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ORDINANCE NO. 97-8

AN ORDINANCE REGULATING THE USE AND SALE OF FIREWORKS

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

SECTION 1: FIREWORKS DEFINED. For purposes 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 such pistols or any like device designed to discharge paper caps containing not 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 Sections 3 and 6 or otherwise by ordinance, 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 of a grains 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: EXCEPTIONS; 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.

- on June 30th through July 4th.
- B) 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 displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.
 - C) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.

SECTION 4: SAME: EXCEPTIONS: 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 11:00 p.m. commencing June 30th through July 4th of each year.

SECTION 5: PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE.

- A) It shall be unlawful for any person to sell, display for sell, offer to sell or give away any type of fireworks within the city without first paying a fee of \$ 200.00 per establishment or premises to the city clerk and applying for and securing a permit therefor on or before June 25th of the permit year, except in 1997 only, the permit must be applied for and obtained on or before July 2, 1997. The governing body may grant exceptions to the fee for nonprofit or not-for-profit organizations if the governing body determines that granting such an exception would be in the best interest of the community.
- B) Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. Upon qualifying for the permit, the permit shall permanently 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. 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 \$500,000.00, 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 for the permit shall clearly state:

- 1) The name of the 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.
 - 7) Anticipated need for police, fire or other municipal services.
- B) No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property.

SECTION 7: APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED.

- A) All fireworks offered for sale and discharged within the city shall be of a type that have been tested and approved for sale and use within the state by the state fire marshal.
- B) 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.

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 any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind.

SECTION 9: SALE OF FIREWORKS; WHERE 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 police chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.

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 in the original package.
- B) All fireworks displayed for sale must remain in 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 the reach of the public without an attendant being on duty.
- C) Signs reading "Fireworks for Sale-No Smoking Allowed" shall be displayed in the section of a store or premises set aside for the sale of fireworks.

SECTION 11: FIRE EXTINGUISHES REQUIRED.

- A) Two functioning and approved fire extinguishes must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold or displayed for sale.
- B) Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguisher, a pressurized water hose with nozzle end within five feet of the fireworks stand.

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 handled in sealed containers only.

SECTION 13: AUTHORITY OF POLICE CHIEF. The chief of the 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 of 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: RESTRICTIONS AS TO LOCATION OF DISCHARGE. It shall be unlawful to discharge ignite, or fire any fireworks on the public streets and roadways within the city limits of the city of Andale.

SECTION 15: REPEAL OF PRIOR ORDINANCES. All ordinances or parts of ordinances in conflict herewith are hereby repealed. To the extent that part of an ordinance is in conflict herewith and part of the ordinance is not, only the part in direct conflict with this ordinance is repealed.

SECTION 16: PENALTY. Any person found guilty of violating this ordinance shall be punished by a fine not exceeding \$1,000.00 or a term of imprisonment not exceeding six months.

SECTION 17: EFFECT. This ordinance shall take effect upon its publication once in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Andale, Kansas, this 23rd day of June, 1997.


Gerard Martin, Mayor

ATTEST:


Shirley Stuever, City Clerk