

Chapter 5.40 FIREWORKS¹

Sections:

- 5.40.010 Definitions.
- 5.40.020 Fireworks prohibited; exceptions.
- 5.40.030 Fireworks retail sale, storage & purchase regulations. (Repealed)
- 5.40.040 Regulations for discharging fireworks. (Repealed)
- 5.40.050 Permit for public display by pyrotechnic expert - Generally.
- 5.40.060 Application for permit for public display.
- 5.40.070 Investigation and approval of permit by Code Official - Fee.
- 5.40.080 Insurance required.
- 5.40.090 Conduct of public display.
- 5.40.100 Fire extinguishers at public display. (Repealed)
- 5.40.110 Enforcement of provisions.
- 5.40.120 Exemptions from chapter.
- 5.40.130 Storage of fireworks to be sold at wholesale.
- 5.40.140 Violation - Penalty.

5.40.010 Definitions.

Fireworks. Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration, or detonation that meets the definition of 1.4G or 1.3G fireworks as set forth herein. Fireworks does not include devices which contain quantities of less than twenty-five hundredths or less of a grain of explosives such as contained in paper caps used in toy pistols, toy guns or other novelty items. Each package containing toy paper caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.

Fireworks, 1.4G (Formerly known as Class C, Common Fireworks). Small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion. Such 1.4G Fireworks shall include any firework that explodes, produces a report, shoots a projectile into the air, or produces an open flame including rockets, missiles, helicopters, sparklers, reloadable tube devices, comets, mines and shells, fire crackers, and roman candles. Such 1.4G fireworks which comply with the construction, chemical composition, and labeling regulations of the DOT for Fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR: Parts 1500 and 1507, are not explosive materials for the purpose of this code.

Fireworks, 1.3G (Formerly known as Class B, Special Fireworks). Large fireworks devices, which are explosive materials, intended for use in fireworks displays and designed to produce audible or visible effects by combustion, deflagration, or detonation. Such 1.3G fireworks include, but are not limited to, firecrackers containing more than 130 milligrams (2 grains) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces, which exceed the limits for

¹ For statutory authority of the State Fire Marshal to regulate use and handling of fireworks, see K.S.A. 31-207; for administrative regulations issued pursuant to that authority, see Kansas Administrative Regulations 22-6.

Chapter 5.40

classification as 1.4G fireworks. Such 1.3G fireworks, are also described as Fireworks, UN0335 by the DOTn.

(History: Ord. FW-2250 ' 1, 2001; FW-912 ' 1, 76; FW-654 ' 1, 72; FW-223; FW-105)

5.40.020 Fireworks prohibited. Exceptions.

No person shall store, offer for sale, expose for sale, sell at retail, use, explode, discharge, or possess any fireworks except for supervised public exhibitions or displays; provided, however, that such public exhibitions or displays shall be conducted only in accordance with 5.40.050 through 5.40.100 and in accordance with any rules and regulations issued by the fire chief, who is designated as the Code Official, for review and approval as the Code Official, for the area included within the permit application boundaries of the City for compliance with O.P.M.C. Chapter 16.120. Provided further, however, that the provisions and prohibitions of this section shall not be construed to prohibit the proper and lawful storage of fireworks, by an actual wholesaler, for sale outside the City limits of Overland Park, Kansas.

(History: Ord. FW-2250 ' 2, 2001; FW-930 ' 1, 77; FW-912 ' 2, 76; FW-654 ' 2, 72; FW-223, A,B,C)

5.40.030 Fireworks retail sale, storage, and purchase regulations.

Repealed.

(History: Ord. FW-912 ' 3, 76; FW-654 ' 3, 72; FW-105; FW-105A & B)

5.40.040 Regulations for discharging fireworks.

Repealed.

(History: Ord. FW-912 ' 4, 76; FW-654 ' 4, 72; FW-105; FW-105A)

5.40.050 Permit for public display by pyrotechnic expert - Generally.

Fireworks may be sold for use by experienced pyrotechnic experts in a public exhibition or display of fireworks; provided, that the person desiring to purchase such articles of fireworks shall exhibit to and file with the seller a permit, or a copy thereof, issued by the City Clerk.

(History: Ord. FW-654 ' 5, 72; FW-223)

5.40.060 Application for permit for public display.

An applicant for a permit for a public exhibition or display of fireworks shall, at least 10 days before the day set for the display, file with the City Clerk a written application, in triplicate, duly subscribed and sworn to by the applicant.

Such application shall set forth the following:

- A. The name of the association, organization or corporation sponsoring the display, together with the names of the persons to be in charge of the firing and discharging of the display;
- B. The date and time of day at which the display is to be held;
- C. The exact location planned for the display;
- D. A description setting forth the age, experience, residence and physical characteristics of the persons who are to do the actual firing and discharging of the fireworks;

- E. The number and kinds of fireworks to be discharged;
- F. The manner and place of the storage of such fireworks between the date of purchase and the date of display;
- G. A diagram or sketch of the grounds on which the display is to be held, showing the point at which the fireworks are to be discharged, the location of all buildings, streets and other lines of communication, the lines behind which the public will be restrained, and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.

(History: Ord. FW-654 §6, 72; FW-223)

5.40.070 Investigation and approval of permit by Code Official - Fee.

A copy of an application filed under the preceding section shall be sent at once to the fire chief for review and approval as the Code Official, for the area included within the permit application boundaries. The Code Official shall make an investigation of the site of the proposed display, investigate the competence and skill of the persons to be in charge of firing and discharge of the fireworks, and be satisfied that the display will be conducted lawfully and in accordance with this chapter. No permit shall be issued unless the approval in writing therefor, signed by the Code Official, is filed with the City Clerk. The applicant for a permit shall, at the time of filing application therefor, pay a fee of \$10.00.

(History: Ord. FW-2250 §3, 2001; FW-912 §5, 76; FW-654 §7, 72; FW-223)

5.40.080 Insurance required.

Before a permit shall be issued for a public exhibition or display of fireworks, the applicant therefor shall file with the City Clerk a certificate of insurance from a company acceptable to the City in at least the amount listed below.

General Liability

Bodily Injury & property damage combined single limit: \$500,000 per occurrence

Policy must include the following conditions:

- A. Premises and Operations
- B. Explosion
- C. Independent Contractors

(History: Ord. FW-1478 §1, 87; FW-1050 §1, 79; FW-654 §8, 72; FW-223)

5.40.090 Conduct of public display.

Public fireworks displays shall comply with the requirements of O.P.M.C. Chapter 16.120 and Section 3308 of the City's adopted edition of the International Fire Code.

(History: Ord. FW-2463 §1, 2004; FW-2250 §4, 2001; FW-654 §9, 72; FW-223)

5.40.100 Fire extinguishers at public display.

Repealed.

(History: Ord. FW-2250 §6, 2001; FW-654 §10, 72; FW-223)

5.40.110 Enforcement of provisions.

The Chief of Police is charged with the duty of enforcing all the provisions, terms and regulations of this chapter and he may cause to be confiscated and destroyed all fireworks sold, used or possessed in violation of this chapter.

(History: Ord. FW-654 §11, 72; FW-223)

5.40.120 Exemptions from chapter.

Nothing in this chapter shall be construed as prohibiting any resident wholesaler, dealer or jobber from selling at wholesale such fireworks as are not herein prohibited, or the sale of any kind of fireworks; provided, that the same are to be shipped out of the City, nor shall this chapter be construed as prohibiting the manufacture, storage, sale or use of signals, fuses or fireworks necessary for the safe operation of railroads, trucks, aircraft or other instrumentalities of transportation or of blank cartridges and blank pistols for a show or theater or for signal or ceremonial purposes in athletics or sports or for use by military organizations. Nothing in this ordinance shall be deemed or construed to prevent, prohibit or regulate the use of explosives of any nature, or any substance or device used in connection with such explosives, in any building or construction work or activities within the City as provided in Chapter 5.36.

(History: Ord. FW-654 §12, 72; FW-223)

5.40.130 Storage of fireworks to be sold at wholesale.

Fireworks to be sold at wholesale shall be kept in a building used solely for the storage of fireworks. Such buildings must comply with pertinent building code requirements of Chapters 16.100 through 16.180, for this type of occupancy.

(History: Ord. FW-2250 §5, 2001; FW-654 §13, 72; FW-223)

5.40.140 Violation-Penalty.

Violation of any section of this chapter is a public offense and any person shall, upon conviction thereof, be punished as provided in 1.12.010.

(Amended during codification in accordance with KSA 12-3015; Ord. FW-654 §14, 72; FW-223)

[Next Page is 5-1300]