

RESOLUTION 2012- 30

**A RESOLUTION REGULATING THE SALE, HANDLING, USE
OR STORAGE OF FIREWORKS WITHIN RENO COUNTY, KANSAS,
PROHIBITING THE USE OF AERIAL LUMINARIES AND REPEALING
RENO COUNTY RESOLUTION 2005-21**

WHEREAS, K.S.A. 19-101a provides the board of county commissioners with the authority to transact all county business and to perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, K.S.A. 31-134(b) affirms the authority of county governments to prohibit or regulate the sale, handling, use or storage of fireworks within a county's boundaries; and

WHEREAS, the Board of County Commissioners of Reno County previously adopted County Resolution 2005-21, as amended, which said Resolution and amendments thereto, regulated the storage, use and handling of fireworks; and the Board of County Commissioners deems it appropriate to adopt substitute local legislation with respect thereto.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF RENO COUNTY, KANSAS, that the sale, handling, use and storage of fireworks in the unincorporated area of Reno County, Kansas, is hereby regulated as hereinafter provided.

SECTION I: Unless otherwise clearly indicated by the context as used in this resolution:

1. Consumer Fireworks (aka Class "C" Fireworks) shall mean and include any combustible or explosive composition, or any substance or combination of substances, or devices prepared for the purposes of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, torpedoes, Roman candles, Daygo bombs, sparklers, or other devices of like construction and devices containing any explosive or flammable compound, or any tablet or other device containing an explosive substance, except that the term "fireworks" shall not include any safety flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, any toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.
2. Display Fireworks (aka Class "B" Special Fireworks) means large fireworks designed primarily to produce audible or visible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes/firecrackers containing more than 2 grains (130 mg.) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, other display pieces which exceed the limits for classification as consumer fireworks and fused setpieces containing components which together exceed 50 mg. of salute powder.

3. Bottle Rocket shall mean any pyrotechnic device which is mounted on a stick or wire and projects into the air when ignited, with or without reports, and includes any device with the same configuration, with or without reports, which may be classified as a pipe or trough rocket. "Bottle Rocket" does not include helicopter-type fireworks.
4. Sale at Wholesale or Retail shall mean all sales of fireworks, within Reno County to an individual, firm, partnership, corporation, or association regularly engaged in the business of selling fireworks at retail outside Reno County.
5. The term Fireworks Stand shall mean and include any location where fireworks are offered for sale such as, but not limited to, permanent or portable stands, tents, trailers, stores, etc.
6. "Aerial luminary" shall be understood to mean airborne paper objects containing a device for fuel that heats air from inside causing it to rise into the air and to remain airborne until extinguished, commonly known as sky lanterns or flying luminaries.

SECTION II: MANUFACTURE, STORAGE, SALE, POSSESSION AND DISCHARGE OF CONSUMER FIREWORKS.

1. Consumer fireworks may be offered for sale by County permit only in the unincorporated territory of Reno County, Kansas. Such fireworks shall be limited to those defined. Bottle Rockets are prohibited to be stored, sold, offered for sale, or possessed with the intent to offer for sale.
2. It shall be unlawful for any person to discharge bottle rockets in Reno County.
3. The sale, use or discharge of any fireworks emitting a shower of sparks more than six (6) feet in any direction is prohibited and unlawful.
4. The sale, use or discharge of fireworks labeled as emitting flaming balls is prohibited and unlawful.
5. It shall be unlawful for any person to store, sell, possess with intent to sell or offer for sale, or to ignite, fire, set-off or otherwise use any pyrotechnic device not permitted by this resolution. Such fireworks may be discharged in the unincorporated areas of Reno County from 8:00 a.m. to 11:00 p.m. on the 30th day of June through July 4th; provided, however, the discharge of consumer fireworks shall be on property owned by the person(s) so discharging, or owned by the immediate family thereof. Discharge of consumer fireworks is allowed on any property if permission is obtained from the landowner and written evidence of said permission is on the person of a responsible adult involved in the discharge of said fireworks.
6. Applications for permits to sell consumer fireworks may be submitted to the Reno County Clerk's Office during normal hours. No person, firm or corporation

shall offer such fireworks for sale to individuals in the unincorporated territory of Reno County before the 30th day of June or after the 4th of July.

7. An applicant wishing to sell consumer fireworks in Reno County shall submit the following in order to obtain a permit:
 - a. The name, address and telephone number of the applicant.
 - b. The place where such fireworks are to be sold and the name and address of the owner or owners of the location.
 - c. The day or days upon which the applicant intends to sell fireworks.
 - d. A description of the structure in or on which the fireworks are to be sold.
 - e. Furnish a bond or certificate of general liability insurance in the amount of \$500,000.00, with coverage and policy numbers listing the applicant as the insured or as an additional insured and showing the sale location as the insured location.
 - f. Furnish a copy of a State Sales Tax Number Certificate issued in the name of the applicant.
 - g. Sign a statement that the applicant, if granted permission to sell such fireworks, will at all times comply with the terms of this resolution and laws of the State of Kansas relating to the sale of fireworks.
 - h. If the place where fireworks are to be sold is not owned by the applicant, there shall be filed with the application a notarized written statement signed by the owner or owners of the location, stating the owner or owners consent to the sale of fireworks for the days being requested.
 - i. The application when filed with the Reno County Clerk shall be accompanied by a fee of \$2,500.00 for each fireworks stand. The County Clerk will review and approve or deny the issuance of a permit to the party making application.
8. No person, firm or corporation engaged in the retail sale of fireworks shall store, sell or offer for sale, or display fireworks in any residential subdivision in the unincorporated sections of the County.
9. All rules and regulations adopted by Kansas Administrative Regulations concerning the storage, sale, handling and discharge of fireworks are incorporated by reference (K.A.R. 12-6-1 through K.A.R. 12-6-16).

SECTION III. COMMERCIAL FIREWORKS DISPLAY.

All individuals, corporations or organizations, desiring to engage in the commercial public display of fireworks, shall apply for and obtain a permit for the same from the

Reno County Clerk's Office. This permit will allow for the storage, handling, use and display, but not the sale, of Display Fireworks commonly used in commercial fireworks displays. It shall be a violation of this Resolution for any person, corporation or organization to engage in the commercial public display of fireworks without a permit. The following procedures, terms and conditions pertain to the issuance of such permits:

- A. All permits shall be reviewed and are subject to the prior approval, recommendations and conditions of the County Fire District Chief exercising jurisdiction in the area of display.
- B. Each display shall be of such character and so located, discharged or fired, as in the opinion of the District Fire Chief after proper investigation, does not create a hazard to property or endanger any person.
- C. Applications for permits shall be made in writing at least ten (10) days in advance of the date of display and shall be accompanied by a fee of \$25.00 payable to Reno County, Kansas.
- D. Permits issued shall be valid only for one day, and the date shall be specifically stated on said permit. An alternate date may be granted by the District Fire Chief in the event of inclement weather or burning ban.
- E. All permits issued hereunder shall be valid only at the location specifically stated on such permit. Such permits shall be issued only to those organization or individuals wishing to provide a display for the public. At all times, such public fireworks displays shall be supervised by an individual holding a fireworks operator's license issued by the Kansas State Fire Marshal. Proof of Kansas licensure shall be provided to the Reno County Clerk upon application for a permit.
- F. Any individual, corporation or organization seeking a permit must display to the Reno County Clerk proof of insurance insuring against bodily injury and property damage in the amount of \$500,000.00 by single limit policy for damages arising out of any incident occurring during the fireworks display.
- G. No permit granted shall be transferable.

SECTION IV: SEIZURE, PENALTY AND VIOLATIONS.

1. No stocks of fireworks stored, offered for sale, exposed for sale, sold or held in violation of this Section shall be seized from the owner except by an order or on a search warrant of a court of competent jurisdiction. Such court order may be enforced by the Board or their duly authorized deputies or by the Sheriff of Reno County or his duly authorized deputies. The stocks of fireworks seized hereunder shall be held by the Sheriff of Reno County. The Sheriff of Reno County shall hold such fireworks under seal in a safe place until final disposition

of the charges against the owner; thereupon, the Sheriff of Reno County shall dispose of the fireworks in accordance with the Court's order.

2. Any person, firm or corporation who shall be convicted in a court of competent jurisdiction for violating the provisions of this Section shall be deemed guilty of a Class C Misdemeanor and in accordance with K.S.A. 21-4502 and K.S.A. 21-4503 shall be subject to a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one (1) month and/or a fine not to exceed \$500.00.

SECTION V: PROHIBITION OF USE OR DISCHARGE.

Notwithstanding any other provision or permit authority herein to the contrary, the use or discharge of any consumer fireworks shall be prohibited whenever a Governor's ban on fires is in effect or when the County Commission and/or the County Emergency Preparedness Director declares an emergency, and the use or discharge of all consumer fireworks shall not be permitted until said ban or emergency is officially lifted.

SECTION VI: AERIAL LUMINARIES PROHIBITED.

It shall be unlawful to ignite or otherwise use aerial luminaries, commonly known as sky lanterns or flying luminaries, in the unincorporated area of Reno County.

SECTION VII: INVALIDITY IN PART.

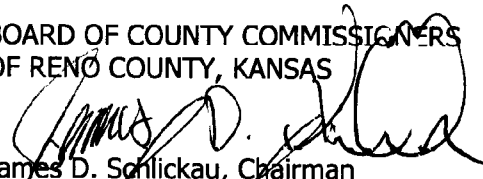
If any section, sentence, subdivision, clause or provision of this resolution or application thereof to any person, firm, corporation, partnership, or other entity or circumstances is held invalid or unconstitutional in a court of competent jurisdiction, the remainder of the resolution and the application of the section, sentence, subdivision, clause or provision to other persons, firms, corporations, partnerships or entities not similarly situated or to other circumstances shall not be affected thereby.

SECTION VIII: This Resolution from and after its effective date shall supersede all previous County Resolutions pertaining to the sale, handling, use and storage of fireworks in Reno County, all of which said Resolutions, if not previously repealed, are hereby repealed, including without limitation Resolution 2005-21.

BE IT FURTHER RESOLVED, that this Resolution shall take effect and be enforced from and after its adoption and publication in the official County newspaper.

ADOPTED in regular session this day of , 2012.


BOARD OF COUNTY COMMISSIONERS
OF RENO COUNTY, KANSAS



James D. Schlickau, Chairman



Dan Deming, Member



Brad D. Dillon, Member

ATTEST:



Donna Patton, Deputy
Reno County Clerk