

CHAPTER 5

FIREWORKS

SECTION

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7-501. Purpose. The purpose of this chapter is to provide an ordinance for regulating the manufacturing, sale, display, use and storage of certain fireworks for both private and public display within the corporate limits of the City of Columbia, Tennessee, setting certain guidelines which shall provide for the general safety and welfare of the citizens thereof and property therein. (Ord. #3535, Dec. 2003)

7-502. Definitions. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise.

(1) "Distributor." Any person engaged in the business of selling of fireworks to any other person engaged in the business of reselling fireworks either as a wholesaler or retailer, or any person who receives, brings, or imports any fireworks of any kind, in any manner into the City of Columbia, except to a holder of a manufacturer's, distributor's or wholesaler's permit issued by the State Fire Marshal and the City of Columbia Fire Chief.

(2) "D.O.T. Class C Common Fireworks." All articles of fireworks as are now or hereafter classified as "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation for transportation of explosives and other dangerous articles.

(3) "Manufacturer." Any person engaged in the making, manufacturing or constructing of fireworks of any kind.

(4) "Permit." The document granting the written authority of the City of Columbia Fire Chief or his designee issued under the authority of this chapter.

(5) "Person." Any individual, organization for profit, organization not for profit, firm, partnership or corporation.

(6) "Retailer." Any person engaged in the business of making retail sales of fireworks.

(7) "Sale." An exchange of articles of fireworks for money, also including a barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, co-partnership, or one (1) or more individuals.

(8) "Sign, portable." Any advertising sign or devise in the shape of an "A" frame or any variation thereof, located on the ground, easily movable, not permanently attached thereto and which is usually a two sided sign and including any single or double surface painted or postered panel type sign or any variation thereof, which is temporary in nature, usually mounted on wheels, easily moveable, not permanently attached to the premises or any building, wall, fence, pole or any other structure situated upon any real property.

(9) "Special fireworks." All articles of fireworks that are classified as Class B explosives in the regulation of the United States Department of Transportation and includes all articles other than those classified as Class C.

(10) "Storage." A place where merchandise is stocked or supply is reserved for future use.

(11) "Storage facility." A place where fireworks are stockpiled or kept for future use.

(12) "Wholesaler." Any person engaged in the business of making sales of fireworks to a retailer. (Ord. #3535, Dec. 2003)

7-503. Permit required. It shall be unlawful for any person to sell, publicly display, offer for sale, ship, cause to be shipped or stored in the City of Columbia or property which is within the area the city fire department protects, except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler, person or entity in charge of a public display event, or retailer, from both the City of Columbia Fire Chief or his designee and the State of Tennessee Fire Marshal (as required by Tennessee Code Annotated, § 68-104-101, et seq.). Possession of said permits shall be a condition prerequisite to selling, putting on a public display, offering for sale, shipping or causing to be shipped into, or storing any fireworks in the City of Columbia, except as herein provided. Permits issued under this section are not transferable. No permit shall be issued for manufacturing of fireworks within the City of Columbia as the same is prohibited. (Ord. #3535, Dec. 2003)

7-504. Permit fees and length of validity. (1) The fee for the permit provided for in § 7-503 of this chapter for retail sales of fireworks shall be two thousand five hundred dollars (\$2,500.00) and the permit shall be valid for a maximum period of ten (10) days as specified on such permit.

(2) The fee for storage of fireworks shall be one thousand dollars (\$1,000.00) and the permit shall be valid for a period of one hundred eighty (180) days as specified on such permit.

(3) The fee for public display events shall be one thousand dollars (\$1,000.00) and the permit shall be valid for a maximum period of three (3) days as stated on such permit.

(4) The fee for obtaining a permit for a distributor shall be one thousand dollars (\$1,000.00) and the permit shall be valid for a period of one hundred eighty (180) days from the date of issuance. (Ord. #3535, Dec. 2003, as amended by Ord. #3678, Jan. 2007)

7-505. Application for permit. Applicants for a permit under this chapter must obtain a permit packet and file with the city recorder a sworn written application containing the following:

(1) The name and addresses of the persons, firms, corporations, or other organizations wishing to obtain said permit.

(2) The complete home address, business address and local address of the applicant.

(3) A brief description of the location where such applicant intends to either sell, display or store said fireworks.

(4) The amount of fireworks on hand and the amount of fireworks to be stored.

(5) The date and length of time for which the right to do business is desired.

(6) A statement as to whether or not the applicant has been convicted of any felony or misdemeanor or for the violation of any municipal ordinance; the nature of the offense; and the punishment and penalty assessed therefore.

(7) After the application has been submitted and approved, the fire marshal or his designee shall inspect the site for compliance.

(8) Any fees are to be paid when the application is submitted and all fees are non-refundable.

(9) The City of Columbia shall be named as an additional insured on applicant's liability policy with a required minimum of one million dollars (\$1,000,000.00) in coverage. (Ord. #3535, Dec. 2003)

7-506. Separate sales and use tax numbers required. A separate sales and use tax number shall be required for each location where D.O.T. Class C Fireworks are sold.

The issuance of permits provided for herein shall not replace or relieve any person of state, county or municipal privilege licenses as now or hereafter are required by law. (Ord. #3535, Dec. 2003)

7-507. Permissible types of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell, use or store within the City of Columbia, or ship into the City of Columbia, except as provided in this chapter, any pyrotechnics commonly known as fireworks other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class 1.4 C common fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations. (Ord. #3535, Dec. 2003)

7-508. Conditions for sale, use and storage of permissible items. No permissible articles of D.O.T. Class C Common Fireworks, shall be sold, offered for sale, or possessed within the City of Columbia, or used within the city, unless it is properly named and labeled to conform to the nomenclature of allowed fireworks and unless it is certified "D.O.T. Class C Common Fireworks" on all shipping cases and by imprinting on the article or retail container D.O.T. Class C Common Fireworks, such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. The regulations of the State of Tennessee Fire Marshal's Office relative to the possession and sale of fireworks, their storage and safety requirements, are hereby incorporated by reference herein, together with the regulations of the National Fire Protection Association (NFPA 1124). Retail sales for fireworks will only be allowed in commercial zones defined by the Columbia Zoning Ordinance. No parking at any site shall be allowed in the city right of ways. Signs advertising fireworks are allowed only on the permitted site. No portable signs as defined herein shall be allowed. A minimum distance for the sale of fireworks shall be a minimum of 50 feet from any public right-of-way and/or permanent building. Fireworks shall not be sold or stored within three hundred (300) feet of any residential district, hospital, hotel, motel, private or public schools. All permits must be kept on site and visibly posted in the sales or storage area. A business license must be obtained from the city recorder's office. (Ord. #3535, Dec. 2003, as replaced by Ord. #3958, Oct. 2013)

7-509. Retail sale of permissible items—time limitations—exceptions. Permissible articles of fireworks may be sold at retail to residents of the City of Columbia and used within the City of Columbia only from June

20th through July 5th, and from December 20th through January 2nd of each year. The definition of fireworks does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five one-hundredths (25/100) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding. Toy paper pistol caps which contain less than twenty-five one hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or per chlorate sales may not exceed five (5) grams of composition per item), emergency flares, matches, trick matches, and cigarette loads, may be sold at all times. Retail sales displays of the fireworks within the city must be housed in a temporary facility, such as a tent or trailer, away from any permanent structure and the temporary facility cannot be attached to said permanent structure. Proof of tent flame retardant is required. (Ord. #3535, Dec. 2003)

7-510. Public displays—permits—regulation. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal's office. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of Columbia, shall include display shells designed to be fired from mortars and display set pieces of fireworks classed by the regulation of the United States Department of Transportation as "Class B special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the police chief and fire chief, or their designees, and applied for and received a permit for such displays issued by the City of Columbia and the state fire marshal's office. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that is not hazardous to property and that it shall not endanger human lives. (Ord. #3535, Dec. 2003)

7-511. Regulations governing storing, locating or displaying of fireworks. (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to allow the presence of open flames, lighted cigars, cigarettes, or pipes within fifty (50) feet of where the fireworks are offered for sale is hereby declared unlawful

and prohibited. At all places where fireworks are stored or sold, there must be posted signs (not hand made) with the words "fireworks--no smoking" in letters not less than four (4) inches high. No fireworks shall be sold at retail at any location where paints, oils or varnishes are offered for sale or used, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold.

(2) All firework devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision.

(3) All firework devices sold or stored under a duly issued permit must be located not less than three hundred (300) feet from any gasoline dispensing pump.

(4) Any sales or storage facilities must be at all times free from litter and debris.

(5) All proposed sales or storage facilities must be inspected prior to the selling or storing of any fireworks.

(6) Storage facilities must have a placard with a NFPA 704 warning symbol "Fireworks." (Ord. #3535, Dec. 2003)

7-512. Unlawful acts in the sale, handling, or private use of fireworks. (1) It is unlawful to:

(a) Offer for retail sale or to sell any fireworks to children under the age of sixteen (16) years or to any intoxicated or incompetent person;

(b) Explode or ignite fireworks within three hundred feet (300') of any church, hospital, hotel, motel, or public school or within three hundred feet (300') of where fireworks are stored, sold, or offered for sale, or within three hundred feet (300') of a gasoline retailer or wholesale storage facility;

(c) Ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle or to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of people;

(d) Ignite fireworks during a burning ban declared by either the State of Tennessee or the city manager, except for public (and/or group) displays for which permits have been granted.

(e) No fireworks shall be discharged before 9:00 A.M. and no fireworks shall be discharged after 10:30 P.M. with the exception of New Year's Eve when the discharge of fireworks shall cease at 12:30 A.M. on January 1st.

(2) All items of fireworks, which exceed the limits of D.O.T. Class C Common Fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from the manufacturing, possession, use, sales or storage within the City of Columbia. This subsection shall not affect display fireworks authorized by this chapter.

(3) Fail to comply with the City of Columbia's Zoning Ordinances. (Ord. #3535, Dec. 2003, as amended by Ord. #3923, Sept. 2012)

7-513. Due process; penalty for violation. Violations of any of the provisions of this chapter may result in the issuance of a citation, the revocation of any applicable permit or the refusal to issue any future permits for a period of not to exceed three (3) years.

The permit holder shall be held responsible in the event of fire, personal injury, physical injury, and/or any property damage as a result of the permit holder's or the permit holder's employees actions. If permit is suspended or revoked the permit holder may request a due process hearing in front of the City Manager of the City of Columbia within three (3) days.

If a person or organization fails to obtain any required permits prior to manufacturing, possession, use, sales or storage of fireworks, the required permit fees shall be doubled. (Ord. #3535, Dec. 2003)

7-514. Exceptions to application. Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, of the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes from the state fire marshal's office, and after approval of the local county agricultural agent and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the City of Columbia. (Ord. #3535, Dec. 2003)