (1) Fireworks Sales Permit - No person may sell, possess for sale, distribute or offer for sale any fireworks in the City of Centralia unless such person has first obtained a permit to sell fireworks pursuant to this Ordinance and also, if applicable, a transient merchant license under Article 7 of the Code of Ordinances. A Fireworks Sales Permit shall be required for each location where fireworks are sold, held for sale, distributed or offered for sale. No permit shall issue except for Permitted Fireworks and/or Consumer Fireworks. Any person who desires to obtain a Fireworks Sales Permit shall file a written application with the City Clerk. An applicant for a permit under this Ordinance shall pay to the City of Centralia a fee in the amount of \$250.00 per location, which fee shall not be refundable; each permit shall be issued for not longer than one (1) year and shall in all events expire on December 31 following the date of issuance. Upon receipt of the application and fee by the City Clerk, the application shall be presented to the Fire Chief and all permits shall be issued within 15-days from receipt of a proper

application and fee so long as the applicant and location are in compliance with the provisions of this ordinance and with State and Federal law. The permit application shall be under oath and shall include the applicant's name, permanent business address (which must include a street address), residence address of the applicant(if the applicant is a corporation the residence address of its officers), residential and business telephone numbers, the location at which the applicant intends to do business, a copy of the applicant's certificate of registration under the Illinois Retailer's Occupation Tax Act, a complete inventory and list of all fireworks to be sold or offered for sale, and a certificate of insurance evidencing a general liability policy in the amount of not less than One Million Dollars (\$1,000,000).

In addition, the application shall provide a copy of a written lease or other written evidence from the owner of the location where the applicant proposes to sell indicating permission of the owner to use the location. Each permit issued hereunder shall clearly designate that it is a "Consumer Fireworks Permit" if the permit authorizes the sale of "Consumer Fireworks." Unless the applicant has also complied with each of the provisions of the Illinois Fireworks Use Act no person shall be issued a "Consumer Fireworks" Permit.

- (2) Fireworks Possession Permit - No person may purchase or possess any Consumer Fireworks in the City of Centralia unless such person has first obtained a permit to possess said fireworks pursuant to this Ordinance and pursuant to the Illinois Fireworks Use Act. Any person who desires to obtain a Fireworks Possession Permit shall file a written application with the City Clerk. An applicant for a Fireworks Possession Permit under this Ordinance to possess Consumer Fireworks shall pay to the City of Centralia a fee in the amount of \$25.00 per applicant, which fee shall be non-refundable; each permit shall issue for not longer than one (1) year and shall in all events expire on December 31 following the date of issuance. Upon receipt of the application and fee by the City Clerk, the application shall be presented to the Fire Chief and all permits shall be issued within 15 days from receipt of a proper application if the applicant is in compliance with the provisions of this Ordinance and with the Illinois Fireworks Use Act. The permit application shall be under oath and shall include the applicant's name, business address (which must include a street address), a residence address of the applicant (if the applicant is a corporation the residence address of its officers), residential and business telephone numbers, location at which the applicant intends to possess fireworks, and a certificate of insurance evidencing a general liability policy in the amount of not less than One Million Dollars (\$1,000,000.00). In addition to the permit to possess as required herein, the applicant shall also be required to obtain the required display permit before discharge or display of any Consumer Fireworks within the corporate limits of the City of Centralia. No permit to possess Consumer Fireworks shall be issued unless all requirements, including training requirements, of the Illinois Fireworks Use Act have been complied with.
- (3) Security Deposit - Prior to the issuance of the permit each applicant shall file with the City a cash deposit in the amount of \$500 to secure compliance with this Ordinance unless the applicant is the owner of real estate situated within City limits and provides written proof of same. The City shall hold the cash deposit as security for compliance with this Ordinance and if the applicant or permit holder or any employee or agent of

same shall fail to comply with this Ordinance and a fine shall be assessed under Part J then said cash deposit shall be applied to payment of said penalty. Unless an alleged violation is pending, the cash deposit shall be held for 30-days after expiration or surrender or termination of the permit at which time any balance of the cash deposit held by the City shall be refunded either personally to the permit holder or by certified mail to the permit holder; provided, however, that if the permit holder shall fail to keep the City informed of a current mailing address then said cash deposit shall be forfeited to the City after one attempt by the City to refund the bond by certified mail.

D. Restrictions.

Fireworks shall be possessed, kept, stored, held for sale, distributed, sold, discharged, and/or delivered subject to the following additional restrictions:

- (a) Fireworks shall not be stored or kept for sale or offered for sale at any location unless there are two (2) approved chemical fire extinguishers readily available and equipped for use in extinguishing fires.
- (b) Over each entrance to any room where fireworks are stored or kept for sale or offered for sale there shall be designated a sign in conspicuous type: CAUTION - FIREWORKS - NO SMOKING.
- (c) No smoking shall be allowed and no person shall smoke within any structure or room where fireworks are stored or kept for sale or offered for sale. In addition, smoking is prohibited and no person shall smoke within twenty-five feet (25') of any location where fireworks are stored or kept for sale or offered for sale.
- (d) Fireworks shall not be exposed in windows where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package, and all fireworks kept for sale on front counters must remain in original packages; provided, however, that fireworks in open stock may be kept in showcases or in counters out of reach of the public.
- (e) No fireworks shall be stored, kept, sold, held for sale or offered for sale or discharged by any person within one hundred fifty feet (150') of any gasoline pump or gasoline bulk station or in any building in which gasoline or volatile liquids are sold or present in quantities in excess of one gallon, except in retail stores where cleaners, paint, and oils are handled in sealed containers only.
- (f) No firework shall be discharged by any person within one hundred fifty feet (150') of any location where fireworks are sold, held for sale, distributed or offered for sale or within one hundred fifty feet (150') of any gasoline pump or gasoline bulk station or in any building or location at which gasoline or volatile liquids are present.
- (g) No person shall ignite any firework in any motor vehicle or throw a firework from a motor vehicle nor shall any person place or throw any ignited article of firework into or at a motor vehicle or at or near any person or group of people.

- (h) Fireworks shall not be sold to nor purchased by minors under the age of 16-years unless the minor is under the immediate supervision of a responsible adult.
- (i) Fireworks shall not be sold to nor purchased by any intoxicated person or person who appears to be intoxicated, nor to any person who is otherwise so diminished in capacity such that it reasonably appears that he creates a danger to himself or others by the use of fireworks.
- (j) There shall be at least two exits from each permanent booth, room, or building and shall be more than one means of exit from each temporary structure from which fireworks are sold, held for sale, distributed, or offered for sale.
- (k) At each location where fireworks are sold, held for sale, distributed or offered for sale there shall be a sales clerk who is at least 18-years of age on duty to serve consumers at the time of purchase or delivery.
- (l) No firework shall be discharged upon any public street, alley, parking lot, sidewalk or public way, upon any property owned by the United States, the State of Illinois or other state or any municipality or other political subdivision or agency thereof or upon any property, including privately owned property, which is open to or held out for use by the public, except a display subject to the provisions herein which has been authorized in writing by the owner of the public or private property.
- (m) Each permit holder, his employees, and agents are each subject to the restrictions within this Section and, in addition, said permit holder and his employees and agents shall strictly enforce all smoking and discharge prohibitions described within this Ordinance upon any property owned or controlled or in the possession of the permit holder.
- (n) Except as provided herein, fireworks shall be sold only from a permanent non-residential structure; during the period from May 1 through July 11 of each year fireworks may be sold from a temporary non-residential structure situated upon the property of a business that maintains an inventory of consumer fireworks and offers consumer fireworks for sale during each month of the twelve months preceding said May 1. In no event shall fireworks be sold from a motor vehicle, any temporary structure except as permitted above, or a private residence.
- (o) No "Consumer Firework" shall be sold to nor possessed by any person unless such person holds a valid permit issued by the City complying with the Illinois Fireworks Use Act. Each, the seller and purchaser, shall have committed a violation upon sale of a "Consumer Firework" to any person not possessing the required permit.

E. Inspection.

The Fire Chief or his designee and the Centralia Police Department may at reasonable hours enter and inspect the location or premises of any permit holder to determine compliance with this Ordinance. If any permit holder or his agent or employee has in his possession any firework in violation of this Ordinance the permit shall be revoked and all such fireworks seized and the fireworks shall be kept to be used as evidence. If any person is observed to have in his possession any fireworks or to be using or possessing any fireworks in violation of this Ordinance such fireworks may be seized and the fireworks shall be kept to be used as evidence. Upon conviction of the offender or with the permission of the offender, the fireworks shall be destroyed. If an alleged offender is determined to be innocent of any violation, permissible fireworks shall be made available for return to the person in whose possession they were found, although said person must arrange for delivery of same within 30-days from date of notice to said person.

F. Revocation and Suspension.

Any permit issued hereunder may be revoked or suspended by the Fire Chief for good cause after notice and opportunity to be heard. The Fire Chief shall afford to the permit holder an opportunity to present evidence bearing upon the question of revocation or suspension of the license. Cause for revocation or suspension shall include the violation of any provision of this Ordinance or of any federal law or statute of the State of Illinois by the permit holder or by any employee or agent of the permit holder or that the permit holder has made a false statement on any application for permit under this Ordinance or for reason that the permit holder has refused to permit any police officer or member of the Fire Department of the City to inspect the premises or the activities of the premises at reasonable times. The decision of the Fire Chief suspending or revoking a license shall be in writing and shall be subject to review by the City Manager upon written request of the permit holder.

G. Holding of Fireworks Pending Permit.

If any person possesses or offers for sale or makes sale of any fireworks without first having obtained a permit under this Ordinance, the Centralia Fire Department at the direction of the City Manager may hold such fireworks or fireworks inventory of the person until he/she obtains the required permit. If the property is held by the City of Centralia for more than 60-days and the person whose property is being held does not obtain the permit under this Ordinance, the City may petition the Circuit Court for an order for the sale of the property being held. If the court finds that the person whose property is held has not obtained a permit under this Ordinance prior to the filing of the Petition the court may order and authorize the City to sell the property or may order the destruction of the property by the City. The proceeds of sale of the property less reimbursement to the City of the reasonable expenses for the storage and sale of the property shall be deposited in the general corporate fund of the City.

H. Display of Fireworks.

It shall be unlawful for any person to display or allow to be displayed Consumer Fireworks and/or Display Fireworks (as defined within the Illinois Fireworks Use Act) within the corporate areas of the City of Centralia without a permit.

- (a) Pyrotechnic Displays: Pyrotechnic displays of Display Fireworks in the City of Centralia shall be permitted upon compliance with the following conditions:
- (1) All persons shall file an application with the City Clerk for a pyrotechnic display permit at least 15 days in advance of the date of the pyrotechnic display.
 - (2) The application for a pyrotechnic display permit shall contain identifying information for the person sponsoring the display, the exact location of the display, the exact date and time of the display, and identifying information for the individual who is the licensed lead pyrotechnic operator supervising the display.
 - (3) The application shall be accompanied by a certificate of insurance from an insurance company licensed to do business in the State of Illinois evidencing a minimum of \$1,000,000 in liability coverage.
 - (4) The application shall also be accompanied by a current and valid copy of the State issued lead pyrotechnic operator's license.
 - (5) The application shall be subject to approval by the Fire Chief or his/her designee.
 - (6) After the permit has been granted, the possession, use and display of Display Fireworks shall be lawful for that purpose only. No permit granted hereunder shall be transferrable.
 - (7) Applicant shall pay a fee in the amount of \$50.00.
 - (8) Provided that the application requirements have been met by the applicant, a Pyrotechnic Fireworks Display Permit shall be issued by the Fire Chief.
- (b) Consumer Displays: Consumer displays of Fireworks in the City of Centralia shall be permitted upon compliance with the following conditions:
- (1) A Firework Possession Permit holder shall file an application with the City Clerk for a Consumer Display permit at least 15 days in advance of the date of the consumer display.
 - (2) The application for a consumer display permit shall contain identifying information for the person sponsoring the display, the exact location of the display, the exact date and time of the display, and identifying information for the consumer operator handling the display who shall have received training from a Consumer Fireworks training class approved by the State Fire Marshall.
 - (3) The application shall be accompanied by a certificate of insurance from an insurance company licensed to do business in the State of Illinois evidencing a minimum of One Million Dollars (\$1,000,000) in liability coverage.

- (4) The application shall be subject to approval by the Fire Chief or his/her designee.
- (5) The applicant shall also be subject to a criminal background check as a condition of issuing a permit.
- (6) After the permit has been granted, the possession, use and display of Consumer Fireworks shall be lawful for that purpose only. No permit granted hereunder shall be transferrable.
- (7) Applicant shall pay a fee in the amount of \$25.00 for their first Consumer Display Permit and \$15.00 for each subsequent Consumer Display permit in a calendar year from January 1 to December 31.
- (8) Provided that the application requirements have been met by the applicant, a Consumer Fireworks Display Permit shall be issued by the Fire Chief.

I. Adoption by Reference.

The rules and regulations as may from time to time be amended, for the administration of the Fireworks Use Act (425 ILCS 35/0.01 et seq.), by the State Fire Marshal, including, but not limited to, National Fire Protection Association (NFPA) 1123 guidelines for outdoor displays, NFPA 1126 guidelines for proximate audience displays, audience proximity distances for consumer Display Fireworks, and the list of approved Consumer Fireworks are adopted herein by reference.

J. Violations and Penalties.

- (a) Penalty - Any person that violates any provision of this Ordinance shall be punished by a fine of not less than \$150.00 and not more than \$750.00 for each violation; each consumer firework in the possession of the person shall constitute a separate violation and each day that any firework is sold or offered for sale without a permit or each day that a violation continues shall constitute a separate violation. In addition, if a person is found guilty of violating any of the provisions of this Ordinance said person shall be subject to the other remedies and provisions of this Ordinance in addition to the imposition of a fine.
- (b) Permit Ineligibility - Any person who is convicted (including a no contest or supervision plea) of any violation of this Ordinance by a court of competent jurisdiction shall be ineligible to receive a permit under this Ordinance for a period of 2-years from the date of the conviction.

SECTION TWO: Any ordinance, or portion thereof, of the City of Centralia which is contrary to this ordinance shall be deemed to be repealed.

SECTION FOUR: This ordinance shall be in full force and effect from and after passage and approval as provided by law.

PASSED THIS 28th DAY OF June 2021

Bryan Kuder
Mayor

Attest:

Kim Enke
City Clerk

aye Castellari
aye Smith
aye Griffin
aye Jackson
aye Kuder