

AMENDED ORDINANCE NO.O1706-47
And ORDINANCE O1710-88

AN ORDINANCE AMENDING GALLATIN MUNICIPAL CODE, CHAPTER 9, FIRE
PROTECTION AND PREVENTION, BY THE ADDITION OF ARTICLE V. FIREWORKS

BE IT ORDAINED BY THE CITY OF GALLATIN, TENNESSEE, that the Gallatin Municipal Code, Chapter 9, Fire Protection and Prevention, is hereby amended by adding the following:

ARTICLE V. FIREWORKS

Sec. 9-81. Definitions.

The following definitions shall be applicable to the terms as used within this article, unless the content otherwise requires:

- 1) "Building Official" shall mean the Building Official for the City of Gallatin who is also referred to as the Codes Director.
- 2) "Fire Official" shall mean the Fire Chief of the City of Gallatin.
- 3) "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 of:
 - (a) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks" or "Class C Common Fireworks,"
 - (b) Theatrical and novelty, classified as 1.4S, or
 - (c) Display fireworks, classified as 1.3G, 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.
 - (d) Exceptions:
 - 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;
 - Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.
 - Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.
- 4) "Mobile Retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.
- 5) "Permit" means the written authority of the City of Gallatin issued under the authority of this section.
- 6) "Person" means any individual, firm, partnership, or corporation.
- 7) "Retailer" means any person engaged in the business of conducting retail sales of

fireworks to the general public.

- 8) "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),
- 9) "State Fire Marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of T.C.A. § 68-104-101, et. seq.
- 10) "Structure" is defined as a tent or similar structure.
- 11) Singular words and plural words used in the singular include the plural and the plural as singular.

Sec. 9-82 Permits and permit fees.

- (1) It is unlawful for any person to sell or offer for sale in the City of Gallatin any item of fireworks without first having secured a State Fire Marshal Permit and a permit issued by the City of Gallatin.
 - (a) Permits are not transferable.
 - (b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 5 or December 10 through January 2.
 - (c) The permit fee for retail permits is \$1500.
- (2) Display permits
 - (a) The fee for public or private displays using Special Display (1.3G) Fireworks is \$150.
 - (b) Any special event displays, including but not limited to, displays by schools, wedding groups, businesses, civic clubs or individuals that desire to have a 1.3G Special Display or 1.4G Consumer Fireworks display must obtain a permit to use fireworks by paying a \$150 permit fee and obtaining a permit from the City. This permit is allowed any time of the year and is not limited by the time restrictions set forth in other provisions of this Article.
- (3) An application to sell fireworks in the City of Gallatin must be obtained prior to site inspection and issuance of a permit. No sales may begin prior to issuance of the permit. . Each application shall contain the following:
 - (a) The application must include the name, address, and telephone number of applicant.
 - (b) The applicant must be the natural person who will operate or be responsible for sales.
 - (c) The applicant's name must be the same as the name on the State Fire Marshal Permit.
 - (d) The applicant is liable for all violations of this chapter by persons under his/her supervision.
- (4) A copy of the State Fire Marshal Permit. (For a state permit to be obtained by a retailer, the Fire Chief or his designee must sign on 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.)
- (5) 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.
- (6) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures

in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within 750 feet of a retail structure.

- (7) Mobile retail vendors are not permitted.
- (8) Flashing signs are not permitted.
- (9) Signs are permitted as set forth in the Zoning Ordinance.
- (10) The application must be accompanied by a general liability insurance policy obtained by applicant naming the City of Gallatin as additional insured for at least \$2,000,000 for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.
- (11) 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.
- (12) Applicant shall pay \$500 cleanup deposit per location, which shall be refunded after the fireworks season or used by the City to clean up the retail fireworks site if needed.
- (13) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance with applicable codes and ordinances.
- (14) Fees collected from the sales of fireworks' permits shall be used to offset the cost of the annual City of Gallatin Fourth of July fireworks display.

Sec. 9-83. Permit revocation.

- (1) The Building Official and/or Fire Official may revoke any permit upon failure of retailer to correct any of the following conditions within thirty six (36) hours following written notice of the following:
 - (a) The permittee or the permittee's operator has been deemed to have violated any lawful rule, regulation, or order of the City or Building Official.
 - (b) The permittee's application contains any false or untrue statements.
 - (c) The permittee has failed to timely file any report or pay any tax, fee, fine, or charge.
 - (d) The permittee or the permittee's operator has violated any fireworks ordinance or statute.
- (2) When any activities of the permittee constitute a distinct hazard to life or property, the Codes Director or Fire Official, or both, may revoke the permit immediately.

Sec. 9-84. Permissible fireworks.

- (1) Except as provided in this article, it is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of Gallatin any fireworks, 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.

Sec. 9-85. 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 places where fireworks are sold or stored, for the purpose of sale during the time periods set forth in this Article, signs must be posted with the words "Fireworks- No Smoking" in letters not less than four (4) inches high. An inspected and currently tagged fire extinguisher with a minimum 2A rating 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 twelve (12) feet away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use. All unsold product must be removed within five (5) days of the sales period set forth in this Article.

Sec. 9-86. Limitations on structures.

Tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) must be used for the retail sale of fireworks. 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. No structure from which fireworks are sold may exceed 3,200 square feet. Fireworks may not be stored in a permanent building.

Sec. 9-87. Location of fireworks outlets.

Fireworks sales are permissible only on commercial/industrial property and on agricultural residential property of at least 10 acres or more, all as approved by the Planning Department and the sales structure must be located a minimum of 45' from the right of way. Fireworks sales structures must be no closer than 60 feet from any occupied building and at least 150 feet from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of 125,000 square feet.

Sec. 9-88. Parking for retail fireworks sales site.

The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary.

Sec. 9-89. Additional standards for fireworks retailers.

- (1) 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 100 feet to any fuel source.
- (2) The parcel in which a fireworks retail use is allowed shall be a minimum of seven hundred and fifty (750) feet from other similar uses. This distance shall be measured in a straight line from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location.

Sec. 9-90. Unlawful sale to certain children and other persons; unlawful use of fireworks.

It is unlawful to: 1) offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person; 2) explode or ignite fireworks within six hundred (600) feet of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred (200) feet of where fireworks are stored, sold, or offered for sale; 3) ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle; 4) place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons; 5) ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property; 6) launch fireworks onto property of persons who have not given permission; 7) use fireworks at times, places, or in any manner that endangers other persons; and 8) ignite fireworks during a burning ban declared by either the State of Tennessee or the City of Gallatin Fire Department, except for public (and/or group) displays for which permits have been granted.

Sec. 9-91. Limited time period to use fireworks.

It is unlawful to discharge or use fireworks except for the following time periods:

- (1) July 1 through July 4—The permissible hours are from 10:00 AM to 10:00 PM except for July 4 when permissible hours are from 10 AM to 11:00 PM.
- (2) December 31 through January 1—The permissible hours are from 10:00 AM on December 31 to 1:00 AM on January 1.

Sec. 9-92. Exclusions.

Nothing in this article 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.
- (6) Supervised displays of fireworks as provided for in this article.

Sec. 9-93. Violations and penalties.

Violations of any provision of this chapter shall be subject to a penalty of up to \$50 per violation.

Sec. 9-94. Severability and conflict with Zoning and Other Ordinances

In the event that any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other portion of this Ordinance. To the extent there is a conflict between this Ordinance, the Zoning Ordinance, or any other Ordinance, the provisions of this Ordinance shall supersede all other ordinances for purposes of regulation and use of fireworks.

BE IT FURTHER ORDAINED BY THE CITY OF GALLATIN, TENNESSEE, that this Ordinance shall take effect upon passage, the public welfare requiring such.

PASSED FIRST READING: June 6, 2017.

PASSED SECOND READING: June 13, 2017.

MAYOR PAIGE BROWN

ATTEST:

CONNIE KITTRELL
CITY RECORDER

APPROVED AS TO FORM:

SUSAN HIGH-MCAULEY
CITY ATTORNEY