

ORDINANCE NO. 501

AN ORDINANCE PROHIBITING THE SALE AND DISCHARGE OF FIREWORKS WITHIN THE CITY LIMITS OF WESTMORELAND, KANSAS, EXCEPT AS PROVIDED BY THIS ORDINANCE; PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

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

Section 1: FIREWORKS DEFINED. For purposes of this ordinance, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas State Fire Marshall, 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 through 6, it shall be unlawful for any person to keep, store, display for sale, sell, fire, discharge or explode any fireworks.
- (b) Nothing in this ordinance shall be construed as applying to:
 - (1) Toy paper caps containing not more than .25 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;
 - (5) The sale or use of blank cartridges for ceremonial, theatrical or athletic events.

Section 3: SAME: EXCEPTIONS; DISCHARGES.

(a) Section 2 of this ordinance shall not apply to the firing or discharge of fireworks in the City of Westmoreland between the hours of 8:00 A.M. and 10:00 P.M. on June 29th through July 3^d.

(b) Section 2 of this ordinance shall not apply to the firing or discharge of fireworks in the City of Westmoreland between the hours of 8:00 A.M. and 12:00 midnight on July 4th.

(c) Section 2 of this ordinance shall not apply to the firing or discharge of fireworks in the City of Westmoreland between the hours of 8:00 A.M. and 10:00 P.M. on July 5th.

(d) The governing body of the City of Westmoreland 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 character and so located, discharged and fired, as not to be a fire hazard or endanger persons or surrounding property.

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

Section 4: SAME: EXCEPTION; SALE OF FIREWORKS. Any person who has first obtained a valid permit to sell fireworks within the City of Westmoreland may do so between the hours of 8:00 A.M. and 10:00 P.M. commencing June 29th through July 5th of each year for which a permit has been obtained.

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

(a) It shall be unlawful for any person to sell, display for sale, offer for sale, or give away any type of fireworks within the City of Westmoreland without first applying to the City Clerk for a permit, paying a fee of \$15.00 per establishment or premises for such permit, and securing such permit on or before June 28th of the permit year.

(b) No permit shall be issued for any location where retail sales are not permitted under the zoning laws or regulations of the City of Westmoreland. 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.

Section 6: PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED. It shall be unlawful for any person to fire 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 thirty days in advance of the desired display. Approval of the permit shall be by the governing body. The application for the permit shall clearly state the name of the applicant; the group for which the display is planned; the location of the display; the date and time of the display; the nature or kind of fireworks to be used; the name of the person, firm or corporation that will make the actual discharge of the fireworks; and the anticipated need for fire or other municipal services. No permit shall be issued if the location, nature of the fireworks, or other relevant fact 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. All fireworks offered for sale and discharged within the City of Westmoreland shall be of a type that has been tested and approved for sale and use within the State of Kansas by the State Fire Marshall. 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 OF FIREWORKS: It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or in the path of any animal, person or groups of persons, or from or in the direction of or from any vehicle of any kind.

Section 9: SALE OF FIREWORKS; WHERE PROHIBITED. 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. Where the Fire 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) Retailers shall not 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 EXTINGUISHER REQUIRED. A functioning and approved fire extinguisher shall 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.

Section 12: RESTRICTIONS AS TO GASOLINE INSTALLATIONS. It shall be unlawful to store, keep, sell, display for sale, or discharge any fireworks within 100 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: RESTRICTIONS AS TO NURSING HOMES. It shall be unlawful to store, keep, sell, display for sale, or discharge any fireworks within 200 feet of any nursing home, except as permitted under the provisions of Section 3(d) and Section 6 of this Ordinance.

Section 14: AUTHORITY OF FIRE CHIEF. The Chief of the Fire Department is authorized to seize and confiscate all fireworks which may be kept, stored, or used in violation of any section of this Ordinance, and all of the rules of the State Fire Marshall. He or she shall dispose of all fireworks as may be directed by the governing body.

Section 15: PENALTY. Any person, firm, partnership, corporation, or business entity violating any of the provisions of this Ordinance shall be deemed guilty of a Class B misdemeanor, and may be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00), or sentenced to a jail term of not more than six (6) months, or both.

Section 16: EFFECTIVE DATE. This Ordinance shall take effect and shall be in full force and effect from and after its passage and publication in the official city newspaper.

Section 17: REPEAL OF ORDINANCES. Ordinance Number 484 and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

The above and foregoing Ordinance passed and adopted by the Governing Body of the City of Westmoreland, Kansas, this 14th day of August, 2008.

ss// Mark A. Goodenow
Mayor

ATTEST:

ss// Vicki B. Zentner
City Clerk

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