ORDINANCE NO. 18275

AN ORDINANCE introduced by Mayor James A. McClinton relating to the ability of the fire chief to permit pyrotechnical displays, amending City of Topeka Code § 70-57 and specifically repealing said original section.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code Section 70-57, Fireworks, is hereby amended to read as follows:

Fireworks.

(a) It shall be unlawful for any person to sell or offer for sale at retail or use within the city any cartridge can, squib, rocket, firecracker, Roman candle or other combustible fireworks other than permissible fireworks.

Permissible fireworks shall mean "novelties and noisemakers" not classified as fireworks by the United States Department of Transportation and any other fireworks which the fire chief shall determine as permissible.

It shall be unlawful for any wholesaler, jobber or other person to store or keep within the limits of the city any such combustible fireworks or articles that may be used in a pyrotechnical display excepting sparklers as described in this section.

(b) Fireworks commonly known as skyrockets, Roman candles, firecrackers, bottle rockets, or any other form of fireworks consisting of a case containing a combustible composition fastened to a guiding stick which is designed and manufactured to be projected through the air by the reaction resulting from the rearward discharge of gases liberated by combustion and fireworks commonly known as

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helicopters or any other form of fireworks which launch in their entirety and leave no base shall not be permissible fireworks within the city and it shall be unlawful for any person to sell at retail, offer for sale at retail, discharge, explode, or use any of said fireworks within the city. Nothing contained in this section shall be construed as prohibiting the city council fire chief from giving or permitting pyrotechnical displays in accordance with NFPA 1123.

(c) It shall be unlawful for any person to sell, hold for sale, or offer for sale at retail, any permissible fireworks in the city unless such person has first obtained a permit from the city as a retailer.

(d) Any person desiring to sell or offer for sale any permissible fireworks as a retailer shall make application to the city clerk for a permit authorizing the same. Such application shall include the following information and such additional information as the fire chief shall deem necessary:

(1) The name and residence address of the applicant.

(2) The location of the premises for which the permit is sought. If ownership of premises is different from the applicant, written consent of the owner is required.

(3) When the permit is sought in a temporary structure or facility, the applicant shall provide a legal description of the premises, a description of the structure or facility to be used, and the location of such structure or facility upon the premises. All temporary structures including tents, shall be posted with the approved NFPA 704 placards as described in the Uniform Fire Code. After an
inspection of the premises including review by appropriate city agencies such as
fire department, development coordination and building inspection division and
consideration of the information contained in the application for a permit, the fire
chief may issue a permit therefor, conditioned upon reasonable safety measures
to be specified in the permit and upon payment by the applicant of a fee of
$200.00 to the city clerk. Any permit issued under the provisions of this section
shall be valid only for the period of June 27 through and including July 5 of the
year in which issued and shall be issued in accordance with the Uniform Fire
Code article entitled "permits." Persons responsible for the operations of
permissible firework stands in which fireworks are stored or handled shall be
familiar with safety requirements for the materials being sold, and the appropriate
actions necessary in the event of a fire.

(e) For the purpose of the celebration of the year 2000, the sale of fireworks
between December 28, 1999, and January 1, 2000, will be allowed. Any person desiring
to sell fireworks between December 28, 1999, and January 1, 2000, shall be required to
comply with all provisions of City Code section 70-57, including filing an application for a
permit to sell fireworks.

(f) Fireworks which are illegally sold, offered for sale, used, discharged,
possessed or transported in violation of these regulations shall be subject to seizure by
the fire chief, his or her representative and members of the fire and police departments
who may be assigned such responsibilities.
Section 5. That City of Topeka Code City of Topeka Code § 70-57 is hereby specifically repealed.

Section 3. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the Council of the City of Topeka JUL 06 2004.

ATTEST:

James A. McClinton, Mayor

Iris E. Walker, City Clerk