

Ordinance No. 2476

ORDINANCE TO AMEND THE BILOXI CODE OF ORDINANCES,  
SPECIFICALLY, SECTIONS 13-1-12-FIREWORKS AND 23-4-3(D)(8)(M) -  
WHICH SECTIONS ADDRESS SEASONAL FIREWORKS SALES

WHEREAS, on Thursday, December 3, 2020, the Biloxi Planning Commission held a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, Mississippi, to hear Case No. 20-050-PC, City of Biloxi, with respect to proposed Text Amendments to the Biloxi Code of Ordinances; and

WHEREAS, the Planning Commission members were apprised of the particulars of this case, being made cognizant of the fact that Section 13-1-12 Fireworks, and also Section 23-4-3(D)(8)(m) (reformed as the Biloxi Land Development Ordinance, sections which both address and provide language which deal with the sales and use of Fireworks within the City of Biloxi; and

WHEREAS, on December 3, 2020, the Biloxi Planning Commission, after some discussion, voted to recommend approval of the proposed changes to the City of Biloxi Code of Ordinances and Land Development Ordinance, as offered; and

WHEREAS, the Biloxi City Council, after further input from the Biloxi Fire and Police Departments, determines that the Text Changes proposed to the City of Biloxi Code of Ordinances and Land Development Ordinance, as amended, are appropriate.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, THAT: SECTIONS 13-1-12-FIREWORKS AND 23-4-3(D)(8)(M) – *SEASONAL FIREWORKS SALES*, OF THE BILOXI CODE OF ORDINANCES, BE AMENDED AS FOLLOWS:

Fireworks and 23-4-3(D)(8)(m) – *Seasonal Fireworks Sales*, as follows:

Amend Section 13-1-12-Fireworks

- (a) (i) The term "fireworks," as used in this section, shall mean all those items which are now or may hereafter be classified as "common fireworks" by the Interstate Commerce Commission, are labeled by said commission with the Class C common fireworks label, and which contain a statutorily restricted amount of pyrotechnic composition and were designed to produce an audible effect or pyrotechnic display by combustion; their explosive composition cannot exceed two (2) grains in weight; by way of example they shall include such items as cone fountains, fire crackers, small Chinese crackers, skyrockets, bottle rockets, small non-explosive Roman candles and rockets, pyrotechnics commonly known as "snap pops," or other matter or substances similar thereto. For purposes of this section the term "fireworks" shall also include such 1.4G fireworks which comply with the construction, chemical composition and labeling regulations of the DOT<sup>h</sup> for Fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR Parts 1500 and 1507, but does not include 1.3G fireworks, the sale of which is not permitted by this ordinance.
- (ii) Excluded from the prohibition of this ordinance is the sale of toy pistols, toy canes, toy guns or other devices in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipping of toy paper caps are used, and toy pistol paper caps manufactured as provided in this subsection, the sale and use of which shall be permitted at all times.
- (b) Except as expressly authorized in section 23-4-2 of the Land Development Ordinance as to the time and location of permitted firework sales, it shall be unlawful for any person to possess, store, handle, deal in, sell or offer for sale within the city any fireworks.
- (c) ~~Except as expressly authorized in subsection (d) of this section, it~~ It shall be unlawful for any person to shoot, discharge, fire, explode or otherwise use any fireworks on or in any of the streets, sidewalks, alleys or other public places or elsewhere within the city except for the fourth day of July, December 31 after 6:00 p.m. through 1:00 a.m. on January 1, the first, second, and third day of Tet, only in conjunction with the Dragon Dance, which requires a special permit from the Fire Department.
- (d) It is unlawful to use fire or discharge any fireworks along the route of and during any parade or in any place of public assembly unless it is an event as described and authorized by permit. If the person in charge of or sponsoring any lawful public gathering, demonstration or celebration, desires to have a fireworks display at such gathering, demonstration or celebration, the mayor, with notification to the city council, may issue a permit authorizing

the possession, and use of fireworks for such display, after first finding and determining that a reasonably competent person will be in charge of such display and that such display can be conducted at any such gathering, demonstration or celebration with reasonable safety.

(e) It is unlawful at any time to throw, toss or aim any fireworks at any person, animal, or vehicle, nor shall any persons throw the same from a motor vehicle.

(f) It is unlawful to explode any fireworks within three hundred (300) yards of any railroad depot or warehouse as described under Mississippi State Statute 97-37-27.

(g) It shall be unlawful to explode or ignite fireworks within five hundred (500) feet of any church or school (while in session or during a church or school sponsored event), hospital, asylum, or within three hundred (300) feet of where fireworks are offered for sale.

And also, to modify the Land Development Ordinance (Section 23) as follows:

Amend – Section 23-4-3(D)(8)(m) – *Seasonal Fireworks Sales*, as follows:

Firework sales are allowed within an RB Regional Business zoning district as a Conditional Use and shall comply with the following standards:

1. Firework sales are seasonal sales only, within the times permitted by state law. No Fireworks shall be sold or offered for sale at retail within the City of Biloxi before the fifteenth day of June and after the ~~fifth~~ fourth day of July and before the fifth day of December and after the ~~second~~ first day of January of each year. No Fireworks shall be sold to any person under the age of 16 years or any intoxicated person. All persons involved in the sale of Fireworks shall be at least 18 years of age.
2. It shall be unlawful for any person to shoot, discharge, fire, explode or otherwise use any Fireworks upon any of the streets, sidewalks, alleys or other public places or elsewhere within the city. ~~re: unless otherwise authorized under~~ City of Biloxi Code of Ordinances, Section 13-1-12(c) or 13-1-12(d).
3. A Conditional Use permit shall be required for each Seasonal Firework Sales operation, which Conditional Use permit will remain valid, unless modifications are made to the site, the temporary structure, or the location.
  - (a) All fireworks licensees must be over the age of twenty-one (21) and provide a certificate of liability insurance for five-hundred thousand dollars (\$500,000.00) naming the city of Biloxi as an additional insured. This certificate shall be provided to the city prior to receiving a “sale of fireworks conditional use

permit”.

- (b) No storage of any excess or unsold inventory will be allowed within the City of Biloxi after the expiration of the fireworks seasons. Violation of this section shall be grounds for immediate revocation of the fireworks permit.
  - (c) No on-site storage trailers or containers shall be allowed; all fireworks merchandise shall be located in a secure enclosed area. All fireworks sold on-site shall be sold at a retail station.
4. Ownership and operation of the Conditional Use may not be transferred, subleased, sold or conveyed to any other individual, firm or entity. Any such change in ownership or operation will necessitate an application for a new Conditional Use permit.
  5. All Seasonal Firework Sales outlets are required to be 2,500 feet from other existing Seasonal Firework Sales outlets, and 500 feet from any residential properties.
  6. All Seasonal Firework Sales are required to be 300 feet from the property line of any motor vehicle fueling station, bulk plant, or bulk terminal for the following:
    - a. Flammable or combustible liquid.
    - b. Flammable gas.
    - c. Flammable liquid gas.
  7. Seasonal Firework Sales Stands are preferred to be on paved surfaces; however, unpaved surfaces may be approved if dry vegetation has been cleared under and around these Seasonal Firework Sales Outlets for a distance of thirty-five (35) feet.
  8. Public safety, ingress, egress, and adequate parking will be factors considered by the fire department before approving any site for Firework sales.
  9. Consumer Firework Retail Sales (CFRS) facilities shall be accessible to Fire Department apparatus by means of an approved fire apparatus access road constructed of asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds.
  10. Portable fire extinguishers shall be on hand, as required by the currently adopted International Fire Code, in conspicuous locations where they will be readily accessible and immediately available for use.

11. Temporary buildings and tents shall meet the requirements of the currently adopted International Fire Code. Before a permit is granted, the owner shall provide proof to the fire code official that the building materials, floor coverings, tents, sidewalls, drops, and tarpaulins meet the flame performance test of the National Fire Protection Association (NFPA).

12. Smoking shall not be permitted within 100 feet of any seasonal firework stand. Approved “NO SMOKING” signs shall be conspicuously posted; and

SECTION ONE: All other sections of said of the Biloxi Code of Ordinances of the City of Biloxi, Mississippi, shall remain in full force and effect.

SECTION TWO: This ordinance shall become effective thirty days from and after its passage and publication with law, unless the vote is unanimous in which the Ordinance shall take effect immediately.

The foregoing Ordinance having first been reduced to writing, was read by the Clerk and moved by Councilmember Lawrence, seconded by Councilmember Glavan, and was adopted by the following vote:

YEAS:	Lawrence	Tisdale	NAYS:None
	Gines	Glavan	
	Newman	Barrett	
	Deming		

The President then declared the Ordinance adopted, as amended, this the 22<sup>nd</sup> day of February, 2022.

(SEAL)  
ATTEST:  
/s/Keri Campbell  
CLERK OF THE COUNCIL

ADOPTED:  
/s/ Paul A. Tisdale  
PRESIDENT OF THE COUNCIL

Submitted to and approved by the Mayor, this the 24<sup>th</sup> day of February, 2022.

APPROVED:  
/s/A.M. Gilich, Jr.  
MAYOR