

ORDINANCE NO. 601

AN ORDINANCE FOR THE SALE, LICENSING AND DISCHARGE OF FIREWORKS IN THE CITY OF BUHLER

FIREWORKS DEFINED. For purposed of this article, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas State Fire Marshal, and shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap or toy pistols (except pistols or any like device designed to discharge paper caps containing more than .25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.

SECTION 2. FIREWORKS PROHIBITED. (a) Except as provided in Section 3 – 6, it shall be unlawful for any person to keep, store, display for sale, fire, discharge or explode any fireworks. (b) Nothing in this article shall be construed as applying to:

- (1) Toy paper caps containing not more than .25 grain of explosive composition per cap;
- (2) The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;
- (3) The military or naval forces of the United States or of this state while in the performance of official duty;
- (4) Law enforcement officers while in the performance of official duty; or
- (5) The sale or use of blank cartridges for ceremonial, theatrical or athletic events.

SECTION 3. SAME: EXEMPTIONS: DISCHARGES. (a) **Section 2 of this article shall not apply to the firing or discharge of fireworks in the city between the hours of 8:00 a.m. and 11:00 p.m. June 30, through July 4th. When, on occasion, the said dates include Sunday, shooting of fireworks shall be delayed until 12:00 noon.**

(b) APPROVED FIREWORKS-DISCHARGES. BOTTLE ROCKETS PROHIBITED. All fireworks discharged within the city shall be Consumer Fireworks of a type that has been tested and approved for use within the State of Kansas by the state fire marshal. Bottle rockets and other similar self-propelled firework or fireworks devices consisting of a tube and attached guiding stock or rod shall not be sold or discharged in the city.

(c) The governing body of the city may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharges and fire as shall not be a fire hazard or endanger person or surrounding property.

(d) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.

(e) The governing body of the city may, in its discretion, upon recommendation of the Fire Chief, impose a ban on the sale and/or discharge of fireworks during times of dry, hazardous condition.

SECTION 4. SAME: EXEMPTION: SALE OF FIREWORKS. **Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m. and 10:30 p.m. commencing June 30th and through July 4th.**

(a) Consumer fireworks may be offered for sale within the Buhler city limits by City permit only. Such fireworks shall be limited to those defined in this ordinance.

(b) The sale of fireworks emitting a shower of sparks more than six (6) feet in any direction is prohibited and unlawful.

(c) The sale of any fireworks labeled as emitting flaming balls is prohibited and unlawful.

(d) It shall be unlawful for any person to sell, possess with intent to sell or offer for sale, any pyrotechnic device not permitted by this ordinance.

SECTION 5. PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE (a) It is unlawful for any person to sell, display for sale, offer to sell or give away any type of fireworks within the city without first paying an annual fee of \$1000.00 per establishment or premises to the city clerk, furnish a certificate of Public Liability Insurance in a minimum amount of \$1,000,000.00 under the same terms as specified in Section 6 and apply for and secure a permit therefore at least (10) days before any sales during the permit year. That the fees collected be used for the Buhler Frolic and in furtherance of other public activities by the city. (b) Prior to the issuance of the permit, a Temporary Zoning Permit must be approved by the City of Buhler Zoning Administrator. Upon qualifying for the permit, the permittee shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.

SECTION 6. PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED. (a) It shall be unlawful for any person to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least 30 days in advance of the desired display. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$1,000,000.00, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancelable except by giving 10 days advance written notice to the city clerk. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The application permit shall clearly state:

- (1) Name of applicant
- (2) The group for which the display is planned
- (3) The location of the display
- (4) The date and time of the display
- (5) The nature or kind of fireworks to be used
- (6) The name of the person, firm or corporation that will make the actual discharge of the fireworks

(b) No permit shall be issued if the location, nature of the fireworks or the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to person or property.

SECTION 7. DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED. It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any public street, alley or avenue or in any park or public place within the city or within the fire zone of the city.

SECTION 8. THROWING PROHIBITED. It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of an animal, person or group of persons, or from , in the direction of , or into any vehicle of any kind.

SECTION 9. SALE OF FIREWORKS PROHIBITED. (a) It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises. (b) Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated. (c) In the fire zone (d) in any residential dwelling or attached garage.

SECTION 10. RETAIL DISPLAY OF FIREWORKS. (a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are the original package. (b) All fireworks displayed for sale must remain in the original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided, that fireworks in open stock may be kept in show cases or counters out of reach of the public without an attendant being on duty. (c) Signs reading "Fireworks for Sale" and "NO SMOKING " shall be displayed in the section of a store or premises set aside for the sale of fireworks.

SECTION 11. FIRE EXTINGUISHERS REQUIRED. (a) Two functioning and approved fire extinguishers of at least an ABC rating must be provided and kept in close proximity to the stock of fireworks in all locations, temporary or permanent, where fireworks are stored, sold or displayed for sale.

SECTION 12. RESTRICTIONS AS TO GASOLINE INSTALLATIONS. It shall be unlawful to store keep, sell, display for sale or discharge any fireworks within 50 feet of any gasoline pump, gasoline filling station,

gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handles in sealed containers only.

SECTION 13. AUTHORITY OF FIRE CHIEF/ CHIEF OF POLICE. The chief of the fire department or police department is authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this article, and all the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body.

SECTION 14. PENALTY. Violation of this ordinance shall be deemed a misdemeanor and upon conviction thereof, shall be punishable by a fine of not less than \$25.00 nor more than \$500.00 for each violation.

SECTION 15. CONSTITUTIONALITY. If any section, sentence, clause or phase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 16. That ORDINANCE NO. 567 of the City of Buhler, Kansas, shall be and is hereby repealed.

SECTION 17. This Ordinance shall take effect and be in force from and after its passage, approval, and publication once in the official city newspaper.

PASSED AND APPROVED this 28th day of May, 2013.

_____/s/_____

Daniel P. Friesen

Mayor

ATTEST:

_____/s/_____

Merrill D. Peterson, CMC

City Clerk