

CHAPTER 5

FIREWORKS

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7-501. Definitions. (1) As used in this chapter, unless the content otherwise requires:

(a) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, Title 49, Code of Federal Regulations (CFR), parts 171-180:

(i) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks", or "Class C Common Fireworks;"

(ii) Theatrical and novelty, classified as 1.4S; or

(iii) Display fireworks, classified as 1.3G, commonly used for public displays.

(iv) Exceptions: (A) Toy caps for use in toy pistols, toy canes, or toy guns and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(P), and packed and shipped according to those regulations;

(B) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.

(C) Propelling or expelling charges consisting of a mixtures of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

(b) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit" means the written authority of the City of Milan issued under the authority of this section.

(d) "Person" means any individual, firm, partnership, or corporation.

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

(f) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, co-partnership, or one (1) or more individual(s).

(g) "State fire marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated, § 68-104-101, et seq.

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-502. Permits and permit fees. (1) It is unlawful for any person to sell or to offer for sale in the City of Milan any item of fireworks without first having secured a state fire marshal permit and a permit issued by the City of Milan.

(a) No permit shall be issued to a person under eighteen (18) years of age.

(b) A permit (to sell fireworks to the general public) is valid only for the calendar year or any fractions thereof and shall expire on December 31. A grace period of two (2) days shall be allowed each holder of a permit.

(c) The application shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00).

(d) Permits are not transferable.

(e) Schools, wedding groups, businesses, civic clubs, and similar groups desiring to have a 1.3G Special Display or 1.4G Consumer Fireworks display may obtain a permit from the City of Milan to use fireworks for any time of the year.

(2) A permit to sell fireworks in the City of Milan must be obtained at least one (1) week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The name, address, and telephone number of applicant.

(b) The applicant must be the same person who will operate or be responsible for sales.

(c) The applicant shall be the same person indicated on the state fire marshal permit.

(d) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(3) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) Mobile vendors are not permitted.

(6) Flashing signs are not permitted.

(7) Public display shall be performed only under supervision of a licensed pyrotechnician, 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. Public display permits shall be limited to the time specified therein, and shall not be transferable. Applications for public/special display permits shall be made in writing at least ten (10) days in advance of the proposed display, and meet the following:

(a) The name, address, and telephone number of applicant.

(b) The applicant must be the person who will operate or be responsible for the display.

(c) The applicant's name must be on the state fire marshal permit.

(d) Submit a detailed site plan showing that the proposed display is to be so located and supervised that it shall not be hazardous to property and that it shall not endanger human lives.

(e) The applicant shall so state and shall bear the signed approval of the chief supervisory officials of the fire, police, and code enforcement departments of the City of Milan.

(9) After the application has been submitted and approved, a city codes inspector and/or fire official shall inspect the site for compliance with applicable codes and ordinances. (Ord. #1994-03, May 1994, as amended by Ord. #1996-01, Jan. 1996, and replaced by Ord. #09-4, Oct. 2009)

7-503. Permit revocation. (1) The codes director and/or fire marshal may revoke any permit immediately for any of the following:

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city codes director and/or fire marshal.

(b) When the permittee's application contains any false or untrue statements.

(c) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(d) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(e) When any activities of the permittee constitute a distinct hazard to life or property.

(2) An applicant denied a permit or whose permit contains conditions and restrictions shall have the right of an appeal to the board of aldermen within fourteen (14) days after denial or revocation of the permit containing conditions and restrictions by giving the city recorder written notice of appeal. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-504. Permissible fireworks. (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of Milan, except as provided in this chapter, any "fireworks" as defined in § 7-501(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G Consumer 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.

(2) Any display using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-505. Storing and structures. No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all entrances where fireworks are stored or sold, there must be posted signs with the words "Fireworks--No Smoking" in letters not less than four inches (4") high. Additional "No Smoking" signs required to be visible from inside on every side of the tent/building. An inspected and currently tagged portable fire extinguisher within thirty-five feet (35') of any point in the tent/building, and one pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. No fireworks shall be sold at retail at any location where paints, oils or varnishes are for sale or use unless kept in the original unbroken containers, nor where resin, turpentine, gasoline, or other flammable substance which may generate inflammable vapors is used, stored or sold. All aisles are to be kept free from obstructions at all times. Minimal additional retail is allowed to be stored under retail displays. This additional retail is to be kept enclosed in boxes and

these boxes are not to be in contact with the ground (at least a three inch (3") separation from contact with the ground is required) and retail is not to be stored in any way that rain water or ground moisture can infiltrate the boxes. No additional retail will be allowed to be stored in aisles. Fireworks are not permitted to be stored in residential districts, except for personal use. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-506. Limitations on structures. Retail sales of fireworks is permissible in tents, provided that such tents meet the current adopted International Building Code and the International Fire Code. If tents are not factory labeled, the on-site attendant must have manufacturer documentation assuring the tent is fire retardant. All tents must be professionally installed and secured, are required to have at least two (2) unobstructed entrances. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009)

7-507. Location of fireworks outlets. Fireworks sales structures must be no closer than sixty feet (60') from any occupied building and must be located a minimum of forty-five feet (45') from the right-of-way. Fireworks storage and sales are permissible only within the B-1, B-2, B-3, and B-4 Districts, as shown on the Zoning Map of the City of Milan, Tennessee, and shall be subject to all conditions and restrictions contained in the Zoning Ordinance of Milan, Tennessee. (Ord. #1994-03, May 1994, as replaced by Ord. #09-4, Oct. 2009, and Ord. #2018-14, July 2018 *Ch7_6-20-19*)

7-508. Additional standards for fireworks retailers. Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source. The applicant is liable for all violations of this chapter by persons under his/her supervision. (as added by Ord. #09-4, Oct. 2009)

7-509. Unlawful sale to certain children and other persons; unlawful use of fireworks. It is unlawful to offer for sale or to sell any fireworks to children under the age of eighteen (18) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale. It is unlawful to ignite or discharge any permissible articles of fireworks within

or throw them from a motor vehicle. It is unlawful 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. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times, places, or in any manner that endangers other persons, or creates a nuisance insofar as other residences of the neighborhood are concerned. It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the City of Milan Fire Department, except for public (and/or group) displays for which permits have been granted.

It is unlawful for any person less than eighteen (18) years of age to explode, ignite or otherwise use fireworks without being under the direct supervision of an adult. It is unlawful for any person to allow a child less than eighteen (18) years of age to explode, ignite or otherwise use fireworks without being under the direct supervision of an adult. Any person providing supervision of a child less than eighteen (18) years of age in the use of fireworks shall be responsible for compliance with this chapter. (as added by Ord. #09-4, Oct. 2009, and amended by Ord. #10-9, Sept. 2010, and Ord. #2020-15, Nov. 2020 *Ch8_01-11-22*)

7-510. Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods.

(1) June 27 through July 4 - The permissible hours are from 3:00 P.M. to 10:00 P.M., except for July 4 when permissible hours are from 10:00 A.M. to 11:00 P.M.

(2) December 26 through January 1 - The permissible hours are from 3:00 P.M. to 10:00 P.M., except for December 31 when permissible hours are from 10:00 A.M. to 12:30 A.M. January 1.

(3) Permissible hours for special display or consumer fireworks display permits for "special events," as defined in § 7-502(1)(e), are from 10:00 A.M. to 10:00 P.M. Sunday through Thursday, and 10:00 A.M. to 11:30 P.M. Friday through Saturday only for the dates listed on the permit obtained from the City of Milan.

(4) Within twenty-four (24) hours of a person's use of fireworks, such user shall clean up all debris resulting from such use regardless of the location of the debris; provided, however, fireworks users shall, prior to entering real property neither owned nor lawfully possessed by such user, request permission to enter such real property from the person or entity that has authority to grant such permission. Nothing herein shall be construed to allow criminal trespass to real property. (as added by Ord. #09-4, Oct. 2009, and replaced by Ord. #2020-15, Nov. 2020 *Ch8_01-11-22*)

7-511. Manufacture prohibited. It shall be unlawful for any person, firm, partnership or corporation to manufacture within the corporate limits of Milan, Tennessee pyrotechnics, commonly known as fireworks, of any kind or description. (as added by Ord. #09-4, Oct. 2009)

7-512. Exclusions. Nothing in this chapter prohibits: (1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fuses, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(7) Supervised displays of fireworks as provided for in this chapter. (as added by Ord. #09-4, Oct. 2009)

7-513. Violations and penalties. Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) per violation pursuant to the provision of the Tennessee Code Annotated, § 68-104-114.

The Codes Director and/or Fire Marshal of the City of Milan is further authorized to seize any contraband and destroy fireworks which do not comply with the provisions defining allowable fireworks contained in this chapter pursuant to the provision of the Tennessee Code Annotated, § 68-104-115. (as added by Ord. #09-4, Oct. 2009)