

AN ORDINANCE REPEALING ORDINANCE NO. 91 TO ALLOW THE SALE AND DISCHARGING OF FIREWORKS WITHIN THE CITY LIMITS OF AUXVASSE, MISSOURI ON SPECIFIC DATES DURING THE YEAR:

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF AUXVASSE, MISSOURI, AS FOLLOWS:

*State Law Reference--As to authority of cities of the fourth class to regulate, etc., fireworks, see RSMo., §§79.450. Also see RSMo., §320.106 et seq.*

**SECTION 1. SALE PROHIBITED - EXCEPTION**

A. It shall be unlawful for any person to sell or offer for sale within the corporate limits any type of fireworks, **except** from 8:00 A.M., June 20th, to 11:00 P.M., July 10<sup>th</sup> and 8:00 A.M., December 20<sup>th</sup> to 12:00 P.M., January 2nd. No type of fireworks may be sold or offered for sale within the corporate limits at any time unless and until a State permit has been issued from the State Fire Marshal to the seller to sell fireworks as a seasonal retailer; distributor or jobber and a City Business License must be purchased from the City of Auxvasse.

*State Law Reference--See RSMo., §§320.111 and 320.121.*

**SECTION 2. SELLERS TO DISPLAY SIGN**

A. Every person who shall sell or display for sale any fireworks shall display in a conspicuous place a sign or signs, printed in bold letters not smaller than one (1) inch in height, the following:

**FIREWORKS MAY NOT BE SOLD TO A CHILD UNDER AGE FOURTEEN EXCEPT WHEN THE CHILD IS IN THE PRESENCE OF A PARENT OR GUARDIAN.**

**SHOOTING OF FIREWORKS PROHIBITED IN BUSINESS DISTRICT, STREETS, PARKS AND OTHER PUBLIC PROPERTY OF AUXVASSE, MISSOURI.**

**SHOOTING OF FIREWORKS PROHIBITED WITHIN THREE HUNDRED FEET OF ANY CHURCH OR PUBLIC SCHOOL, AND WITHIN ONE HUNDRED FEET OF WHERE FIREWORKS ARE OFFERED FOR SALE OR STORED.**

**WHERE PERMITTED, SHOOTING OF FIREWORKS IS ALLOWED ONLY FROM JUNE 27<sup>TH</sup> THRU JULY 11<sup>TH</sup> AND DECEMBER 25<sup>TH</sup> THRU JANUARY 2<sup>ND</sup>, BETWEEN 8:00 A.M. AND 11:00 P.M. WITH THE EXCEPTION OF DECEMBER 31<sup>ST</sup> THRU JANUARY 1<sup>ST</sup> – 12:30 A.M.**

B. Every person who shall sell or display for sale any fireworks shall display in a conspicuous place a sign or signs, printed in bold letters not smaller than four (4) inches in height: "FIREWORKS--NO SMOKING."

**SECTION 3. SALE FROM STREETS AND OTHER PUBLIC PROPERTY PROHIBITED -- MANNER IN WHICH FIREWORKS MUST BE SOLD**

Fireworks shall not be sold or advertised for sale from any street, alley, sidewalk or other public property within the corporate limits. Fireworks shall not be stored, kept or sold within fifty (50) feet of any gasoline pump, gasoline filling station, gasoline bulk station, or any building or area in which gasoline or volatile liquids are stored above the surface of the ground or sold in quantities in excess of one (1) gallon, provided, however, that this restriction shall not apply to any building where cleaners, paints and oils are sold in the original containers to consumers. It is unlawful to permit the presence of lighted cigars, cigarettes, pipes or any other open flame within ten (10) feet of the place where fireworks are offered for sale. It is unlawful to expose fireworks to direct sunlight through glass to the merchandise displayed, except where the fireworks are in the original package. All fireworks which the public may examine shall be kept for sale in the original packages, except where an attendant is on duty at all times where fireworks are offered for sale. Fireworks shall be kept in showcases out of reach of the public when an attendant is not on duty. It is unlawful for any person under the age of sixteen (16) years to sell fireworks or work in a facility where fireworks are stored, sold or offered for sale unless supervised by an adult. It is unlawful to attempt to sell or to sell at retail any fireworks to a child under the age of fourteen (14) years except when such child is in the presence of a parent or guardian.

*State Law Reference--See RSMo, §§320.136, 320.146, and 320.151.*

**SECTION 4. DISCHARGE RESTRICTED AS TO TIME, TYPE OF FIREWORK AND AREA -- PUBLIC DISPLAYS**

A. Except as provided in Subsection (B) and Subsection (C), the following shall apply to the discharge, shooting, setting off or ignition of fireworks within the corporate limits:

1. It shall be unlawful for any person to discharge, shoot, set off or ignite any type of fireworks except between June 27<sup>th</sup> thru July 11<sup>th</sup> and December 25<sup>th</sup> thru January 2<sup>nd</sup>, and on those days no fireworks may be discharged, set off or ignited except from the hours of 8:00 A.M. to 11:00 P.M.

2. It shall be unlawful for any person to discharge, shoot, set off or ignite any type of fireworks in or on any public street, public sidewalk, public park, public grounds or within the business district.

3. It shall be unlawful for any person to discharge, shoot, explode, set off or ignite any type of fireworks within three hundred (300) feet of any church or public school, or within one hundred (100) feet of where fireworks are stored, sold or offered for sale. No person shall discharge, shoot, set off or ignite any fireworks within or throw the same from a motor vehicle, nor shall any person place or throw any ignited articles of fireworks into or at a motor vehicle, or at or near any person or group of persons.

B. The Board of Aldermen, by resolution, may issue a City permit for the possession, discharge and shooting of special fireworks in the City Parks at a time and on a date specified in the resolution, if the same is a special fireworks display open to the public, and if the same is sponsored and conducted by a local organization that is approved by the Chief of the Fire Department to conduct such a display. The issuance of the permit shall be conditioned upon the local organization furnishing proof of financial responsibility by obtaining liability insurance in an amount satisfactory to the City and naming the City as an additional insured party, to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the local organization conducting the display. Every such special fireworks display shall be located, discharged, or fired so as in the opinion of the Fire Chief, after proper inspection, to not be hazardous to any person or property. A copy of the City permit issued for a special fireworks display shall be forwarded to the State Fire Marshal's Office.

C. The Board of Aldermen, by resolution or motion, may issue a City permit for the possession, discharge and shooting of special fireworks in a location within the corporate limits other than the City Park at a time and on a date specified in the resolution or motion with the conditions specified in this Subsection. The special fireworks display authorized by this Subsection shall be sponsored by a local non-profit organization or a local governmental body that is approved by the Chief of the Fire Department to sponsor such display. If the local non-profit organization or the local governmental body that is sponsoring the display intends to have the special fireworks display conducted by a person or entity outside the local non-profit organization or local governmental body, then the outside person or entity also shall be required to be approved by the Fire Chief before being allowed to conduct the display. The issuance of the permit also shall be conditioned upon the local non-profit organization or local governmental body furnishing proof of financial responsibility by obtaining liability insurance in an amount satisfactory to the City and naming the local non-profit organization or local governmental body, the City and any outside person or entity conducting the special fireworks display as insured parties to satisfy claims for damages to property or personal injuries arising out of any act or omission relating to the special fireworks display. The specific location of the special fireworks display shall be approved by the Fire Chief so as not to be hazardous to any person or property. The special fireworks display shall be set up for discharge or firing in a manner, in the opinion of the Fire Chief, after proper inspection that will not be hazardous to any person or property. The Board of Aldermen may make any further requirements or conditions for issuance of a permit that the Board desires.

*State Law Reference--See RSMo, §§320.126 and 320.151.*

## **SECTION 5. UNLAWFUL TO POSSESS, SELL OR DISCHARGE CERTAIN FIREWORKS**

A. Except as provided in Section 4 (B), it is unlawful for any person to possess, sell or use within the corporate limits of the City any pyrotechnics commonly known as "*fireworks*" other than items now or hereafter classified as "*class C common fireworks*" by the United States Department of Transportation or those items that comply with the construction, chemical composition, labeling and other regulations relative to fireworks regulation promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under regulations. It is unlawful for any person to sell, offer for sale, store, and display or possess any fireworks that have not been approved and labeled as Class C fireworks by the

Interstate Commerce Commission. The Interstate Commerce Commission Class C fireworks label must be visible on the fireworks or smallest container in which they are sold. The label shall be on the fireworks, or package, or both, that is received by the general public from the seller.

B. Except as provided in Section 4 (B), it is unlawful for any person to possess, use, discharge or ignite those fireworks classified by the United States Department of Transportation as ground salutes, commonly known as "cherry bombs", "M-80's", "M-100's", "M-1000's", and various other tubular salutes which exceed the limits set for Class C common fireworks by the United States Department of Transportation for explosive composition

*State Law Reference--See RSMo, §§320.131 and 320.136.*

## **SECTION 6. DEFINITIONS**

Unless the context clearly indicates otherwise, the terms listed below shall have the following definitions in Chapter 11:

*FIREWORKS:* Explosive devices classified as Class C explosives by regulation of the United States Department of Transportation and designed primarily to produce visible or audible effects by combustion, deflagration or detonation, including aerial devices containing no more than two (2) grains (130 mg) of explosive composition or ground devices containing no more than fifty (50) mg of explosive composition.

*SPECIAL FIREWORKS:* Explosive devices classified as Class B explosives by regulation of the United States Department of Transportation and designed primarily to produce visible or audible effects by combustion, deflagration or detonation, including devices containing more than two (2) grains (130 mg) of explosive composition intended for public display.

*State Law Reference--See RSMo., §320.106.*

## **SECTION 7. FIRE CHIEF MAY PROHIBIT FIREWORKS -- WHEN**

A. The Chief of the Fire Department may prohibit for a specified period of time the discharge, shooting, setting off or ignition of fireworks within the corporate limits of the City if he deems such to be a fire hazard. The Fire Chief or the City Administrator shall cause a public notice of said prohibition to be published in one (1) newspaper of general circulation within the City and shall provide publicity about said prohibition to such other news operations as he may deem advisable. The prohibition on the discharge, shooting, setting off or ignition of fireworks shall be effective beginning with the date of publication of the notice in said newspaper within the City.

B. The Chief of the Fire Department further may prohibit any public display of special fireworks, even if a permit for such display has been issued by the City, if he deems such public display to constitute a fire hazard. The Fire Chief or the City Administrator shall deliver notice of such prohibition to the local organization which was to conduct the public display.

**SECTION 8.** All ordinances and resolutions, or portions thereof, in conflict with this ordinance are hereby repealed.

**SECTION 9.** Any person, firm or corporation violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00).

**SECTION 10.** This ordinance shall be in force and effect from and after its passage and approval.

READ the first time the 10th day of May, 2011.

READ THE SECOND TIME AND PASSED by the Board of Aldermen of the City of Auxvasse, Missouri, this 10<sup>th</sup> day of March, 2011.