

ORDINANCE NO. _____

AN ORDINANCE TO ADD CHAPTER 4, "FIREWORKS," TO TITLE 7 OF THE CITY OF SHELBYVILLE MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBYVILLE, TENNESSEE, THAT:

Section 1. Chapter 4, "Fireworks," is added to title 7 of the Shelbyville Municipal Code to read as follows:

CHAPTER 4

FIREWORKS

SECTION

7-401 Definitions

7-402 Permits and permit fees

7-403 Permit revocation

7-404 Permissible fireworks

7-405 Storing and structures

7-406 Limitations on structures

7-407 Location of fireworks outlets

7-408 Parking for retail fireworks sales site

7-409 Additional standards for fireworks retailers

7-410 Unlawful sale to certain children and other persons; unlawful use of fireworks

7-411 Limited time period to use fireworks

7-412 Exemptions

7-413 Violations and penalty

7-401 Definitions

(1) As used in this chapter, unless the content otherwise requires:

(a) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of

(i) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks", or "Class C Common Fireworks,"

(ii) Theatrical and novelty, classified as 1.4S, or

(iii) Display fireworks, classified as 1.3G,

as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, Title 49, Code of Federal Regulations (CFR), Parts 171-180.

(iv) Exceptions:

(A) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to those regulations;

(B) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;

(C) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

(b) "Mobile Retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit" means the written authority of the City of issued under the authority of this section.

(d) "Person" means any individual, firm, partnership, or corporation.

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

(f) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, co-partnership, or one (1) or more individual(s),

(g) "State Fire Marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated § 68-104-101, *et seq.*

(2) Singular words and plural words used in the singular include the plural and the plural as singular.

7-402. Permits and permit fees. (1) It is unlawful for any person to sell or to offer for sale in the City of Shelbyville any item of fireworks without first having secured a State Fire Marshal Permit and a Permit issued by the City of Shelbyville.

(a) Permits are not transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 9 or December 21 through January 5.

(c) The permit fee for retail permits is \$1,000 for the summer period and \$500 for the winter period.

(d) The fee for public displays using Special Display (1.3G) Fireworks is five dollars (\$5).

(e) Schools, wedding groups, businesses, and civic clubs that desire to have a 1.3G Special Display or 1.4G Consumer Fireworks display may obtain a permit to use fireworks for any time of the year by paying a \$5 permit fee and obtaining a permit from the City.

(2) A permit to sell fireworks in the City of Shelbyville must be obtained at least one week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of applicant.

(b) The applicant must be the natural person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the State Fire Marshal Permit.

(d) The applicant is liable for all violations of this chapter by persons under his/her supervision.

(3) A copy of the State Fire Marshal Permit. (For a state permit to be obtained by a retailer, the Mayor must sign in behalf of the retailer an Application for Fireworks Permit that the state requires before a state permit is issued to a retailer for a specific location.)

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within 750 feet of a retail structure.

(6) Mobile vendors are not permitted.

(7) Flashing signs are not permitted.

(8) One double-faced sign is permitted; however, each sign face may not exceed thirty-six (36) square feet.

(9) The application must contain evidence that general liability insurance has been obtained by applicant naming the City of Shelbyville as additional insured for at least \$2,000,000 for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(10) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(11) Applicant shall pay \$100 cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to clean up the retail fireworks site if needed.

(12) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance with applicable codes and ordinances.

7-403. Permit revocation. (1) The Codes Director or fire official may revoke any permit upon failure of retailer to correct any of the following conditions within thirty six (36) hours after the Codes Director gives written notice.

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the City Codes Director.

(b) When the permittee's application contains any false or untrue statements.

(c) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(d) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(2) When any activities of the permittee constitute a distinct hazard to life or property, the Codes Director or fire official, or both, may revoke the permit immediately.

7-404. Permissible fireworks. (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of Shelbyville, except as provided in this chapter, any "fireworks" as defined in § 7-401(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G Consumer Fireworks, or

(b) 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.

(2) Any display using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician.

7-405. Storing and structures. No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks- No Smoking" in letters not less than four (4) inches high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten (10) feet away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for

personal use.

7-406. Limitations on structures. Tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No structure from which fireworks are sold may exceed 3,200 square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block.

7-407. Location of fireworks outlets. Fireworks sales structures must be no closer than 60 feet from any occupied building. Fireworks sales are permissible only on commercial/industrial property as approved by the Planning Department and the sales structure must be located a minimum of 45' from the right of way. Any fireworks sales structure must be at least 150 feet from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of 125,000 square feet.

7-408. Parking for retail fireworks sales site. The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary.

7-409. Additional standards for fireworks retailers. (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than 100 feet to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred and fifty (750) feet from other similar uses. This distance shall be measured in a straight line from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location.

(3) Each retailer must provide for each site toilet facilities for the retailer's employees.

(4) Each retailer must conspicuously post a sign notifying the public of the requirements of §§7-410, 7-411, and 7-413 of this chapter. Such signs shall not exceed six (6) square feet in size and shall not contain advertising.

(5) Each retailer shall provide adequate generators, which shall be placed no closer than ten (10) feet from any tent or structure, and protected from rain.

7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks. It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred (600) feet of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred (200) feet of where fireworks are stored, sold, or offered for sale. It is unlawful to ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle. It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times, places, or in any manner that endangers other persons. It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the City of Shelbyville Fire Department, except for public (and/or group) displays for which permits have been granted.

7-411. Limited time period to use fireworks. Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods.

(1) July 1 through July 4 - The permissible hours are from 10 a.m. to 10:30 p.m., except for July 3, when permissible hours are from 10 a.m. to 11:30 p.m..

(2) December 31 and January 1 - The permissible hours from 8:00 p.m. on December 31 to 1:00 a.m. on January 1.

7-412. Exclusions. Nothing in this chapter prohibits:

(1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fuses, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(7) Supervised displays of fireworks as provided for in this chapter.

7-413. Violations and penalties. Violations of any provision of this chapter shall be subject to a penalty of up to \$50 per violation.

Section 2. This ordinance shall take effect from and after its passage, the public welfare requiring it.

Mayor Wallace Cartwright

Attest:

City Recorder Betty B. Lamb

Approved As to Form:

City Attorney Ginger B. Shofner

1st Reading: _____

2nd Reading: _____

3rd Reading: _____

Public Hearing: _____