

Passed: June 12, 2012  
Published: June 20, 2012

**ORDINANCE NO. 2112**

**AN ORDINANCE AMENDING SECTION 5.36.010 OF THE DERBY MUNICIPAL CODE, REQUIRING A PERMIT AND FEE FOR SALE OF FIREWORKS WITHIN THE CITY; AND REPEALING ORIGINAL SECTION 5.36.010 OF SAID CODE.**

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

**Section 1.** §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 \$1,000 surcharge shall be added to the permit fee for each application submitted 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 a policy or policies of product liability insurance and premises or general liability insurance with minimum coverage of five hundred thousand dollars per occurrence, and naming the city of Derby, Kansas, as an additional insured. The applicant shall furnish such certificate or certificates of 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. Twenty-five percent shall be allocated to support public safety programs of the city of Derby.

2. Twenty-five percent may be allocated at the discretion of the governing body to underwrite artistic, cultural, and entertainment programs deemed beneficial to the community.

3. 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.


4. 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 2009 and subsequent years such twelve thousand dollar limitation shall be increased annually by five percent.

5. Any remainder shall be deposited in the general fund to be used for community enhancement.

**Section 2.** Original section 5.36.010 of the Derby Municipal Code is hereby repealed.

**Section 3.** This Ordinance shall be effective from and after its publication once in the official City newspaper.

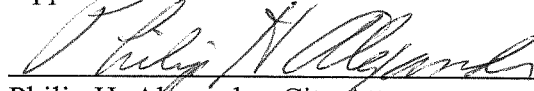
**ADOPTED BY THE GOVERNING BODY** this 12<sup>th</sup> day of June, 2012.

  
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Dion P. Avello, Mayor

ATTEST:

  
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Jean Epperson, City Clerk

Approved as to form:

  
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Philip H. Alexander, City Attorney