

**ORDINANCE NO. 12-4252**

**AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO AMEND THE LEBANON MUNICIPAL CODE TO PERMIT FIREWORKS SALES AND USE WITHIN THE CITY OF LEBANON**

**WHEREAS**, Lebanon Municipal Code (LMC) 7-108 currently prohibits any use or sales of fireworks within the City of Lebanon; and

**WHEREAS**, in consideration of current economic issues, it would be in the best interests of the citizens of Lebanon to permit fireworks sales, and subsequently, their use within the City; and


**WHEREAS**, LMC 7-108 must be amended to permit fireworks sales and use within the City of Lebanon.

**NOW, THEREFORE, BE IT ORDAINED** by the City of Lebanon, Tennessee, as follows:


Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to amend the Lebanon Municipal Code by deleting the current Section 7-108 in its entirety and replacing it with the new Section 7-108, attached hereto and incorporated by reference as if appearing herein verbatim, that will permit and regulate fireworks sales and use within the City of Lebanon.

Section 2. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same.

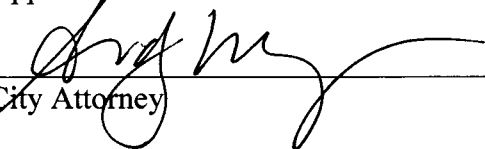
Attest:

  
\_\_\_\_\_  
Commissioner of Finance & Revenue

Approved:

  
\_\_\_\_\_  
Mayor

Approved as to form:

  
\_\_\_\_\_  
City Attorney

Passed first reading: 11/20/12

Passed second reading: 2/05/13

**7-108. Fireworks.** A. 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:

(1) Approved means acceptable to the fire code official pursuant to the 2006 International Fire Code, as adopted by the City of Lebanon.

(2) Fireworks, 1.4G (formerly known as DOT Class C Common Fireworks) means small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion. Such 1.4G fireworks which comply with the construction, chemical composition, and labeling regulations of the DOTn for Fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR: Parts 1500 and 1507, are not explosive materials for the purpose of the 2006 International Fire Code, as adopted by the City of Lebanon.

(3) Permit means the written authority of the city fire department codes official issued under the authority of this article.

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

(5) 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.

(6) 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.

B. 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.

C. Permits; Fees. (1) 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 fifteen (15) days of filing sales tax returns.

(2) Permits are not transferable.

(3) A permit shall be valid only from June 20 through July 5 or December 10 through January 2. Except as provided herein, a separate permit will be needed for each of the two separate date periods for which fireworks sales are permitted. If the fireworks sales are from a permanent building that meets zoning regulations for retail sales, a single annual permit may be used for both of the above date ranges.

(4) 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.

(5) Application for a permit to sell fireworks in the city shall be submitted to the City of Lebanon business permitting official no later than five working days prior to the date on which the applicant desires to begin making sales.

(6) An application must be filed for each location and shall contain the following:

(a) 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.

(b) A copy of the state fire marshal permit.

(c) Evidence that general liability insurance has been obtained by applicant naming the City of Lebanon, Tennessee, as an 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.

(d) The location where the applicant will conduct the business of selling fireworks.

(e) 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.

(f) A copy of the tent flame retardant letter on all tents must be provided.

(g) 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) shall have a minimum of two (2) 10# ABC fire extinguishers on site. Each such fire extinguisher shall have a tag indicating passage of an annual inspection.

(h) Site plan including:

- (i) Dimension of the lot;
- (ii) Dimension and location of tent;
- (iii) Location of adjacent structures;
- (iv) Location of parking and number of spaces provided.

(i) 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.

(j) All fireworks tents shall be a minimum of fifty (50) feet from an adjacent property line or other building. 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.

(k) No more than one (1) fireworks tent shall be permitted on any one (1) tract, parcel, or lot.

(l) Permits shall not be issued to any person or entity whose location is zoned as any of the residential zoning districts.

D. Permit Revocation. The fire department codes official shall be authorized to revoke any permit upon failure to correct any of the following conditions within 24 hours after notification:

(1) 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.

(2) In the event that the permittee's application contains any false or untrue statements.

(3) In the event the permittee fails to timely file and/or pay any report, tax, fee, fine or charge.

(4) In the event the permittee or the permittee's operator violates this article or statute.

(5) 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.

E. 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:

(1) Those items now or hereafter classified as Fireworks, 1.4G, per the 2006 IFC; or

(2) 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.

F. Sale of Fireworks and Signage. 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 advertising fireworks sales must comply with the City of Lebanon sign and zoning ordinances.

G. Unlawful Sale and Use of Fireworks. (1) It shall be unlawful to offer for sale or to sell any fireworks to children under the age of eighteen (18) years. Advisory signs shall be posted in plain view regarding minimum age to purchase fireworks.

(2) It shall be unlawful to give fireworks to a person under 18 years of age; provided, however, this provision shall not apply to a parent who supervises the use of fireworks by his child.

(3) It shall be unlawful for anyone to sell or use fireworks in the City of Lebanon except June 20 through July 5 and December 10 through January 2.

(4) It shall be unlawful to discharge or use fireworks in the City of Lebanon between the hours of 10:00 p.m. and 10:00 a.m., except on December 31 and January 1 when the permissible hours shall include the two hours before and one hour after the start of the new year.

(5) It shall be unlawful to smoke within fifty (50) feet of any place where fireworks are sold.

(6) It shall be unlawful to offer for sale or to sell any fireworks to any intoxicated or seemingly irresponsible person.

(7) 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, shoot, or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of persons.

(8) 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.

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

H. Smoking Near Fireworks Prohibited; Locations; 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 fifty (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 fifty (50) feet to any other structure. A minimum of two (2) fire extinguishers shall each have a tag indicating a required, up to date test has been completed.

I. Limitations on Structures. Approved permanent structures or tents may be used for the retail sale of fireworks. As a minimum, two 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 may not exceed 4,000 maximum square feet in size throughout the city where fireworks are sold.

J. Parking for Retail Fireworks Sales Sites. The site for a temporary fireworks retailer shall be improved to provide off-street customer parking as follows: one customer parking space per 100 square feet of tent area, with a minimum of 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 City of Lebanon Zoning Ordinance pertaining to all parking regulations.

*(Amended pursuant to Ord. No. 12-4252).*