

ORDINANCE NO. 16-02

**AN ORDINANCE PERMITTING THE SALE, POSSESSION, STORAGE AND USE OF CLASS C FIREWORKS WITHIN THE CITY OF EMPORIA, KANSAS, AND SUPERSEDING ANY PRIOR ORDINANCE ON THE SAME SUBJECT**

WHEREAS, sale and discharge of fireworks is banned within Emporia, Kansas, by the Fire Code unless specifically authorized by ordinance and;

WHEREAS, the City Commission has determined that with proper storage and handling, Class C fireworks may be safely sold and discharged and should be allowed within the City over the Fourth of July holiday period;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas as follows:

Section 1. Class C fireworks means consumer fireworks which are authorized by the Kansas State Fire Marshall to be legally sold to consumers in the State of Kansas, not including "bottle rockets" (rockets mounted on a wire or stick), sparklers with wire rods, and unmanned aerial luminaries, which are specifically excluded and remain banned.

Section 2. Illegal fireworks are bottle rockets, sparklers with metal rods and unmanned aerial luminaries as defined above and any other Class of non-consumer pyrotechnic device which requires a special permit to possess, store or use. Such fireworks shall remain banned within the city limits unless a permit is issued therefore.

Section 3. In addition to Class C fireworks, toy smoke devices, poppers, sparklers, burning "snakes" and toy caps or balls are also permitted to be sold, possessed, stored and discharged in accordance with this ordinance. All other types of fireworks not specifically authorized are hereby continued to be banned.

Section 4. The sale and discharge of Class C fireworks shall be allowed within the corporate limits of the City of Emporia between June 27, 2016 and July 5, 2016, from the hours of 10:00 a.m. to 10:00 p.m., except on the 3rd and 4th of July which hours of sale and discharge shall be from 10:00 a.m. until 11:00 p.m. No fireworks may be discharged on real property without the permission of the owner or person or entity in control of the property. The discharge of fireworks is specifically prohibited on street rights-of-way, in city parks, city golf course, city parking lots, recreation fields, David Traylor Zoo, Lee Beran Recreation Center, Jones Aquatic Center, all federal, state, county or city owned or leased real property within the city limits of Emporia. No fireworks shall be discharged within 200 feet of the property line of any hospital or nursing home.

Section 5. Retail fireworks stands within the Metropolitan Area Planning District of the City of Emporia, Kansas, and under the jurisdiction of the Emporia Fire Department,

shall be required to provide a safety flyer to every purchaser of fireworks. The safety flyer template shall be provided by the Emporia Fire Department, and each permittee of the City shall be responsible for reproduction and distribution of the flyer at the point of sale.

**Section 6.** The Chief of the Emporia Fire Department shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the City of Emporia if the weather conditions make discharge of fireworks in the City hazardous to persons or property. The decision to ban the use of fireworks shall be disseminated by radio, television or newspaper.

**Section 7.** Any sale and/or discharge of fireworks prohibited by this ordinance within the corporate city limits of Emporia, Kansas, shall be a violation of the City Code Section 12-1 and subject to the penalties of City Code Sec. 12-6, a misdemeanor punishable by a fine of not less than \$100 and not more than \$500, and confiscation of said fireworks.

**Section 8.** The provisions of this ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 2nd day of March, 2016.

ATTEST:

  
Kerry Sull, City Clerk



  
Danny Giefer, Mayor

## MEMORANDUM OF UNDERSTANDING

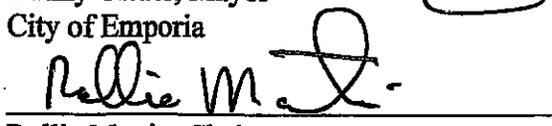
This agreement between the City of Emporia (hereafter referred to as City) and Lyon County, Kansas (hereinafter referred to as County) delineates the policies and procedures regarding retail firework stands in Lyon County, Kansas and the City of Emporia for the year 2016.

1. The City Clerk shall be responsible for issuing all permits for retail firework stands in the City and the County, and all applications for such permits must be made to the City Clerk. The City Clerk will coordinate with County personnel regarding land use restriction issues and any other issues arising within the County that may affect permit approval status.
2. The fees for retail firework stand permits shall be as follows: two thousand five hundred dollars (\$2,500) per stand in the City; one thousand five hundred dollars (\$1,500) per stand outside of the City limits but within the Metropolitan Area; and two hundred and fifty dollars (\$250) per stand outside of the metropolitan boundaries. The attached map labeled "Lyon County, Kansas Fireworks Permit Map" will be the official map designating the boundaries of each area.
3. All funds collected for firework stand permits shall be placed in a restricted account. These funds shall be utilized for inspection costs and the joint City County fireworks display. This account shall be subject to audit by the City, and the County shall receive a copy of all audit reports of the account.
4. The Emporia Fire Department will be responsible for inspection and enforcement of safety regulations of retail fireworks stands within the City, Metropolitan Area, and County.
5. The sale of fireworks at retail fireworks stands will be authorized between the dates of June 27, 2016 and July 5, 2016 in the City and the County. No fireworks shall be sold at retail fireworks stands outside of these dates.

IN WITNESS WHEREOF the parties hereto have set their hands this 17<sup>th</sup> day of

February, 2016.

  
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Danny Giefer, Mayor  
City of Emporia

  
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Rollie Martin, Chairman  
Lyon County Commission