

Sponsor: Mayor Haddock

ORDINANCE NO. 2016-11

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLORENCE, ALABAMA, that Section 11-4 of the Code of Florence, Alabama, as amended, is hereby amended to read as follows:

Sec. 11-4. Fireworks.

- (a) *Definitions.* The following words, terms, and phrases when used in this section shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

At Wholesale means a sale of fireworks by a Wholesaler to a purchaser who:

- (1) Holds a current and valid sales tax license pursuant to the provisions of the Code of Alabama 1975, Section 40-23-6, as amended, and regulations from time to time promulgated by the Alabama Department of Revenue; or
- (2) Holds a current and valid sales tax license issued pursuant to the law in the state where such person's principal place of business is located; or
- (3) Is not required to be licensed pursuant to Code of Alabama 1975, Section 40-23-6, and holds a current and valid certificate of exemption issued by the Alabama Department of Revenue pursuant to its regulations; or
- (4) Is not required to hold a sales tax license pursuant to the laws and statutes of the state where his or her principal place of business is located and holds a current and valid certificate of exemption issued by such state's taxing authority pursuant to its regulations.

Fireworks means all D.O.T. Class C Common Fireworks as that term is defined in Code of Alabama 1975, Section 8-17-210(2), as amended.

Fireworks Seasons means the dates of June 20 through July 10 and December 15 through January 2 of each year as set forth in Section 8-17-210 of the Code of Alabama 1975.

Resident Wholesaler means a person engaged in the business of making sales of fireworks to retail merchants, jobbers, dealers or other Wholesalers for resale who maintains an established and state licensed fireworks wholesale operation within the city limits of Florence and has done so for at least the last five years concurrently.

Retail means all sales except those herein defined as sales At Wholesale.

Seasonal Retailer means any non-profit organization exempt from federal income taxation whose purpose is to promote the civic betterment engaged in the business of making sales of fireworks to consumers within the State of Alabama during the fireworks season(s) from Temporary Fireworks Stands.

Temporary Fireworks Stand shall not exceed 400 square feet and shall meet the requirements set forth in the Code of Alabama 1975, Section 8-17-221(d). A Temporary Fireworks Stand is also an accessory structure the use of which is incidental to that of the main building as defined in the City of Florence Zoning Ordinance. Temporary Fireworks Stands are restricted to B-2 General Business zones as set forth in the City of Florence Zoning Ordinance.

Wholesaler means a person engaged in the business of making sales of fireworks to retail merchants, jobbers, dealers or other Wholesalers for resale.

- (b) *Permit.* Every Wholesaler and Seasonal Retailer of Fireworks shall obtain a valid Fireworks and occupancy permit from the City fire and building departments and the state fire marshal's office.
- (c) *Sale and Use of Fireworks.* It shall be unlawful for any person to sell, offer to sell, use, possess, or store Fireworks in the corporate limits of the City except as described below:

- 1. *Wholesale.* The sale and offering for sale of Fireworks by a Wholesaler At Wholesale or the possession and storage of Fireworks by a Wholesaler is not prohibited or unlawful when the following conditions are met:

- a. *Record keeping.* For each sale of Fireworks, a Wholesaler must maintain records clearly and legibly showing:

- (1) The name and address of the purchaser of such Fireworks;
 - (2) Sales tax license number or certificate of exemption number held by such purchaser as referred to in (a) above and state issuing such number if required;
 - (3) The items and quantity sold; and
 - (4) The date of such sale.

Such records must be maintained for two (2) years from the date of sale at the principal place of business of the Wholesaler and must be available for inspection by the City at any reasonable time upon request.

- b. *Structural Requirements.* It shall be unlawful to store or warehouse any Fireworks not prohibited hereunder in any building, trailer, semi-trailer, or mobile facility, herein called "structure," which is not constructed, fabricated, secure, maintained, and operated in compliance with the following requirements:

- (1) Such structure shall be completely surrounded by a chain link fence or solid wooden fence having a minimum height of six (6) feet. All openings in the fence shall have gates capable of being locked during nonbusiness hours.
 - (2) No such structure containing Fireworks shall be located nearer than:
 - a. One hundred twenty-five (125) feet to any other structure containing Fireworks provided however, structures of less than five hundred (500) square feet containing Fireworks, by not less than fifty (50) feet.
 - b. One hundred fifty (150) feet to a dwelling or inhabited building.
 - c. One hundred ten (110) feet to the right-of-way of public highways or roads and railways.

- d. One hundred (100) feet to any other structure.
- (3) All doors, windows, and other openings in such structure shall be equipped with a means for secure locking.
 - (4) All doors and exits for persons must open outward and must be clearly marked with illuminated exit signs. Aisles and exit doors must be free of obstruction and clearly designated.
 - (5) Light fixtures shall be suitably enclosed to prevent sparks or hot metal from falling onto floor or onto materials stored.
 - (6) All electrical wiring shall be in conduit and shall be grounded. Electrical circuits shall not be loaded to more than eight (80) percent of their rated capacity. All electrical wiring shall be copper. Minimum electrical wire size is number twelve and it must meet all requirements of National Electrical Code or other requirements of City building department.
 - (7) An electrical disconnect shall be located outside each structure and shall be designed to de-energize all electrical power to the structure. Location of disconnect shall be identified with six-inch by three-fourths-inch stroke letter stating "ELECTRICAL DISCONNECT." Emergency or safety circuits operating alarm systems, sprinkler systems or other similar or related equipment shall be exempted from this requirement.
 - (8) Buildings shall be equipped with ISO and N.F.P.A. approved extra hazard sprinkler in good working order. Such sprinkler must be monitored at all times for water flow, low temperature, tampering, and in case of dry-type systems, low air pressure. Structures of less than five hundred (500) square feet of total floor area are not required to have an approved sprinkler system.
 - (9) Fireworks shall be stored in their original packages in unopened cases and cartons and all containers shall be stacked neatly and in a stable manner; provided however, unpacked Fireworks returned to the structure by Retailers, or Fireworks in the process of repair or in the process for assortment packaging may be stored temporarily until re-packed in designated areas and labeled accordingly (assorted packaging).
 - (10) Structures shall be kept clean, dry and free of rubbish. Brooms and other cleaning utensils shall not have spark producing metal parts. Sweeping from floors shall be disposed of properly.
 - (11) Smoking, matches, open flames, spark-producing devices and firearms shall not be permitted inside of or within twenty-five (25) feet of the storage buildings. Exception: Firearms carried by authorized guards or law enforcement personnel shall be excepted from this provision.
 - (12) Signs reading "FIREWORKS- NO SMOKING" in letters at least six (6) inches high, three-fourths-inch

stroke, shall be conspicuously posted on all doors leading into structure and inside structure designed by fire officials.

2. *Seasonal Retail Fireworks Sales.* The sale and offering for sale of Fireworks by a Seasonal Retailer at Retail and the possession and storage of such Fireworks by a Seasonal Retailer is not prohibited or declared unlawful when the following conditions are met:
 - a. All Seasonal Retailers must apply for an annual license between the dates of March 1 and April 1 of each year and the application:
 - (1) will be in writing accompanied by a license fee of \$1000;
 - (2) will set forth the proposed location of the Temporary Fireworks Stand;
 - (3) will be accompanied by a \$20,000,000 premises liability insurance policy and a \$20,000,000 products liability insurance policy with riders attached to the policy designating the City of Florence as an additional insured thereunder or assurance that if the license is issued to applicant, the applicant will at the time of the receipt of said license deliver to the City Clerk of the City of Florence such a policy;
 - (4) will be accompanied by a copy of the applicant's State Fire Marshal's Fireworks Permit or assurance that if the license is issued to applicant, the applicant will at the time of the receipt of said license deliver to the City Clerk of the City of Florence a copy of such permit; and
 - (5) will acknowledge that the City of Florence Fire Department and Building Department may inspect the applicant's Temporary Fireworks Stand at any time and may restrict Fireworks sales until all local and state laws are met.
 - b. No more than four Seasonal Retailers will be licensed for Temporary Fireworks Stands each year, and no more than one license will be issued to any given applicant.
 - c. Each license issued authorizes the licensee to operate only one Temporary Fireworks Stand.
 - d. Applicants for a license to operate a Temporary Fireworks Stand will be notified by the City Clerk of the granting or rejection of such license within thirty (30) days of submitting a complete application.
 - e. This license in no way indicates an exemption from collecting and reporting all applicable sales taxes.
 - f. Fireworks will be sold at Retail in the City only as provided in this Section 11-4.
 - g. Temporary Fireworks Stands must meet the following requirements:

- (1) No Temporary Fireworks Stand shall be located within 20' (feet) of any building;
- (2) No Temporary Fireworks Stand shall be located within 200' (feet) of any gasoline pump, tank, dispenser, or vents for gasoline tanks. This shall not apply to portable generators or portable generator fuels needed for temporary power that may be stored at a distance not less than 20' (feet) from the Temporary Fireworks Stand to which power is being provided by such generator;
- (3) Vehicle parking shall be located a minimum of 20' (feet) from any Temporary Fireworks Stand;
- (4) All weeds and combustible material shall be cleared from the location of the Temporary Fireworks Stand and all areas within 20' (feet) of such stand;
- (5) Each Temporary Fireworks Stand must have at least two exits, at least twenty-eight inches in width, located at opposite ends of the stand. Exits must remain unlocked and unobstructed during the hours of operation or when the stand is occupied;
- (6) A Temporary Fireworks Stand shall have at least two portable fire extinguishers with a minimum 2A rating. Only one portable fire extinguisher is required in Temporary Fireworks Stands with a total area of less than 200 square feet;
- (7) Customers are not allowed inside of Temporary Fireworks Stands;
- (8) "NO SMOKING" signs in letters not less than four inches in height shall be prominently displayed on all four sides of the Temporary Fireworks Stand;
- (9) The presence of lighted cigars, cigarettes, pipes, or any flame or glowing heat is unlawful within 15' (feet) of a Temporary Fireworks Stand;
- (10) Each Temporary Fireworks Stand must have an adult over the age of 18 in attendance and in charge during open business hours;
- (11) Temporary Fireworks Stands must comply with the temporary structure and use requirements of the International Building Code adopted by the City;
- (12) Temporary Fireworks stands may be inspected by the City at any time prior to opening for business or during Fireworks Seasons;
- (13) All litter shall be removed from each Temporary Fireworks Stand location at the termination of each Fireworks Season;
- (14) Each Temporary Fireworks Stand shall be removed from the temporary location within ten (10) days after each Fireworks Season. Any Temporary Fireworks Stand left at its temporary location after said ten days will be charged \$100.00 per day for each day that the stand remains at the temporary location;

(15) Signage for Temporary Fireworks Stands must comply with the sign regulations applicable to B-2 General Business zones set forth in the City of Florence Zoning Ordinance; and

(16) Each Temporary Fireworks Stand shall post a copy of this code section in a conspicuous location and provide Fireworks use safety flyers to each customer.

3. *Resident Wholesaler Retail Sales* The sale and offering for sale of Fireworks by a Resident Wholesaler at Retail at one permanent location in the city during Fireworks Seasons and the possession and storage of such Fireworks by a Resident Wholesaler is not prohibited or declared unlawful when the following conditions are met:

- a. All Resident Wholesalers must apply for an annual retail license before June 20th of each year and the application:
 - (1) shall be in writing accompanied by a license fee of \$1000;
 - (2) shall set forth the proposed location of the retail sales facility.
 - (3) shall be accompanied by a \$20,000,000 premises liability insurance policy and a \$20,000,000 products liability insurance policy with riders attached to the policy designating the City of Florence as an additional insured thereunder or assurance that if the license is issued to applicant, the applicant will at the time of the receipt of said license deliver to the City Clerk of the City of Florence such a policy;
 - (4) shall be accompanied by a copy of the applicant's State Fire Marshal's Fireworks Permit or assurance that if the license is issued to applicant, the applicant will at the time of the receipt of said license deliver to the City Clerk of the City of Florence a copy of such permit; and
 - (5) shall acknowledge that the City of Florence Fire Department and Building Department may inspect the applicant's retail facility at any time and may restrict Fireworks sales until all local and state laws are met.
- b. Resident Wholesaler Retail Sales of Fireworks in the City shall only occur during Fireworks Seasons from within a permanent structure located within the B-2 General Business zones set forth in the city zoning ordinance that complies with the requirements set forth in Chapter 7 the National Fire Protection Association Standard 1124 (2006 Edition) and as approved by the Alabama State Fire Marshal.
- c. Resident Wholesalers permanent structure Retail sales each year may accrue to the benefit of an existing Seasonal retailer or other nonprofit groups.
- d. The Resident Wholesaler Retail sales of Fireworks location shall provide Fireworks use safety flyers to each customer.

4. *Fireworks Use in City Limits.*

- a. After notifying the City of Florence Police Department, a Wholesaler may obtain a special use permit from the City of Florence Fire

Department for detonation of Fireworks within the city limits at any time according to the terms of the special use permit.

- b. An individual may detonate Fireworks within the Florence City limits between the hours of 10:00 a.m. and 10:00 p.m of the same day during the Fireworks Seasons defined in Section 11-4 (a).
 - (1) On July 4th an individual may detonate Fireworks within the Florence City limits between the hours of 10:00 a.m. through 11:00 p.m. of the same day; and
 - (2) On December 31st an individual may detonate Fireworks within the Florence City limits between the hours of 10:00 a.m. through 12:30 a.m. of the following January 1st.
- c. It shall be unlawful for any person to ignite, explode, project, or otherwise fire or use or permit the ignition, explosion or projection of any Fireworks upon, over, or onto the property of another, or ignite, explode, project, or otherwise fire and make use of any Fireworks within 10' (feet) of any residence or dwelling.
- d. It shall be unlawful for any person to ignite, explode, project, or otherwise fire or use or permit the ignition, explosion or projection of any Fireworks upon, over, or onto any public property unless authorized by a special use permit from the City of Florence Fire Department for detonation of Fireworks within the City limits.
- e. In addition to the rules and regulations set forth herein, State of Alabama laws regarding the sale, use, and storage of Fireworks must be followed at all times.

BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLORENCE, ALABAMA, that the City Clerk is hereby authorized and directed to publish this ordinance in the *Times Daily*, and that this ordinance shall go into effect upon its passage, approval, and publication as provided by law.

ADOPTED this 17TH day of MAY, 2016.

Dave M. Smith

Tom Graham

W. [Signature]

[Signature]

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CITY COUNCIL

APPROVED this 17TH day of MAY, 2016.


MAYOR

ADOPTED & APPROVED this 17TH day of MAY, 2016.


CITY CLERK