

## MIAMI COUNTY CODE

### ARTICLE 3. FIREWORKS (R10-03-010)

#### 14-301. DEFINITIONS

(A) FIREWORKS, for the purpose of this resolution, means any composition or device designed to produce a visible or an audible effect by combustion, explosion, deflagration or detonation that meets the definition of consumer fireworks and display fireworks as set forth herein. Nothing in these regulations shall be construed as applying to: novelty items which contain quantities of less than twenty-five hundredths or less of a grain of explosives; highway flares, railway flares or fuses, the military or naval forces of the United states or Kansas, smoke candles, other emergency devices, signal or starting pistols, blank cartridges or small arms ammunition, or the firing of sky rockets or missiles when produced by a science class of any school and are fired under the supervision of the science instructor.

(B) CONSUMER FIREWORKS (formerly known as Class C, common fireworks) means any small firework device designed to produce visible or audible effects by combustion (and which must comply with the construction, chemical composition and labeling regulations of the U.S. Consumer Product Safety Commission). Included herein shall be small devices such as whistling devices, ground devices containing 50 mg or less of explosive materials and aerial devices containing 130 mg or less of explosive materials. Also included shall be any firework that explodes, produces a report, shoots a projectile into the air, or produces an open flame including, but not limited to, firecrackers, torpedoes, sky-rockets, roman candles, Day-Glo bombs, sparklers, reloadable tube devices, comets, or other devices of like construction containing an explosive substance.

(C) DISPLAY FIREWORKS (formerly known as 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 two grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic composition, other display pieces which exceed the limits for classification as consumer fireworks and fused set pieces containing components which together exceed 50 mg of salute powder. (Display fireworks may only be discharged by a licensed display operator).

(D) ARTICLE PYROTECHNIC means pyrotechnic devices for professional use similar to consumer fireworks in chemical composition, construction and within the weight limits of consumer fireworks but not intended for consumer use and not labeled as such.

(E) CONSUMER FIREWORKS RETAIL SALES FACILITY (CFRS FACILITY) means any temporary stand, tent, canopy, membrane structure, or other approved structure (such as an existing building) which is used for the temporary retail display and sales of consumer fireworks to the public and meets all applicable building and fire codes adopted by Miami County. Temporary stands are limited to portable freestanding structures without a permanent foundation and having a floor area no greater than 400 square feet.

### **14-302. SALE AND STORAGE OF FIREWORKS.**

Consumer fireworks may be sold in the unincorporated areas of Miami County that are not within 1,000 feet of any contiguous city boundary, as measured from the nearest city boundary line (excluding right-of-way and any island annexation areas) to the edge of the CFRS facility, including tents and parking areas, pursuant to the following conditions (R11-03-008):

(A) The sale of consumer fireworks, as defined in above Section 14-301, shall be legal only between the dates of June 27th through July 5th of each year. (KAR 22-6-5) (R17-04-013)

(B) The sale of consumer fireworks shall be permitted only on those tracts of land which are zoned Low Intensity Commercial (C-1), Commercial (C-2), Business Park (BP), Light Industrial (I-1) or Heavy Industrial (I-2), as identified on the Miami County, Kansas official zoning map. The sale of consumer fireworks may also be considered on properties that are located in an Area of Regional Significance, as identified on the most recently adopted Miami County Comprehensive Plan Map, when findings are made by the governing body to support such sales, based upon the uses, zoning, and character of the neighborhood; access road surface(s), quality, and capacity; proximity to residences, businesses, and schools, and whether a CFRS facility would have a detrimental effect on such; proximity to water for fire protection and emergency services; and applicant's past history of compliance with these regulations. (R17-04-013)

(C) No CFRS facility shall be constructed or installed prior to receiving a permit for such facility. Prior to occupancy and operation, county staff and/or representatives of the appropriate fire district shall inspect the facility and give approval for the placement of consumer fireworks on the site. Any fireworks placed on site and/or sold without a permit and inspection approval shall be subject to seizure.

(D) A consumer fireworks retail sales facility permit shall be prominently posted at the CFRS facility at all times.

(E) All CFRS facilities shall be subject to inspection at all times by county officials or employees, personnel of the fire department in which district the facility is located or by the State Fire Marshall's Office. The CFRS facility permit may be revoked for failure to comply with county regulations. There will be no refund of the permit fee if the permit is revoked.

(F) CFRS facilities shall be equipped with fire extinguishers installed and located so that the maximum distance of travel required to reach an extinguisher from any point does not exceed 35 feet. At least one fire extinguisher shall be of the multipurpose dry chemical type if the facility is provided with electrical power.

(G) Smoking shall not be permitted inside or within 50 feet of a CFRS facility. At least one sign that reads "FIREWORKS - NO SMOKING" in letters at least two inches high on a contrasting background, shall be conspicuously posted at each entrance to the facility or within 10 feet of every aisle directly serving the CFRS area in a store.

(H) All temporary structures used as a CFRS facility as well as all remaining consumer fireworks not sold, shall be removed from the location by July 7th of the year in which the permit is issued. The CFRS facility operator shall schedule an inspection with the code services department prior to occupancy and a final inspection to close the facility. The final inspection must be completed within five working days after July

7th, to verify compliance with this requirement. Failure to obtain the final inspection will result in forfeiture of the \$500 security deposit.

(I) At least one sign that reads “NO FIREWORKS DISCHARGE WITHIN 300 FEET” in letters at least four inches high on a contrasting background, shall be conspicuously posted on the exterior of each side of any CFRS facility.

(J) The sale of consumer fireworks shall be permitted only in consumer fireworks retail sales facilities as defined in Section 14-301. Each facility shall be situated at least 300 hundred feet from any residential structure, 50 feet from any other building or structure and meet all of the standards specified in the permit application instructions, unless a variance has been approved by the local fire chief and/or board of county commissioners. Variances may be granted for one or more successive years without change from previously permitted conditions.

(K) All customer parking shall be off of a public road or right-of-way. If the parking lot area is grass, it shall be no higher than two inches. Off-street parking shall be provided at a ratio of one space per two hundred square feet of space occupied by the CFRS facility, with not less than five spaces provided at or near the facility location.

(L) Solid waste, trash or refuse at the location of the facility shall be handled in such a manner to maintain a clean, clutter free environment, free of blowing trash.

(M) Where onsite permanent restroom facilities are not available, portable toilets may be used for sanitation purposes and shall be provided and maintained by an individual or company who is licensed by the Miami County Environmental Health Department to provide such services.

(N) All CFRS facilities and all consumer fireworks stored, kept or sold shall be located at least 50 feet from any of the following: retail propane-dispensing station dispensers; aboveground storage tanks for flammable or combustible liquid, flammable gas, or flammable liquefied gas; or motor vehicle fuel-dispensing station dispensers.

(O) No motor vehicle or trailer used for the storage of consumer fireworks shall be parked within ten feet of a CFRS facility, except when delivering, loading, or unloading fireworks or other merchandise and materials used, stored, or displayed for sale in the facility.

(P) Exits shall be marked by an approved exit sign in accordance with the current building and electrical codes adopted by Miami County.

(Q) Each CFRS facility will be allowed one on-site advertisement sign and one off-site directional sign. Each sign shall be limited to a maximum of 64 square feet per sign face with two faces allowed. Neither sign shall be at an intersection where clear vision may be obstructed, or within the right-of-way of any street, avenue, highway or alley.

### **14-303. PERMIT APPLICATION PROCEDURE FOR CFRS FACILITY**

(A) A permit application for a Consumer Fireworks Retail Sales Facility (CFRS) Facility Permit shall be obtained from the Community Development Department and filed with said department on or before May 20th of any year with corrections to be received by June 1st. Late applications submitted between May 21st and June 1st “may” be considered with a nonrefundable late fee in the amount of \$250, with NO opportunity for corrections to be received at a later date. Applicant assumes all responsibility for an incomplete and/or inaccurate application that prevents the application from being approved. The operator of the CFRS facility, and the owner of record of the land upon which the facility will be located, shall sign the permit application. Applications for renewal of a CFRS facility, in which no changes are being made from the previous year, need only include items 1 through 3 of the application requirements listed below, with the CFRS facility application form. New CFRS facility permit applications must be accompanied with items 1 through 5 of the application requirements: (R17-04-013)

(1) Permit application fee in the amount of \$1,000, with a separate permit application being required for each CFRS facility;

(2) A copy of a “Retailer’s Sales Tax Registration Certificate” issued by the Kansas Department of Revenue;

(3) A current Certificate of Tax Clearance issued by the Kansas Department of Revenue, no older 90 days from the date of application;

(4) A detailed site plan of the facility and a separate site plan for offsite signage (if appropriate). Site plan requirements are listed below. No application will be processed unless all appropriate fees and documentation as stated above are received.

(5) A detailed floor plan of the facility showing all aisle ways and widths; exits; locations and type of fire extinguishers; exit signs and type; lighting and type; electrical panel and outlet location(s).

(6) Prior to issuance of the CFRS facility permit, the following items must be submitted:

a) A surety deposit in the amount of \$500 for each CFRS location;

b) An original certificate of general liability coverage in an amount not less than \$1,000,000 on which Miami County is added as the “certificate holder” to the insurance policy.

(B) The site plan, drawn to standard engineering scale, shall provide the following information:

(1) All items specified in bullets J through Q as enumerated in Section 14-302;

(2) The driveway entrance location, as well as off-street parking and number of spaces;

(3) The distance between the CFRS facility and all property lines and right-of-ways;

(4) An exterior lighting plan, if applicable

(C) The community development department shall distribute applications and plans to the planning director, county engineer, sheriff, building official, EMS director, director of road and bridge, the appropriate fire district and fire chief for their comments and/or recommendations immediately upon receipt of the application with comments to be received from each noted department with 10 days.

(D) The board of county commissioners hereby authorizes the planning director and/or director of code services, or their designee, to review and consider the comments received from each affected agency, and if the application is found to be in compliance with all of the requirements of this Article, issue said CFRS facility permit.

(E) Should the application fail to meet all of the requirements of this Article, the planning director and/or director of code services shall deny such application listing the reasons for denial.

(F) The applicant shall submit all corrections by June 1st for reconsideration.

(G) The applicant may submit a request for variance from the appropriate fire chief and/or the board of county commissioners no later than June 10th.

#### **14-304. DISCHARGE OR USAGE OF FIREWORKS.**

Fireworks, subject to the following limitations and requirements, shall be discharged or used only under the following conditions:

##### **(A) CONSUMER FIREWORKS**

- (1) No permit shall be required and no fee shall be charged for the discharge of consumer fireworks.
- (2) The discharge of consumer fireworks shall be prohibited except from July 1 through July 7 and December 31 through January 1 of each year. On such days, the discharge of consumer fireworks shall be limited to the hours between 8:00 a.m. and 11:00 p.m. except for December 31 through January 1 when they may be discharged from 11:00 p.m. to 15 minutes after midnight.
- (3) The discharge of consumer fireworks shall be for the entertainment and enjoyment of the owners/occupants of the property upon which the fireworks are discharged and their guests and no fees shall be charged for attending/observing the fireworks exhibition.
- (4) The property owner of the land upon which the discharge of consumer fireworks occurs shall maintain general liability bodily injury & property damage combined single limit insurance in the minimum amount of \$100,000 per occurrence.
- (5) The discharge or display shall be arranged so that consumer fireworks are to be fired at least 100 feet from the nearest public right-of-way and property line and at least 50 feet from the nearest building.
- (6) Consumer fireworks that fire a projectile into the air shall be directed in such a manner that the projectile does not fire over or above any building, structure or person viewing the exhibition or display, and the angle of the projectile shall be no more than 15 degrees from vertical.
- (7) Persons firing any consumer fireworks shall be either at least 18 years of age or shall be under the supervision of an adult.
- (8) At least one approved fire extinguisher shall be present at the exhibition site.
- (9) All unfired consumer fireworks and fireworks residue remaining after the discharge of the fireworks shall be immediately disposed of in a nonflammable container.

##### **(B) DISPLAY FIREWORKS (R10-08-030)**

- (1) A permit shall be required for the discharge of display fireworks and a fee in the amount of \$150 for such a permit shall be charged to the applicant. Application for such permit shall be made to the community development department at least 30 days prior to the date for which the permit is requested, with the permit being either formally approved or denied by the county commission within 15 days after receipt of the application. The Board of County Commissioners shall retain the right to waive the fee for either a municipality within the county or a non-profit civic organization. The holder of the permit shall meet all the following conditions for a display fireworks permit.
- (2) The discharge of display fireworks shall be limited to the hours between 8:00 a.m. and 11:00 p.m. except for December 31 through January 1 when they may additionally be discharged from 11:00 p.m. on December 31 through 15 minutes after midnight on January 1.

- (3) The discharge of display fireworks shall be for the entertainment and enjoyment of the permit holder and the permit holder may charge a fee for attending or observing the exhibition.
- (4) The individuals, organization, municipality or landowner conducting the display fireworks exhibition shall maintain general liability bodily injury & property damage combined single limit insurance in the minimum amount of \$500,000 per occurrence, with the policy including provisions for premises and operations, including the discharge and explosion of display fireworks thereon by the applicant and/or independent contractors.
- (5) Display fireworks shall be kept and stored, prior to firing, in a place and manner that presents neither a hazard to any property nor a danger to any person, such as a warehouse or magazine or comparable appropriate depository that complies with the requirements of the current Bureau of Alcohol, Tobacco, Firearms and Explosives Federal Explosives Law and Regulations, and the current fire code adopted by Miami County.
- (6) The discharge or display shall be arranged so that the display fireworks are to be fired at least 100 feet from the nearest public right-of-way, person or building.
- (7) Display fireworks that fire a projectile into the air shall be directed in such a manner that the projectile does not fire over or above any building, structure or person viewing the exhibition or display, and the angle of the projectile shall be no more than 15 degrees from vertical.
- (8) Persons firing display fireworks shall be experienced pyrotechnic experts in the public exhibition or display of fireworks, shall be at least 21 years of age and shall possess a valid license as a display operator issued by the State Fire Marshall.
- (9) At least two approved fire extinguishers shall be present at the exhibition site.
- (10) All unfired display fireworks and any residue remaining after the discharge shall be promptly extinguished and shall be immediately disposed of in a nonflammable container.
- (11) Access from the nearest public road to the discharge site shall remain open and passable at all times for fire, ambulance and law enforcement vehicles in case of an emergency.

**14-305. PROHIBITION USE OR DISCHARGE.**

The sale, use, or discharge of any fireworks, either consumer or display, shall be prohibited whenever a Governor's ban on fires is in effect or when the county commission, the board of director for a rural fire district and/or the county emergency preparedness director declares an emergency and the sale, use, or discharge of all fireworks shall not be permitted until said ban or emergency is officially lifted.

**14-306. ENFORCEMENT AND PENALTIES.**

Violation of any provision of this resolution shall be a Class E violation of the county code, punishable upon conviction of a fine in an amount not less than \$500 and not more than \$1,000 for each offense plus assessment of all costs incurred by public agencies fighting fires and/or responding to other emergencies resulting from the violation of the provisions of this resolution.