

## ORDINANCE NO. 3169

### **AN ORDINANCE REGULATING THE SALE, HANDLING, USE, AND STORAGE OF FIREWORKS WITHIN THE CITY OF ELLSWORTH, KANSAS; REPEALING ORDINANCES 3033 AND 755**

**WHEREAS** the City of Ellsworth deems it necessary to update the rules and regulations regarding fireworks, fireworks discharge, sale and display of fireworks, and any restrictions and regulations thereof.

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

#### **Section 1. DEFINITIONS**

For the purposes of this ordinance, the following terms shall be considered to have the following meaning:

Firework(s) – means and includes both consumer and display fireworks.

Bottle Rocket - means any pyrotechnic device which is classified as a C explosive by the United States Department of Transportation under 49 C.F.R. 173.53 (1990), 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 pipe or trough rocket. This shall not include helicopter-type fireworks.

Consumer Firework (aka Class "C" Fireworks) – means and includes 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 an explosive substance.

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, 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.

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.

Nothing in this section shall be construed as applying to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap, 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 sale and use of which shall be permitted at all times and to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, nor applying to the military or navy forces of the United States or of this state, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial or theatrical or athletic events.

## **Section 2. INCORPORATION BY REFERENCE**

All rules and regulations adopted by the Kansas Administrative Regulations concerning the storage, sale, handling, and discharge of fireworks are incorporated by reference (K.A.R. 22-6-1 through K.A.R. 22-6-27).

## **Section 3. APPROVED FIREWORKS**

1. All fireworks offered for sale and discharged within the City of Ellsworth shall be of a type that has been tested and approved for sale and use within the State of Kansas by the State Fire Marshal.
2. It shall be unlawful for any person to discharge or possess bottle rockets in the City of Ellsworth.
3. It shall be unlawful for any person to store, sell, possess with intent to sell, or offer for sale, or ignite, fire, set-off or otherwise use any firework not permitted by this ordinance.

## **Section 4. DISCHARGE TIME**

The discharge, firing, use, or permitted discharge, firing or use of fireworks, is hereby prohibited except as follows:

1. From 12:00 P.M. to 10:00 P.M. on July 1<sup>st</sup> and 2<sup>nd</sup> each year
2. From 12:00 P.M. July 3<sup>rd</sup> to 12:00 A.M. July 4<sup>th</sup> each year
3. From 12:00 P.M. July 4<sup>th</sup> to 12:00 A.M. July 5<sup>th</sup> each year
4. From 11:45 P.M. December 31<sup>st</sup> to 12:15 A.M. January 1<sup>st</sup> each year
5. By valid permit issued by the City of Ellsworth's City Clerk's Office
6. Any times as designated by the Governing Body

## **Section 5. BANNING OF DISCHARGE OF FIREWORKS**

Notwithstanding any other provision or permit authority herein to the contrary, the use or discharge of any fireworks shall be prohibited whenever a Governor's ban on fires is in effect, when the Ellsworth County Commission and/or the Ellsworth County Emergency Manager, or the Ellsworth Fire Chief declares an emergency or burn ban, and the use or discharge of all fireworks shall not be permitted until said ban or emergency is officially lifted. The Fire Chief shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the City of Ellsworth if the weather conditions make discharge of fireworks in the City hazardous to persons or property.

## **Section 6. MANUFACTURE, STORAGE, SALE, POSSESSION AND DISCHARGE OF CONSUMER FIREWORKS RESTRICTIONS**

1. Fireworks shall not be sold or kept for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept in open

or sealed containers, unless in a separate and distinct section or department of the business.

2. Fireworks shall not be stored, kept, sold or discharged within fifty (50) feet of any fuel pump, fuel filling station, or fuel bulk station, or building in which volatile liquids are stored or sold.
3. All retailers are forbidden to expose fireworks 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, except where an attendant is on constant duty at all times at counters where such fireworks are on display; provided, that fireworks in open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty.
4. The use, sale, or display of fireworks shall be done in such a manner as not to impede the flow of traffic, unless approved to do so by permit of the City Clerk's Office.
5. The use, sale, or display of fireworks shall be done in such a manner as not to impede City easements, unless approved to do so by contract of the City of Ellsworth, approved by the Governing Body and signed by their designee. Contracts shall be developed on a case-by-case basis.
6. It shall be unlawful for an adult guardian to fail to supervise, allow, or permit a person in their care under the age of eighteen (18) years to violate the provisions of this ordinance.

## **Section 7. SALES OF FIREWORKS**

The sale of fireworks within the City of Ellsworth shall follow the following provisions:

1. Consumer fireworks shall only be offered for sale after approval and receipt of City of Ellsworth firework permit. Permits shall only be valid for the date(s) on the permit.
2. An applicant wishing to sell consumer fireworks in the City of Ellsworth shall submit the following in order to obtain a firework permit:
  - a. Name, mailing address, and telephone number of the applicant
  - b. Physical address of location where fireworks are to be sold
  - c. Day(s) in which the applicant intends to sell fireworks
  - d. Copy of a State Sales Tax Number Certificate or exemption certificate issued in the name of the applicant
3. Applications for permits to sell consumer fireworks may be submitted to the City Clerk's Office during normal hours. The City Clerk's Office will review and approve or deny the issuance of a Firework Permit.
4. Fee for such permit shall be determined by the annual fee schedule resolution.
5. No person, firm, or corporation shall offer such fireworks for sale to individuals in the City of Ellsworth in violation of the rules and regulations adopted by the Kansas Administrative Regulations incorporated herein.
6. Permits shall be displayed at all times during sales of fireworks.
7. No permit granted shall be transferable.

## **Section 8. 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 of

Ellsworth's City Clerk's Office. This permit will allow for the storage, handling, use and display, but not for 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. Applications for permits shall be made in writing in advance of the date of display and shall be accompanied by a fee to match the Fireworks Vendor Permit fee, unless otherwise stated on the annual fee schedule resolution.
2. An applicant wishing to conduct a fireworks display in the City of Ellsworth shall submit the following in order to obtain a firework permit:
  - a. Name, mailing address, and telephone number of the applicant
  - b. Physical address of location where fireworks are to be displayed
  - c. Day in which the applicant intends to display fireworks
  - d. Proof of insurance insuring against bodily injury and property damage in the amount of not less than one million dollars (\$1,000,000.00) by single limit policy for damages arising out of any incident occurring during the fireworks display listing the City of Ellsworth as an additional insured
  - e. Copy of proof of Kansas licensure issued by the Kansas State Fire Marshal
3. All permits shall be reviewed and are subject to the prior approval, recommendations, and conditions of the Ellsworth Fire Chief and issued by the City Clerk's Office.
4. Each display shall be of such character and so located, discharged, or fired, as in the opinion of the Fire Chief after proper investigation, does not create a hazard to property or endanger any person.
5. Permits issued 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 Fire Chief in the event of inclement weather or burning ban, who will then notify the City Clerk's Office of the date change.
6. 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. At all times, such public fireworks display shall be supervised by an individual holding a fireworks operator's license issued by the Kansas State Fire Marshal.
7. Permits shall be displayed at all times during fireworks display.
8. No permit granted shall be transferable.

## **Section 9. INSPECTION REQUIRED**

All fireworks stands, displays, sales locations, and storage locations shall be inspected by the Ellsworth Fire Chief or their designee. Inspections shall determine compliance with incorporated Kansas Administrative Regulations and provisions of this ordinance. The Fire Chief or their designee shall have the authority to revoke a permit based on findings during inspection.

## **Section 10. DEBRIS DISPOSAL**

Any and all parties involved in the discharge of fireworks shall be responsible for the cleanup and disposal of all trash and debris caused by their discharge of fireworks. All trash and debris shall be removed and placed for disposal, including from public property, within 24 hours of the cessation of fireworks discharge.

**Section 11. ENFORCEMENT AND PENALTY**

Any Ellsworth Police Department law enforcement officer may enforce the provisions of this ordinance and issue notices to appear in municipal court alleging a violation thereof, as well as confiscate any firework in violation of this ordinance.

The Ellsworth Fire Chief or their designee may enforce the incorporated rules and regulations of the State Fire Marshal. Should the Fire Chief or their designee find any firework in violation of this ordinance, law enforcement shall be contacted for confiscation and notice to appear issuance.

Any individual(s), corporation(s), or organization(s) who shall be convicted in a court of competent jurisdiction for violating the provisions of this ordinance 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, plus court costs.

**Section 12.** Ordinances 755 and 3033 are hereby repealed. Any other ordinance or parts of ordinances in conflict with this amendment are hereby repealed.

**Section 13.** This ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 10th day of March, 2025.



*Angela S. Mueller*  
Interim City Clerk Angela S. Mueller

*Daniel A. Finnegan*  
Approved by the Mayor,  
Daniel A. Finnegan

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on March 10, 2025 and that the record of the final vote on its passage is found on page \_\_\_\_ of volume \_\_\_\_; and that it was published in the Ellsworth County Independent Reporter on March 20, 2025.