

ORDINANCE NO.: 1795

**ORDINANCE PROHIBITING THE SALE AND DISCHARGE
OF FIREWORKS WITHIN THE CITY LIMITS**

WHEREAS, the City Council of the City of Northport wishes to prohibit the discharge of fireworks within the Northport City limits;

WHEREAS, the City Council of the City of Northport wishes to prohibit the sale of fireworks within the City limits;

WHEREAS, the City Council of the City of Northport believes that these prohibitions are in the best interest of the City of Northport;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHPORT, ALABAMA, AS FOLLOWS:

1. The existing Code of Ordinances, Chapter 13, Fire Prevention and Protection, Article No. II, is hereby repealed including, but not limited to Section 38-31 through Section 38-41.

2. **CHAPTER 38, ARTICLE II, FIREWORKS,** shall read as follows:

Section 38-31 – Penalty for violation of article.

Persons violating this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished according to the penalty provisions prescribed in section 1-6 of this Code.

Section 38-32 – Discharge of Fireworks prohibited within the City limits.

It shall be unlawful for any person to ignite, set off, or otherwise cause to explode, discharge or burn any firecrackers, torpedoes, rockets or other explosives of flammable materials or otherwise use or permit the ignition or explosion of any fireworks within the City limits of the City of Northport, Alabama.

Section 38-33 – Fireworks sales prohibited within the City limits.

Common class C fireworks, as defined by the U.S. Department of Transportation, and any other firecrackers, torpedoes, rockets or other explosives of flammable materials may not be sold within the City limits of the City of Northport. The sale of fireworks is only allowed within the police jurisdiction of the City.

Section 38-34 – Firework displays or shows.

Commercial firework displays or shows may be held only when authorized by a Permit from the City Administrator and by a Permit from the Chief of the Fire Department.

Section 38-35 – Time when sales permitted in police jurisdiction.

Common class C fireworks as defined by the U.S. Department of Transportation may be sold within the city police jurisdiction during the period beginning at 12:00 noon on June 20 and ending at 12:00 midnight on July 10 and beginning at 12:00 noon on December 15 and ending at 12:00 midnight on January 2 of each year, pursuant to the provisions of this article; provided, however, that no fireworks shall be sold between the hours of 12:00 midnight and 8:00 a.m.

Section 38-36 – Permit for sales – Required.

Except as provided in this article, no person shall offer for sale or sell at retail any fireworks of any kind without having first applied for and received a permit from the state fire marshal and a permit from the city for each stand, trailer or other facility from which fireworks sales are permitted under this article as provided in this article.

Section 38-37 – Same – Application.

All applications for a permit to sell fireworks shall at the beginning of each respective selling season:

- (1) Be made in writing and accompanied by a receipt evidencing payment of all business license fees due the city;
- (2) Set forth the proposed location of the fireworks stand;
- (3) Be accompanied by an assurance that if the permit is issued to the applicant, the applicant shall at the time of receipt of the permit deliver to the city administrator-clerk a \$500,000.00 combined single limits insurance certificate designating the city as an additional insured and a copy of the required permit from the state fire marshal; and
- (4) Include a statement that the applicant agrees to comply strictly with the terms of any retail permit granted to such applicant and furnishing any additional information upon request of the city.

Section 38-38 – Operation of stand generally.

- (a) No entity other than the permittee or its employees or subcontractors shall operate the stand for which a permit under this article has been issued.
- (b) The permittee shall be responsible to the city for any and all acts or omissions of its employees and subcontractors.
- (c) No person under 18 years of age shall be issued a permit under this article.

Section 38-39 – Temporary fireworks stands and sales from permanent structures.

- (a) Approval; location of fireworks. All retail sales of common class C fireworks shall be permitted only from within a temporary sale of class C

fireworks. No fireworks shall be placed, stored or sold outside of any temporary stand or permanent structure and no combustible materials, including but not limited to cardboard boxes, shall be placed within 50 feet of the stand or structure.

(b) Temporary fireworks stands. Temporary fireworks stands shall be subject to the following provisions:

- (1) No temporary fireworks stands shall be located within 50 feet of any building or within 100 feet of any gasoline pump or storage tank.
- (2) Temporary fireworks stands need not comply with the provisions of the building code, provided, however, that all stands shall be erected in a manner that will reasonably ensure the safety of attendants and customers.
- (3) No stand shall have a floor area in excess of 400 square feet.
- (4) Each stand in excess of 24 feet in length must have at least two exits; and each stand in excess of 40 feet in length must have at least three exits spaced approximately equal distances apart.
- (5) During the authorized periods of operation, all trailers employed in the sale or distribution of fireworks shall have their wheels removed and the structure placed on a nonmobile foundation.
- (6) No generators, gasoline, or other combustible materials shall be placed within 50 feet of a fireworks stand.
- (7) During the authorized periods of operation, each fireworks stand shall provide, at the operator's expense for the exclusive use by customers and staff, one on-site restroom facility. A restroom facility shall be located no more than fifty feet from the fireworks stand. Fireworks sales located within a permanent structure pursuant to section 38-37(a), upon approval by the city building inspector, shall not be required to provide a portable restroom facility in the event that said permanent structure has a restroom facility in immediate proximity to the fireworks sales which shall be made available for the exclusive use of customers and staff. Violations of this chapter that meet the requirements of section 2-267 may be settled as set forth in section 2-267. In addition to all other applicable fees, penalties, fines and court costs, any person who settles a violation of this chapter pursuant to section 2-267 shall receive a warning for a first offense, and a fine of \$50.00 per day for each day thereafter that the fireworks stand operates in violation of this section.

(c) Sales from permanent structures. Sales of fireworks from a permanent structure shall be subject to the following provisions:

- (1) Any permanent structure used for the temporary sale of class C fireworks shall be approved for such purpose by the city building inspector and the city fire chief and shall meet all applicable building and fire codes.
- (2) Any such structure shall be used solely for the sale of class C fireworks. The sale of any other merchandise or the use of the

- structure for any other purpose as long as fireworks are stored on the premises is expressly prohibited.
- (3) No such structure shall be located within 50 feet of any other building or within 100 feet of any gasoline pump or storage tank.

Section 38-40 – Clearing of weeds and litter.

Prior to the location of the fireworks stand on a premises or the occupation of a permanent structure for the sale of fireworks, as the case may be, the permittee shall clear all weeds, litter and combustible material for a distance of at least 50 feet from the location of such stand or structure. The permittee shall continue to clear all weeds, litter and combustible material from the area within 50 feet of the stand or structure on a daily basis during the period of authorized sale.

Section 38-41 – General requirements for permittees.

- (a) All persons selling fireworks shall comply with applicable state and federal laws governing the sale and distribution of fireworks, fireworks stands and/or any trailers, vehicles or structures used in the sale or distribution of fireworks and all rules and regulations of the state fire marshal's office.
- (b) Each fireworks stand shall be provided with at least one ten-pound A-B-C dry chemical fire extinguisher by each required exit in good working order and easily accessible for use in case of fire.
- (c) The maximum number of persons admitted inside a fireworks stand or structure shall be set by the city fire chief.
- (d) Due to the seasonal nature of the fireworks business under this article, the purchase of an appropriate business license after February 28 is hereby exempt from penalty.
- (e) In addition to any licenses required by this article, each fireworks stand shall be required to have displayed thereat a current fireworks stand permit, issued at no cost to the applicant, for the current selling season.
- (f) No smoking signs in letters not less than four inches high shall be prominently displayed on all sides of each fireworks stand or structure.
- (g) The presence of lighted cigars, cigarettes or pipes within 50 feet of a fireworks stand or structure are hereby declared unlawful and prohibited.
- (h) Each fireworks stand or structure must have an adult over 19 years of age in attendance and in charge during business hours. Sleeping or remaining in a fireworks stand or structure after the close of a business day is forbidden.
- (i) All unsold stock shall be removed from each location by 5:00 p.m. on the day following the termination of fireworks sales.
- (j) Each temporary fireworks stand shall be removed from the temporary location within two weeks after the termination of sales.
- (k) Prior to the issuance of a permit under this article, each applicant shall file with the city administrator-clerk a cash deposit, certificate of deposit or a surety bond acceptable to the city, made payable to the city in the amount of \$500.00, to assure compliance with the provisions of this article. Such deposit, certificate of deposit or surety bond shall be refundable upon compliance with the provisions

and requirements of this article, including but not limited to the removal of the stand and the cleaning of the site. If the permittee does not so comply or remove the stand or clean the site in the manner required by the city building inspector, the city may do so or cause such work to be done by other persons and the reasonable cost thereof shall be a charge against the permittee and his deposit or surety bond.

Section 38-42 – Temporary sales tax permit required.

Organizations selling fireworks are required to obtain a temporary sales tax permit from the state board of equalization.

Section 38-43 – Display of permits.

A state permit and city permit to sell fireworks, and temporary sales tax permit therefor, shall be displayed in a prominent place in the fireworks stand.

3. Prohibition as to the discharge of fireworks shall take effect on the 3rd day of January, 2013. No business license shall be issued in 2013 within the City of Northport, for the sale of any fireworks, including but not limited to, Class C fireworks as defined by the U.S. Department of Transportation.

ORDAINED this the 17th day of December, 2012.

**CITY COUNCIL OF THE
CITY OF NORTHPORT**

BY: _____
Its President

ATTEST:

City Administrator/Clerk

APPROVED this the 17th day of December, 2012.

Mayor Bobby Herndon

I hereby certify that the above and foregoing Ordinance was published on December 19, 2012, in the Northport Gazette, a newspaper of general circulation in the City of Northport.

Scott Collins
City Administrator

1st Reading: December 10, 2012
By: Logan
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Motion By: Logan
Seconded By: Acker
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