

ORDINANCE 2012 - 2012-01

AN ORDINANCE TO ADOPTING A NEW TITLE 5 OF THE MT. JULIET CODE REPLACING ORDINANCE 2002-26 REGULATING FIREWORKS.

WHEREAS, it has heretofore been required that certain rules and regulations concerning the storage and sales of fireworks be adhered to, and from time to time need to be changed to meet new standards, and,

WHEREAS, the protection of the lives, safety and property of citizens and residents of the City of Mt Juliet will be enhanced by requiring all future sales and storage of fireworks meet the new standards as adopted below.

BE IT THEREFORE ORDAINED by the City of Mt Juliet, Wilson County, Tennessee as follows:

Section 1. Ordinance 2002-26, Chapter 10, Article 6 of the existing Mt. Juliet Municipal Code is hereby replaced in its entirety by the attached ordinance.

BE IT FURTHER ORDAINED that this ordinance shall supersede all Ordinances and resolutions and parts of Ordinances or Resolutions in conflict herewith.


BE IT FURTHER ORDAINED that if any clause, provision or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other clause, provision or portion of this Ordinance.

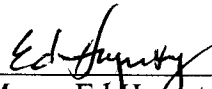
This Ordinance shall take effect on the earliest date allowed by law, the public welfare requiring it.

PASSED:

FIRST READING: 11/9 2012
SECOND READING: 11/23 2012

ATTEST:


Sheila S. Luckett, CMC
City Recorder


Mayor Ed Hagerty

APPROVED AS TO FORM:


Jason Holleman, City Attorney


Interim City Manager Kenny Martin

ARTICLE VI

FIREWORKS

SECTION

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10-185 DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

DOT Class C common fireworks means all articles of fireworks as are now or hereafter classified as DOT Class C common fireworks in the regulations of the United States Department of Transportation.

Approved means acceptable to the code official or authority having jurisdiction.

Permit means the written authority of the city codes director issued under the authority of this article.

Retailer means any person engaged in the business of making retail sales of fireworks.

Sale means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer thereof and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, co partnership, or one or more individuals.

State fire marshal permit means the appropriate fireworks permit issued by the state fire marshal under the authority of T.C.A. § 68-104-101 et seq.

10-186 PENALTY FOR VIOLATIONS

All individuals that violate any provision of this article shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$50.00 plus costs. Each rule violation or transaction shall be considered a separate violation. Employers of fireworks vendors and permit holders shall also be guilty for violations by persons in their employment and persons under their supervision.

10-187 PERMITS; FEES

a. It shall be unlawful for any person to sell, offer for sale, ship, or cause to be shipped, into the city any item of fireworks without first having secured a state fire marshal permit, and a permit issued by the city, which permit shall not issue without the applicants first providing satisfactory proof of obtaining a sales tax number for each location at which fireworks sales will be had and they will provide proof that annual sales tax returns have been filed for each location located inside the city within 15 days of filing sales tax returns.

b. Permits are not transferable.

c. A permit shall be valid only from June 20 through July 5 or December 10 through January 2, unless you have a permanent building that meets zoning regulations for retail sales, and then an annual permit may be used for both the above dates.

d. The city shall charge a fee of \$1.00 per square foot, minimum of \$1,200.00 for any temporary tent or structure for the issuance of each semiannual permit provided for in this section.

e. Application for a permit to sell fireworks in the city shall be submitted to the codes director no later than five working days prior to the date on which the applicant desires to begin making sales.

f. An application must be filed for each location and shall contain the following:

1. Name, address, and telephone number of applicant. The applicant must be the natural person who will be responsible for sales. The applicant's name or company name shall also be the same as the name on the state fire marshal permit. Names of all partners or persons sharing more than ten percent of the profit shall be disclosed on the application. The applicant shall be liable for all violations of this article by persons under their supervision.

2. A copy of the state fire marshal permit.

3. Evidence that general liability insurance has been obtained by applicant naming the City of Mt. Juliet, Tennessee as additional insured for at least \$1,000,000.00

for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury and property damage liability combined.

4. The location where the applicant will conduct the business of selling fireworks.

5. Cleanup deposits of \$500.00 per location shall be paid by applicant, which shall be refunded after the fireworks season inspection, or used by the city to clean up the retail fireworks site, if needed.

6. A copy of the tent flame retardant letter on all tents must be provided.

7. Evidence of working fire extinguishers, which must be easily accessible and in plain view. Tents exceeding 30 feet by 40 feet (1,200 square feet) must have a minimum of two extinguishers on site.

8. Site plan including:

- a. Dimension of the lot;
- b. Dimension and location of tent;
- c. Location of adjacent structures;
- d. Location of parking and number of spaces provided.

9. Assurance of a 20-foot setback from extreme outer edge of the lane of travel to the tent or signage. To be measured from the edge of the tent side or overhang of the top, not to include ropes, tie-downs or other appendages used to secure tents.

10-188. - Permit revocation.

The code official shall be authorized to revoke any permit upon failure to correct any of the following conditions within 24 hours after notification:

- a. In the event that the permittee or the permittee's operator violates any lawful rule, regulation, or order of the codes director of the city.
- b. In the event that the permittee's application contains any false or untrue statements.
- c. In the event the permittee fails to timely file and/or pay any report, tax, fee, fine or charge.
- d. In the event the permittee or the permittee's operator violates this article or statute.

e. In the event the permittee or the permittee's operator incurs multiple city or state offenses, the city may not grant approval for said company to operate at any location within the corporate city limits and possibly withhold approval not to exceed two years from fireworks' season in which violation occurred.

10-189 Permissible Fireworks

It is unlawful for any individual to possess, sell, or use within the city, or ship into the city, except as provided in this article, any pyrotechnics commonly known as fireworks other than the following permissible items:

- a. Those items now or hereafter classified as DOT Class C common 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.

10-190 Sale of Fireworks

Fireworks and related legal accessories may be sold within the city only from June 20 through July 5 and December 10 through January 2. All signs must comply with Article 11, Sign Regulations, of the city zoning ordinance.

10-191 Unlawful Sale and Use of Fireworks

- a. It shall be unlawful to offer for sale or to sell any fireworks to children under the age of 18 years.

Advisory signs shall be posted in plain view regarding minimum age to purchase fireworks.

- b. It shall be unlawful to offer for sale or to sell any fireworks to any intoxicated or seemingly irresponsible person.
- c. It shall be unlawful to explode or ignite fireworks within 600 feet of any church, hospital, funeral home, public or private school, 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 persons.
- d. It shall be unlawful for a user of fireworks to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. Fireworks shall not be launched or fired onto the property of persons who have not given permission.

- e. It shall be unlawful for fireworks to be used at times, places, or in any manner, which adversely affect other persons.

10-192 Storing, Locating, and Structures

No person shall smoke within 50 feet of an area where fireworks are sold. No person selling fireworks shall permit the presence of lighted cigars, cigarettes, or pipes within 50 feet of 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 inches high. A workable fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail shall only be sold from an approved structure only selling fireworks and accessories for use of fireworks, and shall be no closer than 40 feet to any other structure.

10-193 Limitations on Structures

Approved permanent structures or tents may be used for the retail sale of fireworks. As a minimum, two (2) unobstructed exits, consistent with local Fire Codes, shall be provided and maintained at all times during operations. Fireworks may not be stored in a permanent building unless the building is constructed of nonflammable materials such as metal or concrete block. Tents shall be separated by 50 feet. Tents may not exceed 1,600 maximum square feet in size east of South Greenhill Road on Lebanon Road and throughout the city where fireworks are sold. Tents sizes up to 4,000 square feet may be erected west of South Greenhill Road to the county line on Lebanon Road.

10-194 Parking for Retail Fireworks Sales Site

The site for a temporary fireworks retailer shall be improved to provide off-street customer parking as follows: 1 customer parking space per one hundred (100) square feet of tent area, with a minimum of twelve (12) spaces, in addition to employee parking. In addition, the retail fireworks site must provide for an on-site turnaround area so that backing of vehicles onto the street will not be necessary. The site for a permanent fireworks retail sales facility shall conform to the Mt. Juliet Zoning Ordinance pertaining to all parking regulations.

10-195 through 10-211 Reserved.

SUBJECT: An Ordinance to Amend the Rules and Regulations for the Storage, Sales and use of Fireworks within the City of Mt. Juliet. Replacing Ordinance 2002-26

WHO: Board of Commissioners

WHAT: This Ordinance replaces/supersedes Ordinance 2002-26. This Ordinance will correct issues within the current ordinance to include sections that require that no limited liability corporation or any other corporation can request a permit, only an individual. In the next section it requires that the permit applicant be the same as the State Fire Marshals Permit, which will not allow an individual to request a permit there. Another section of change is the requirement for an open-ended, no limit, liability insurance policy if a minor is allowed in your retail area, this would now be the same liability policy that is already mentioned elsewhere in the ordinance. The last major change is to allow property owners with physical permanent structures to buy an annual permit.

WHEN: November 14, 2011

WHERE: N/A

WHY: To correct issues with the current ordinance, and allow for permanent structure owners to buy an annual permit.

STAFF RECOMMENDATION: Staff Recommends that the Board of Commissioners approve the Ordinance.

Prepared By: Dwayne Hicks, CBO, MCP – Chief Building / Fire Code Official

