

ORDINANCE NO. 2387

AN ORDINANCE RELATING TO THE SALE OF FIREWORKS IN THE CITY OF DERBY, KANSAS; AMENDING AND REPEALING SECTION 5.36.010 AND PROVIDING A SUBSTITUTE PROVISION THEREFOR.

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

Section 1. Section 5.36.010 of the Derby Municipal Code is hereby amended to read as follows:

“5.36.010 – Sale of fireworks – Permit and fee.

- A. No fireworks shall be offered for sale within the city by any person or firm unless a permit therefor has been issued by the city. Any person seeking to sell fireworks within the city may apply to the city clerk for a permit therefor by completing a form provided by the city clerk for that purpose. Each application shall include a certification by the city's zoning administrator that the location for which application is made conforms to the city's zoning ordinance. Applications shall be submitted on or before May 15 of the year for which the permit is sought; provided, that upon request and for good cause shown the city manager may extend the time for submission of applications.
- B. Each application for a permit to sell fireworks within the city shall be accompanied by a permit fee in the amount of eight thousand dollars, provided that such permit fee shall be in addition to any other fees or charges imposed by city ordinance, including, but not limited to temporary use fees. A one-thousand-dollar surcharge shall be added to the permit fee for each application received after May 15. The permit fee, together with any surcharge, shall be refunded in the event a permit is not issued.
- C. Each applicant shall obtain and maintain in force throughout the term of the permit policies of product liability insurance and general liability insurance with minimum coverage of one million dollars per occurrence/two million dollars aggregate, and naming the city as an additional insured. The applicant shall furnish proof of the required insurance prior to commencement of operations under the permit.
- D. Any permit issued hereunder is subject to suspension or revocation by the fire chief in the event he or she finds that the permittee has violated any provision of city ordinance relating to public health or safety, provided that any permittee whose permit is revoked or suspended for more than three days may appeal such enforcement action by filing notice thereof with the city clerk. Such appeal shall be heard by the city council at the next regular meeting scheduled five or more days following the filing of the appeal, and a decision thereon shall not be unreasonably delayed.
- E. Of the proceeds of permits issued pursuant to this chapter in any year:
 - 1. A portion shall be budgeted to provide printed information explaining fireworks rules and regulations, such information to be distributed in city utility bills and provided free of

charge to all permittees for distribution to retail fireworks customers as provided in Section 5.36.090 of this chapter.

2. Twelve thousand dollars shall be allocated to wholly or partially underwrite the cost of a public fireworks display approved by the city manager and staged annually in conjunction with celebration of Independence Day; provided that for 2020 and subsequent years such twelve thousand-dollar limitation shall be increased annually by five percent.
3. Any remainder shall be deposited in the general fund to be used for community enhancement.

Section 2. Repeal

Original sections 5.36.010 of the Derby Municipal Code is hereby repealed. All other provisions of the Municipal Code of the City of Derby, Kansas shall remain in full force and effect except as specifically amended herein. All other ordinances or parts of other ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

Section 3. Severability


Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

Section 4. Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication of the ordinance or a summary thereof once in the City's official newspaper as provided by State law.

PASSED by the City Council this 9th day of July, 2019 and **SIGNED** by the Mayor.

Seal
Attest



Jean Epperson

Jean Epperson, Deputy City Clerk

Randy White

Randy White, Mayor

Approved as to form:

Jacqueline R. Butler

Jacqueline R. Butler, City Attorney