

**RESOLUTION NO. 2018 – R – 007**

**A RESOLUTION REGULATING THE SALES AND DISCHARGE OF FIREWORKS IN THE UNINCORPORATED AREAS OF PAWNEE COUNTY, KANSAS.**

**WHEREAS**, the Board of County Commissioners of Pawnee County, Kansas, in an effort to protect the safety of persons and property in the unincorporated area of Pawnee County, Kansas has determined to regulate the sale, handling, use or storage of fireworks within the unincorporated areas of Pawnee County; and

**WHEREAS**, K.S.A. 31-134(b) affirms the authority of county governments to prohibit or regulate the sale, handling, use, or storage of fireworks within the County's boundaries.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PAWNEE COUNTY, KANSAS:**

**SECTION I. Definitions**

- (a) Consumer or Common Fireworks (aka Class "C" Fireworks) shall mean and include any combustible or explosive composition, or any substance or combination of substances, or devices, containing up to a limit of 50 mg of explosive material, prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, firecrackers, torpedoes, sky rockets, Roman candles, Daygo bombs, sparklers or other devices of like construction and any devices containing any explosive substances, except the term "fireworks" shall not include any safety flairs, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and 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.
- (b) Commercial or 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 setpieces containing components which together exceed 50 mg. of salute powder.
- (c) Bottle Rocket shall mean any pyrotechnical device 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 a pipe or trough rocket. "Bottle Rocket" does not include helicopter-type fireworks.
- (d) 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.

## **SECTION 2. Prohibited Fireworks**

- (a) It shall be unlawful for any person, firm or company to sell or manufacture Consumer Fireworks in the unincorporated area of Pawnee County, Kansas. Further it shall be unlawful to discharge Consumer Fireworks in the unincorporated area of Pawnee County except as provided for herein.
- (b) It shall be unlawful for any person to sell or manufacture Commercial Fireworks in the unincorporated area of Pawnee County. Further it shall be unlawful to store, possess or discharge Commercial Fireworks in the unincorporated area of Pawnee County except as provided for herein.
- (c) It shall be unlawful for any person to manufacture, store, sale, possess or discharge bottle rockets in the unincorporated area of Pawnee County.

## **SECTION 3. Exceptions**

- (a) Nothing in this Resolution shall be construed to prohibit the use of fireworks by railroads or other transportation companies or agencies for signal or illumination purposes. The sale or use of blank pistol cartridges for bona fide show or theaters, for signal or ceremonial purposes in athletic or sports contests or for use of fireworks and similar devices by military, law enforcement or fire service agencies shall not be considered a violation of this Resolution.

## **SECTION 4. Storage, Possession and Discharge of Commercial Fireworks**

- (a) All individuals, corporations or organizations, desiring to engage in a display of Commercial Fireworks, shall apply for and obtain a permit for the same from the Pawnee County Emergency Management Director. This permit will allow for the storage, handling, use and discharge, but not the sale of Commercial Fireworks within the unincorporated area of Pawnee County. It shall be unlawful for any person, corporation or organization to engage in a display of Commercial Fireworks without first obtaining a permit.
- (b) Applications for a Commercial Fireworks Display permit shall be submitted to Pawnee County Emergency Management Director's Office fourteen (14) days prior to the scheduled event together with the required permit fee.
- (c) An applicant wishing to engage in a display of Commercial Fireworks in the unincorporated area of Pawnee County shall submit the following in order to obtain a permit:
  - i. The name, address and telephone of the applicant.
  - ii. The place where such display of Commercial Fireworks is to be held and the name and address of the owner or owners of the location.
  - iii. The day upon which the applicant intends to hold the Commercial Fireworks display.

- iv. Furnish a bond or certificate of insurance insuring against bodily injury and property damage in the amount of \$500,000.00, by single limit policy for damages arising out of any incident occurring during the Commercial Fireworks display; with coverage and policy numbers listing the applicant as the insured or as an additional insured and showing the location of the Commercial Fireworks display as the insured location.
  - v. If the place where Commercial Fireworks display is to be held is not owned by the applicant, there shall be filed with the application a notarized written statement signed by the owner or owners of the location, stating the owner or owners consent to the display of Commercial Fireworks for the day being requested.
  - vi. Documentation that the person(s) conducting the Commercial Fireworks display has a current Fireworks Display Operator's License issued by the Kansas State Fire Marshal.
  - vii. The application when filed with the Office of the Pawnee County Emergency Management Director shall be accompanied by a permit fee of \$100.00 payable to Pawnee County, Kansas. The Pawnee County Emergency Management Director will review and approve or deny the issuance of a permit to the party making application, subject to the site inspection in paragraph (d) herein.
- (d) All Commercial Fireworks Display permits shall be subject to the prior approval, recommendations and conditions of the County Fire District exercising jurisdiction in the area where the display is located or the inspector designated by the Pawnee County Board of Commissioners. Each Commercial Fireworks display shall be of such character and so located, discharged or fired, as in the opinion of the Fire District or the inspector after proper investigation, does not create a hazard to property or endanger any person.
- (e) All permits issued hereunder shall be valid only at the location specifically stated in such permit.
- (f) All permits issued hereunder shall be valid only for one day, and the date shall be specifically stated on the permit. An alternate date may be granted by the District Fire Chief in the event of inclement weather or a burning ban.
- (g) No permit granted shall be transferable.

#### **SECTION 5. Storage, Possession and Discharge of Consumer Fireworks**

- (a) The shooting or discharge of Consumer Fireworks is permitted on private property only any date of the year between the hours of 8:00 a.m. and 12:00 midnight.
- (b) The shooting or discharge of Consumer Fireworks is prohibited on any publicly owned property.
- (c) Residents of Pawnee County and their guests may detonate Consumer Fireworks on property owned by the person(s) so discharging, or owned by the immediate family thereof during the authorized discharge hours as set forth in this Resolution. Further, discharge of fireworks is allowed on any private property if permission is obtained from the landowner

and written evidence of said permission is on the person of a responsible adult involved in the discharge of said Consumer Fireworks.

- (d) No person shall ignite or discharge fireworks within 1,000 feet of any hospital, into, under or on a car or vehicle, whether moving or standing still; or on a public roadway or the right-of-way adjoining a public roadway. Fireworks shall not be discharged within 50 feet of any retail fireworks stand or facility where fireworks are stored.

#### **SECTION 6. Seizure of Fireworks**

The Pawnee County Sheriff's Department shall seize, take, remove or cause to be removed at the expense of the person in possession thereof, all fireworks possessed in violation of this Resolution. Such fireworks shall be disposed of as outlined by the Kansas State Fire Marshal.

#### **SECTION 7. Emergency Circumstances**

- (a) Under special circumstances, including but not limited to a state wide and Pawnee County ban on burning and/or fireworks detonation, the time, place and manner of detonation of fireworks may be changed or suspended in response to conditions which may impair the public health or safety.
- (b) Whenever it appears to one or more Rural Fire Districts within Pawnee County, Kansas, that an emergency situation exists concerning the sale or discharge of fireworks, then such Rural Fire District shall contact the Emergency Management Director and inform the Chair of the Board of Commissioners it is reasonably necessary to limit or alter the provisions of this Resolution due to the likelihood of a fire hazard beyond that normally contemplated by this Resolution. The Chair of the Board of Commissioners shall review the information provided by the Rural Fire Districts and he/she may so declare in writing, the suspension or limitations on the discharge of fireworks within the unincorporated areas of Pawnee County, and shall duly notify the Board of County Commissioners of his/her declaration of emergency, and shall recommend the manner in which this Resolution shall be modified. Upon approval of the Board of County Commissioners, and not less than one (1) publication, the recommended modification shall be enforced to the extent permitted by law.
- (c) Pawnee County, Kansas shall attempt to provide the citizens of Pawnee County as much prior notice as possible regarding emergency regulations regarding the discharge of fireworks within Pawnee County.

#### **SECTION 8. Enforcement of this Resolution**

The Pawnee County Sheriff and his/her deputies will be the agency with the enforcement powers concerning violation of this Resolution.

**SECTION 9. Penalty**

This Resolution is being adopted pursuant to County home-rule power and K.S.A. 19-101d. Anyone convicted of violating any provision of this Resolution shall be fined not less than \$100.00 nor more than \$1,000.00.

**SECTION 10. Invalidity of Part**

If any section, sentence, subdivision, clause or provision of this resolution or application thereof to any person, firm, corporation, partnership, or other entity or circumstances is held invalid or unconstitutional in a court of competent jurisdiction, the remainder of the resolution and the application of the section, sentence, subdivision, clause or provision to other persons, firms, corporations, partnerships or entities not similarly situated or to other circumstances shall not be effected.

**SECTION 11. Effective Date**

This Resolution from and after its effective date shall supersede any prior Pawnee County Resolution dealing with Fireworks. This resolution shall take effect and be in force immediately upon adoption.

Dated this 11<sup>th</sup> day of June 2018.

Board of County Commissioners

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Philip Hammeke, Chair

ATTESTED:

\_\_\_\_\_  
Bob Rein, Commissioner

\_\_\_\_\_  
Ruth Searight, County Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Deborah Lewis, Commissioner

\_\_\_\_\_  
Douglas W. McNett, County Attorney

**APPLICATION FOR PERMIT – PAWNEE COUNTY**  
**SUPERVISED DISPLAY OF COMMERCIAL FIREWORKS**

Date of Application: \_\_\_\_\_ (At least 14 days prior to event)

Applicant/Operator Name: \_\_\_\_\_

Applicant's Mailing Address: \_\_\_\_\_

Applicant's Daytime Telephone Number: \_\_\_\_\_

Address of Display Location: \_\_\_\_\_

If no address, description/directions to Display Location:

\_\_\_\_\_  
\_\_\_\_\_

Owner(s) of Location: \_\_\_\_\_

Address of Owner(s): \_\_\_\_\_

Owner' Telephone Number: \_\_\_\_\_

**Items 1 and 2 must be provided for an application permit for a supervised firework display to be considered by the Board of County Commissioners. Applicant will be notified as to the disposition of their application. Item 3 is required before actual issuance of permit.**

1. Copy of the Applicants/Operator's current State of Kansas Firework Display Operator License.
2. If applicant/operator is not the owner of the display location, a notarized written statement signed by the owner(s) of the location stating the owner(s) consent to the display of fireworks and citing the date that consent is granted and the date of the display.
3. Bond or certificate of insurance in the sum of \$500,000.00 with coverage and policy number listing the applicant/operator as the insured or as an additional insured and showing the display location as the insured location.

I, \_\_\_\_\_, will at all times comply and adhere to the requirements and recommendations of the National Fire Protection Association Pamphlet No. 1123 Code of Fireworks, Pawnee County Resolution 2018-R-007 and the laws of Kansas related to fireworks displays.

\_\_\_\_\_  
Applicant/Operator

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**(Official Use Only)**

The above application for a Single Event Commercial Fireworks Display Permit was reviewed on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, and was Approved/Denied. (Circle Commission's decision).

\_\_\_\_\_  
Chair, Board of County Commissioners