

## FIREWORKS

BE IT ORDAINED by the Mayor and City Council of the CITY OF HAMILTON, ALABAMA, as follows:

Section 1.01. Definition of terms. As used in this article, the following terms shall shall the meanings ascribed to them in this section, unless clearly indicated otherwise:

- (1) Distributor. Any person engaged in the business of making sales of fireworks for resale to all holders of the required Alabama permits who in turn shall resell to any permit holder; or any person who receives, brings, or imports any fireworks of any kind into the City of Hamilton, except to a holder of an Alabama manufacturer's or distributor's permit.
- (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 U.S. Department of Transportation for the transportation of explosive and other dangerous articles.
- (3) Manufacturer. Any person engaged in the making, manufacture or construction of fireworks of any kind within the City of Hamilton.
- (4) Permit. The written authority of the state fire marshal issued under the authority of § 8-17-210 eq seq., Code of Alabama, 1975.
- (5) Person. Includes any corporation, association, copartnership or one or more individuals.
- (6) Retailer. Any person engaged in the business of making sales of fireworks to consumers within the City of Hamilton during a calendar year from January 1 through December 31.
- (7) Sale. An exchange of articles or fireworks for money, including barter, exchange, gift or offer thereof. and each such transaction made by any person, whether as principal proprietor, salesman, agent, association, copartnership or one or more individuals.
- (8) Fireworks Seasons. The dates of June 20 through July 10 and December 15 through January 2 of each year shall be the only period when seasonal retailers may sell fireworks.
- (9) Seasonal Retailer. Any person engaged in the business of making sales of fireworks to consumers within the City of Hamilton during the fireworks season(s) only, from permanent buildings or temporary or movable stands.
- (10) Special Fireworks. All articles of fireworks that are classified as Class B explosives in the regulations of the U.S. Department of Transportation, including all articles as fireworks other than those classified as Class C.
- (11) Wholesaler. Any person engaged in the business of making sales of fireworks to any other person engaged in the business of making sales at seasonal retail.
- (12) City. Means the City of Hamilton, Alabama.

Section 1.02.

It shall be unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into or within the city any item of fireworks, without first having secured the required applicable permit, as a manufacturer, distributor, wholesaler, retailer, or seasonal retailer, from the state fire marshal, possession of said permit being hereby made a condition prerequisite to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into or within the city, except as provided in § 8-17-211 et. seq. This provision applies to nonresidents as well as residents of the City. Mail orders where consumers purchase any fireworks through the mail or receive any fireworks in the city by mail,

parcel service, or other carrier are prohibited. A sales clerk must be on duty to serve consumers at the time of purchase or delivery. All fireworks sold and delivered to consumers within the city must take place within the city and be sold and delivered only by an individual, firm, partnership or corporation holding the proper Alabama fireworks permit and all fireworks coming into the city, manufactured, sold or stored within the city shall be under the supervision of the state fire marshal and city fire officials.

Section 1.03.

Permitted items. It shall be unlawful for an individual, firm, partnership or corporation to possess, sell or use within the city limits of Hamilton any pyrotechnics commonly known as "fireworks" other than items now or hereafter classified as Class C, Common Fireworks by the U.S. Department of Transportation and/or items that comply with the construction, chemical composition and labeling restrictions promulgated by the U.S. Consumer Products Safety Commission and permitted for use by the general public under their regulations.

Permitted items designed to produce an audible effect are confined to small ground items which include firecrackers not over one and one-half (1½) inches in length and one-quarter (¼) inch in diameter and containing not over fifty (50) milligrams of explosive composition and aerial devices containing not over one hundred thirty (130) milligrams of explosive composition. Propelling or expelling charge consisting of a mixture of charcoal, sulfur and potassium nitrate are not considered as designed to produce an audible effect.

All items of fireworks which exceed the two grain limit 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 shipment into, manufacture, possession, sale and use within the City of Hamilton for any purpose. This subsection shall not affect display fireworks authorized by § 8-17-210, et seq., Code of Alabama, 1975.

Items permitted and for which a permit is required shall include related items not classified by the Department of Transportation as Common Fireworks, but identified under their regulations as trick noisemakers, toy novelties, toy smoke devices, and sparklers and shall include toy snakes, snappers, auto burglar alarms, smoke balls, smoke novelty items, and wire sparklers containing not over one hundred (100) grams of composition per item. Sparklers containing any chlorate or perchlorate salts may not exceed five (5) grams of composition per item.

Items must be identified on the shipping cases and by imprinting on the article or retail sales container or unit "D.O.T. Class C Common Fireworks" or other appropriate classification of Identification as may be applicable or required by any federal agency having jurisdiction over fireworks on related items; such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public.

Section 1.04.

Regulations for retail sale. No fireworks shall be sold at retail at any location where paints, oils, or varnishes are for sale or use unless kept in the original unbroken containers, nor within fifty (50) feet of where resin, turpentine, gasoline, or any other substance which may generate flammable vapors is used, stored, or sold.

Fireworks shall not be displayed, located, placed, or stored in any location where the sun may shine through glass onto the fireworks so displayed. Nor shall the presence of lighted cigars, cigarettes, pipes, matches or lighters be allowed within ten (10) feet of where the fireworks are offered for sale. At all places where fireworks are stored or sold, there must be prominently displayed signs with the words "FIREWORKS--NO SMOKING" in letters not less than four (4) inches high.

Any fireworks which 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 some ignition source. Safety type thread and coated fuses shall be exempt from this provision.

No fireworks shall be offered for retail sale or sold to any person under sixteen (16) years of age, or to any intoxicated or irresponsible person. A driver's license or identification card may be accepted as proof of age.

Section 1.05. Regulations for Use.

- (a) It shall be unlawful to offer for sale or to sell any fireworks to children under the age of 16 years unless accompanied by an adult or to any intoxicated or irresponsible person. Any person purchasing fireworks shall be required to show a valid driver's license or state approved identification card. It shall be unlawful to explode or ignite fireworks within 600 feet of any church, hospital, asylum, public school, any enclosed building, or within 200 feet of where fireworks are stored, sold or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people.
- (b) Public display regulations. No display fireworks shall be fired less than two Hundred (200) feet from the nearest permanent building, public highway, railroad or other means of travel or fifty (50) feet from the nearest aboveground telephone line, tree, or other overhead obstruction. In no case shall a display be fired within six hundred (600) feet of a church, school, hospital, asylum, or public assembly while in use.

Spectators shall be restrained behind lines or barriers in every cast not less than two hundred (200) feet from the point at which the fireworks are to be discharged. All display fireworks shall be set up so that the projectile will go into the air in a vertical position as nearly as possible. If fireworks are to be discharged beside a large body of water they shall be directed so that falling residue will fall into the body of water.

No fireworks display may be held when the wind reaches a velocity of more than twenty (20) miles per hour.

All fireworks to be used in or left over from a display shall be stored in a manner and in a place secure from fire, accidental discharge and theft subject to the approval of the fire official.

There shall be at all times no less than two (2) operators on duty at the display from such time as the fireworks are delivered to the site until all debris has been removed from the site, at least one of whom shall hold a certificate competency. The operators must also possess a notarized certificate of bond adequate to cover any personal or material damages which may occur and accept all liability for same.

Section 1.06. Exclusion. 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, nor as applying to the military or naval forces of the United States, or of this state or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical or athletic events.

Section 1.07. Penalties. Any individual, firm, partnership or corporation that violates any provisions of this ordinance shall be guilty of a Class A misdemeanor, and upon conviction shall be punished by a fine of not less than \$100.00 or more than \$1,000.00 or imprisoned for not less than 30 days, or more than, one year or both, in the discretion of the court. Any person convicted of manufacturing, shipping into, possessing or selling any illegal fireworks described in Section 8-17-218, Code of Alabama, 1975 shall be guilty of a Class C felony and upon conviction shall be punished by a fine of not less than \$500.00 nor more than \$5,000.00 or imprisoned not less than one year and one day or more than 10 years, or both, in the discretion of the court.

Section 1.08. Seizure of illegal fireworks. The fire official of the City shall seize or cause to be seized as contraband any fireworks which are sold, displayed, used, or possessed in violation of this ordinance. The fire official is authorized to destroy any illegal fireworks so seized.

Section 1.09. Separability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 1.10. Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this chapter are hereby repealed. Specifically repealed is Ordinance No. 423, adopted and approved on June 22, 1981.

Section 1.11. Municipal privilege fee. A business license fee of one hundred fifty dollars (\$150.00) shall be required of the retailer within the corporate limits of city. A license fee of seventy five dollars (\$75.00) shall be required of the retailer within the police jurisdiction of the city.

Sales made at wholesale and distributor level shall require a license fee of five hundred dollars (\$500.00).

The appropriate fees are payable to the city clerk during the normal hours of business operation. A license shall be issued only after compliance with all other provisions of the chapter.