

**ORDINANCE # 521**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF LINDSAY, GARVIN COUNTY, STATE OF OKLAHOMA, AMENDING LINDSAY, OKLAHOMA, CODE OF ORDINANCES CHAPTER 7, FIRE PROTECTION AND PREVENTION, ADDING ARTICLE IV, MISCELLENEOUS PROVISIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LINDSAY, OKLAHOMA:**

**SECTION 1.** Chapter 7, Article IV, Miscellaneous Provision, of the City of Lindsay Code of Ordinances is hereby amended and shall hereinafter read:

**Sec. 7-70 - SALE, POSSESSION OR DISCHARGE OF FIREWORKS**

**A) Appeals.**

Should a question arise concerning the eligibility of an organization to qualify for a license under this article or if the plot plan is not approved by the city manager or his designee, or the application is denied for any other reason, the matter may be timely submitted to the city council for a final decision at the request of the applicant.

**B) Manufacture, sale and use generally.**

Except as otherwise provided in this article, it shall be unlawful for any person to manufacture, purchase, offer for sale, sell at retail, or use or discharge or explode any Class C (common) or other firework and related items within the corporate limits of the City of Lindsay, except as provided in this article.

**C) Permitted sales.**

Any individual or organization located and domiciled within the corporate limits of the city may be licensed by the city clerk to sell Class C (common) fireworks.

**D) License for Sale.**

1. Annual licenses for the sale of fireworks within the corporate limits of the city shall be obtained by filing a written application for each location with the city clerk and paying the license fee as set in the annual fee schedule for each location. If the applicant meets the requirements of the article, it shall be issued a license by the city clerk pending approval by the city manager of the following requirements:
  - a. A minimum liability insurance policy of two-hundred fifty-thousand (\$250,000.00) for bodily injury and property damage, from an insurance company currently licensed to do business by the state.

- b. A plot plan submitted to the city clerk for review by staff. The plot plan will show the location, the size of the stand, parking areas, traffic circulation patterns, and the proposed methods of storing fireworks.
  - c. Any and all licenses required by state law.
2. Final approval of the application will be evidenced by the signature of the city manager, or his designee, on the application.

**E) Operation of stands.**

1. Fireworks sales cannot begin any earlier than 15 days prior to the authorized discharge date.
2. All licensed fireworks stands and structures selling fireworks and related items must be staffed and operated by members of the licensed organization. An adult member (eighteen (18) years or older) of the licensed organization must be present at all times during the operation of the stand.
3. It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of twelve (12) years, unless accompanied by an adult.
4. A working fire extinguisher must be present in all fireworks stands in the City of Lindsay.
5. Generators or electric service drops may be used in the fireworks stand upon approval of the City of Lindsay and Lindsay Fire Department.

**F) Removal of stands.**

All temporary fireworks stands and structures for the sale of fireworks and related items must be taken down and/or removed from their location within fifteen (15) days after the authorized discharge date and the area wherein the stand or structure was located shall be returned to its prior condition by picking up all refuse pertaining to the operation of the fireworks stand or structure.

**G) Discharge restricted.**

1. The discharge of fireworks shall be allowed only between the hours of 3:00 p.m. and 10:00 p.m. for the period of June 27 through July 3; 8:00 a.m. and 12:00 midnight on July 4; and 12:00 noon on December 31 to 12:30 p.m. on January 1 of each year. Discharge of fireworks is totally prohibited at all other times, unless permitted for special events by the city manager.
2. It shall be unlawful to explode or ignite fireworks within five (500) feet of any church, hospital, un-harvested flammable agricultural crop, or during the existence of a State burn ban.
3. It shall be unlawful to discharge fireworks in the City limits that are designed to or capable of reaching, a distance of 15' or greater.

4. No person shall ignite or discharge any article of fireworks within or throw any article of fireworks from a motor vehicle, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle or at or near any group of people.

#### **H) Storage and Handling.**

1. All fireworks and sales areas shall be conspicuously posted with signs reading "FIREWORKS—NO SMOKING".
2. Fireworks shall not be sold or displayed to the public within any building or portion thereof, or any vehicle, which allows entry by any persons other than employees within such building or vehicle, unless the fireworks are kept where they cannot be reached or handled by those persons.

#### **I) Display permit required**

1. It is unlawful to discharge any fireworks, except as otherwise provided by this article, at any public display, including but not limited to any public display at any public park. The city manager shall permit the use of fireworks for public or private displays only when the following requirements are met:
  - a. Applications for such permits must be filed with the city clerk and must give the location of the proposed display and complete description of the nature and size of the fireworks to be used. A fee in the amount as approved in the annual fee schedule shall be paid to the City Clerk upon the filing of the application.
  - b. A copy of federal form ATF F5400.4, Bureau of Alcohol, Tobacco and Firearms, must be submitted with the application.
  - c. All the provisions of NFPA 1123 must be met. MFPA 1123 refers to the National Fire Protection Association's Standard for Public Display of Fireworks, as it existed on 12/17/96. This subsection does not apply to the use of Class C (common) fireworks by the general public.
  - d. Every display requiring a permit shall be handled by a properly trained operator and approved by the city manager. Such fireworks shall be discharged or fired so as not to be hazardous to property or endanger any person.
2. Any permit issued by the City of Lindsay may be subject to any other restrictions and conditions as the city may find necessary.

#### **J) Qualifications of operators of public displays.**

The operator of any public display of fireworks must be bonded by sureties licensed to do business in the state in a sum sufficient to satisfy the city council, and must possess any and all licenses required by state law.

**Section 7-71 Penalty**

1. Any person, firm or corporation who violates any provision of this chapter, including the provisions of any code adopted by the City of Lindsay, Oklahoma, shall be guilty of an offense and, upon conviction thereof, shall be fined in any sum not to exceed the limits established in the annual fee schedule, of this code of ordinances. Each day upon which a violation continues shall be deemed a separate offense.

**SECTION 2. Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction said portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 3. Emergency.**

It being immediately necessary for the preservation of the public health, peace and safety of the citizens of the City of Lindsay and the inhabitants thereof, an emergency is hereby declared to exist by reason whereof, this Ordinance shall be in full force and effect as from and after its passage and approval as provided by law.

PASSED AND APPROVED and the emergency clause voted upon separately and passed and approved this 14<sup>th</sup> day of MAY, 2018.

**ATTEST:**

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**Carrie Rains, Mayor**

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**Kathy Hammans, City Clerk**