

ORDINANCE NUMBER 003-10-19

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF COOKEVILLE, AS ADOPTED BY ORDINANCE NO. 002-12-33, AND AS SINCE AMENDED, TO AMEND TITLE 7, ENTITLED "FIRE PROTECTION AND FIREWORKS" BY INSERTING A NEW CHAPTER 5, ENTITLED "FIREWORKS" AND BY DELETING SECTION 7-209 OF CHAPTER 2.

ORDINANCE NUMBER: 003-10-19
REQUESTED BY: Planning Commission
PREPARED BY: Planning Director
APPROVED FORM/CORRECTNESS:

(City Attorney)

PASSED 1ST READING: _____
PASSED 2ND READING: _____
PUBLIC HEARING HELD: _____
MINUTE BOOK: _____ PAGE: _____

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COOKEVILLE, TENNESSEE:

Section 1: That the Municipal Code of the City of Cookeville, Tennessee, as adopted by Ordinance No. 002-12-33, and as since amended, be hereby amended so as to amend Title 7, Fire Protection and Fireworks, by inserting a new Chapter 5 to be entitled "Fireworks" and to read as follows:

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Definition
- 7-502. Manufacture prohibited
- 7-503. Sales restricted
- 7-504. Permit from state fire marshal required
- 7-505. City fireworks permit required; permit application; permit required for each location; permit fee; permit not transferable; expiration of permit
- 7-506. Permit revocation
- 7-507. Business license required for each site; zoning compliance required
- 7-508. Separate sales tax number required
- 7-509. Certificate of insurance required
- 7-510. Standards for year-round sale of fireworks
- 7-511. Standards for seasonal sale of fireworks
- 7-512. Use restricted
- 7-513. Public display; permit required
- 7-514. Seizure authorized
- 7-515. Exceptions
- 7-516. Penalty for violation
- 7-517. Severability

7-501. Definition. Fireworks means and shall include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation.

7-502. Manufacture prohibited. No person or firm shall manufacture any fireworks within the corporate limits of the City of Cookeville.

7-503. Sales restricted. It shall be unlawful to sell, or offer for sale, fireworks, within the corporate limits of the City of Cookeville except in compliance with the provisions of this Chapter, the provisions of the latest fire prevention code adopted in Chapter 2 of Title 7 of this Municipal Code, and the provisions of Tennessee Code Annotated, Title 68, Chapter 104, Sections 101 through 116.

7-504. Permit from state fire marshal required. It shall be unlawful to sell, or offer for sale, ship, or cause to be shipped into the City of Cookeville any item of fireworks, as defined in the latest fire prevention code adopted in Chapter 2 of Title 7 of this Municipal Code, without a permit from the state fire marshal. All fireworks permits shall be issued in compliance with the fire prevention code and Tennessee Code Annotated, Title 68, Chapter 104, Sections 101 through 116, inclusive.

7-505. City fireworks permit required; permit application; permit required for each location; permit fee; permit not transferable; expiration of permit. (1) It shall be unlawful to sell, or offer for sale, ship, or cause to be shipped into the City of Cookeville any item of fireworks, as defined in the latest fire prevention code adopted in Chapter 2 of Title 7 of this Municipal Code, without a city fireworks permit issued by the City of Cookeville Codes Department.

(2) An application for a city fireworks permit shall be completed and submitted to the Codes Department no later than two (2) working days prior to the date the applicant desires to begin making sales. The application shall contain and include the following information:

- A. Name, address and telephone number of applicant. The applicant's name shall also be the same as the name on the state fire marshal permit.
- B. Location where the sale of fireworks is proposed.
- C. Site plan, which shall include the dimensions of the structure used for the sale of fireworks.
- D. Indication whether the permit is for the year-round or seasonal sale of fireworks.
- E. A copy of the state fire marshal permit as required under Section 7-504 of this Chapter.
- F. Confirmation of Business License for site and zoning code compliance as required under Section 7-507 of this Chapter.
- G. Documentation of separate sales tax number as required by Section 7-508 of this Chapter.
- H. Documentation of certificate of insurance as required under Section 7-509 of this Chapter.

- (3) A separate city fireworks permit is required for each location at which fireworks will be sold.
- (4) The fee for the city fireworks permit shall be \$1.00 per square foot for any structure or any tent, trailer or other temporary structure used for the sale of fireworks, with a minimum fee of \$1,200.00.
- (5) City fireworks permits shall not be transferable.
- (6) All city fireworks permits shall be for a calendar year or any fraction thereof and shall expire on January 3rd.

7-506. Permit revocation. The Cookeville Codes Department shall be authorized to revoke any city fireworks permit upon failure to correct any of the following conditions within twenty-four (24) hours after written notice given by the Codes Department:

- (1) The permittee or the permittee's operator violates any lawful rule, regulation, or order of the Cookeville Codes Department.
- (2) The permittee's application contains any false or untrue statements.
- (3) The permittee fails to timely file and/or pay any report, tax, fee, fine or charge.
- (4) The permittee or the permittee's operator violates any provisions of this Chapter or of Tennessee Code Annotated, Title 68, Chapter 104, Sections 101 through 116.

7-507. Business license required for each site; zoning compliance required. The Cookeville Codes Department shall issue no permit for the sale of fireworks unless the applicant has first obtained a Tennessee Business License from the Cookeville City Clerk for each site at which fireworks will be sold and obtained approval of the zoning requirements from the Departments of Planning and Codes of the City of Cookeville. Temporary sales vendor's permit, bonds, and fees shall not apply for the sale of fireworks.

7-508. Separate sales tax number required. A separate sales tax number shall be required for each site at which fireworks will be sold. The Cookeville Codes Department shall issue no permit for the sale of fireworks unless the applicant has first provided documentation that a separate sales tax number has been obtained for the site of the proposed sale of fireworks.

7-509. Certificate of insurance required. The Cookeville Codes Department shall not issue a permit for the sale of fireworks unless the applicant has first provided a current certificate of insurance with a minimum of \$2,000,000 in product liability and \$1,000,000 in general liability with the City of Cookeville being named as an additional insured on the general liability insurance policy.

7-510. Standards for year-round sale of fireworks. The following standards shall apply for year-round sale of fireworks within the corporate limits of the City of Cookeville:

- (1) The year-round sale of fireworks shall be conducted within a permanent structure built in compliance with the standard building code and standard fire prevention code as adopted by the City of Cookeville.
- (2) The year-round sale of fireworks from a tent, trailer, or other temporary structure is expressly prohibited.

- (3) The year-round sale of fireworks shall be conducted in compliance with the provisions of the City of Cookeville Municipal Zoning Code.
- (4) The site utilized for the year-round sale fireworks shall be a minimum of 50 feet from any fuel source and no farther than 500 feet from an operable fire hydrant.
- (5) The year-round sale of fireworks shall be restricted to D. O. T. Class C common fireworks as defined by Tennessee Code Annotated, Title 68, Chapter 104. The sale of “bottle” rockets with an explosive cartridge under the size of two (2) inches in length is expressly prohibited.
- (6) No person shall smoke within fifty (50) feet of an area where fireworks are sold. No person selling fireworks shall permit the presence of lighted cigars, cigarettes, or pipes within fifty (50) feet of where fireworks are offered for sale. At all places where fireworks are stored or sold, there shall be posted at each entrance signs with the words “**Fireworks – No Smoking**” in letters not less than four (4) inches high.
- (7) A minimum of two (2) 10 lb. ABC fire extinguishers shall be present at each site where fireworks are sold.

7-511. Standards for seasonal sale of fireworks. The following standards shall apply for seasonal sale of fireworks within the corporate limits of the City of Cookeville:

- (1) Seasonal sales of fireworks shall only be permitted from June 20th until July 5th and from December 20th until January 2nd of any given year.
- (2) Seasonal sales of fireworks shall be conducted in compliance with the provisions of the City of Cookeville Municipal Zoning Code.
- (3) All tents or similar temporary structures used for the seasonal sale of fireworks shall be composed entirely with fire retardant materials and shall be located on a paved, concrete or gravel surface and in no event may be erected or placed on a grass area.
- (4) All tents or similar temporary structures used for the seasonal sale of fireworks shall provide an emergency exit remote from the point of entrance. Tents shall be enclosed on no more than two (2) sides during times that customers are present.
- (5) The site utilized for the seasonal sale of fireworks shall be a minimum of 200 feet from any fuel source and no farther than 500 feet from an operable fire hydrant.
- (6) The seasonal sale of fireworks shall be restricted to D. O. T. Class C common fireworks as defined by Tennessee Code Annotated, Title 68, Chapter 104. The sale of “bottle” rockets with an explosive cartridge under the size of two (2) inches in length is expressly prohibited.
- (7) No person shall smoke within fifty (50) feet of an area where fireworks are sold. No person selling fireworks shall permit the presence of lighted cigars, cigarettes, or pipes within fifty (50) feet of where fireworks are offered for sale. At all places where fireworks are stored or sold, there shall be posted at each entrance signs with the words “**Fireworks – No Smoking**” in letters not less than four (4) inches high.
- (8) A minimum of two (2) 10 lb. ABC fire extinguishers shall be present at each site where fireworks are sold.

7-512. Use restricted. The following restrictions shall apply for the use of fireworks within the corporate limits of the City of Cookeville:

- (1) Except as permitted under Section 7-513 of this Chapter, the use of fireworks shall be restricted to D. O. T. Class C common fireworks as defined by Tennessee Code Annotated, Title 68, Chapter 104. The use of “bottle” rockets with an explosive cartridge under the size of two (2) inches in length is expressly prohibited
- (2) It shall be unlawful to use or explode any fireworks within the corporate limits of the City of Cookeville except from July 1st until July 5th and from December 28th until January 2nd of any given year.
- (3) It shall be unlawful to use or explode fireworks within the corporate limits of the City of Cookeville earlier than 9:00 AM or later than 10:00 PM, with the exception of July 4th on which the time shall be no later than 12:00 AM and New Year’s Eve on which the time shall be no later than 1:00 AM.
- (4) It shall be unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age.
- (5) It shall be unlawful to offer for sale or to sell any fireworks to any intoxicated or seemingly irresponsible person.
- (6) It shall be unlawful to explode or ignite fireworks on or onto another person’s property unless permission is obtained from the owner or occupant of said property.
- (7) It shall be unlawful to explode or ignite fireworks within six hundred (600) feet of any church, hospital, funeral home, public or private school, or within two-hundred (200) feet of where fireworks are stored, sold, or offered for sale.
- (8) It shall be unlawful to ignite or discharge fireworks from or within a motor vehicle. It shall be unlawful for any person to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons.

7-513. Public display; permit required. Nothing in this Chapter shall be construed as applying to the shipping, sale, possession and use of fireworks for public display by holders of a permit for public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks that are to be used for public display only and which are otherwise prohibited for sale and use within the City of Cookeville shall include display shells designed to be fired from mortars and display set pieces of fireworks classified as D. O. T. Class B special fireworks and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have applied for and received a permit for such display issued by the state fire marshal. A condition for state issuance of a permit for public fireworks display is the approval of the chief official of the fire and of the police departments of the city. Such approval shall be granted if, in the opinion of those officials, the proposed display will be located and supervised in conformity with state law and will not be hazardous to life or property.

7-514. Seizure authorized. The Director of the Codes Department or his designee shall seize, take, remove or cause to be removed at the expense of the owner of all stocks or fireworks or combustibles offered or exposed for sale, stored or held in violation of this Chapter.

7-515. Exceptions. Nothing in this chapter shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, the sale or use of blank cartridges for a show or theater, the use of fireworks for military operations, or for public displays of fireworks meeting the requirements of the fire prevention code.

7-516. Penalty for violation. The violation of any part of this Chapter is hereby declared to be a misdemeanor and upon conviction of any person for such violation, that person is to be fined according to general penalty provision of this Municipal Code. Each subsequent day that any violation continues unabated shall constitute a separate offense. In addition, the Codes Department may refuse to issue another city fireworks permit to the holder of a permit so convicted for a period not to exceed two (2) years.

7-517. Severability. If any court of competent jurisdiction declares any portion of these regulations to be invalid that ruling shall not affect any other portion not specifically included in that ruling.

Section 2: That the Municipal Code of the City of Cookeville, Tennessee, as adopted by Ordinance No. O02-12-33, and as since amended, be hereby amended so as to amend Title 7, Chapter 2 by deleting Section 7-209 “Fireworks” in its entirety.

Section 3: This Ordinance shall take effect fourteen (14) days from and after its passage, the public welfare requiring it.

THE CITY OF COOKEVILLE, TENNESSEE

Dr. Charles Womack, Mayor

ATTEST:

Cathy McClain, City Clerk