

Passed: 03/25/08  
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## ORDINANCE NO. 1930

**AN ORDINANCE AMENDING SECTIONS 5.36.010, 5.36.020, 5.36.070, 5.36.080, 5.36.090, 5.36.110, AND 5.36.120 OF THE DERBY MUNICIPAL CODE, REGULATING POSSESSION, SALE, USE AND DISPOSITION OF FIRE WORKS WITHIN THE CITY, AND REPEALING ORIGINAL SECTIONS 5.36.010, 5.36.020, 5.36.070, 5.36.080, 5.36.110, AND 5.36.120 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 Sales 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. Applications shall be made on or before June 15<sup>th</sup> of the year for which a permit is sought on 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.

B. Each application for a permit to sell fireworks within the city shall be accompanied by a permit fee in the amount of seven thousand five hundred 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. The permit fee 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 (\$500,000) 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 education developed and offered by 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 an informational brochure explaining fireworks rules and regulations, such brochure 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. \$12,000 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 \$12,000 limitation shall be increased annually by five per cent.

5. Any remainder shall be deposited in the general fund.

**Section 2.** §5.36.020 of the Derby Municipal Code is hereby amended to read as follows:

**5.36.020 Sales and Use of fireworks--Time and date limitations.**

No fireworks shall be discharged, ignited or otherwise used within the city except as provided in this section. Days and times authorized for the discharge, ignition and use of fireworks shall be as follows:

<b>Days</b>	<b>Times</b>
June 27 -- July 3 (inclusive)	8 a.m. -- 10 p.m. sales and discharge
July 4	8 a.m. -- 12 a.m. midnight discharge/10 p.m. sales
July 5	8 a.m. -- 10 p.m. sales and discharge

**Section 3.** §5.36.070 of the Derby Municipal Code is hereby amended to read as follows:

**5.36.070 Fire extinguishers required.**

Two approved Class 2A fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all buildings where fireworks are sold. Small stands under 300 sq. ft., temporarily erected to be used as a place for storing and selling fireworks only, shall have one Class 2A fire extinguisher.

**Section 4.** §5.36.080 of the Derby Municipal Code is hereby amended to read as follows:

**5.36.080 Temporary retail stands.**

No person, firm or corporation shall sell fireworks at temporary retail stands or other locations, or deliver retail fireworks purchased by mail order, before the 27th day of June or after the 5th day of July.

**Section 5.** §5.36.090 of the Derby Municipal Code is hereby amended to read as follows:

**5.36.090 Display of fireworks; distribution of brochure.**

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, and all fireworks kept for sale on front counters must remain in original packages, except where an attendant is on constant duty at all times at counters where such fireworks are on display; provided, that fireworks in open stock may be kept in show cases or counters out of reach of the public without an attendant being on duty. Signs reading, "FIREWORKS FOR SALE--NO SMOKING ALLOWED," and displaying the permissible hours for discharge of fireworks shall be displayed in the section of the store set aside for the sale of fireworks.

B. All retailers shall, at the time of sale, give one copy of the City's informational brochure explaining fireworks rules and regulations to each customer purchasing fireworks from such retailer.

**Section 6.** §5.36.110 of the Derby Municipal Code is hereby amended to read as follows:

**5.36.110 Near gasoline pumps.**

No person shall store, keep, sell or discharge fireworks:

A. 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;

B. Within 50 feet of an inhabited commercial or industrial structure; or

C. Within 100 feet of a residence.

**Section 7.** §5.36.120 of the Derby Municipal Code is hereby amended to read as follows:

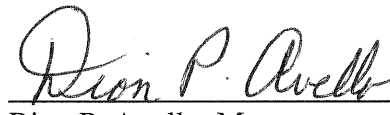
**5.36.120 Discharge of fireworks prohibited in certain locations.**

No person shall ignite or discharge fireworks 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 100 feet of any retail fireworks stand or facility where fireworks are stored.

**Section 8.** Original sections 5.36.010, 5.36.020, 5.36.070, 5.36.080, 5.36.090, 5.36.110 and 5.36.120 of the Derby Municipal Code are hereby repealed.


**Section 9.** This Ordinance shall be effective from and after its publication once in the official City newspaper.

**ADOPTED BY THE GOVERNING BODY** this 25th day of March, 2008.



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Dion P. Avello, Mayor

ATTEST:

  
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Jean Epperson, City Clerk