

**AN ORDINANCE RESTRICTING THE DISCHARGING OF FIREWORKS AND SALE OF FIREWORKS IN HANCEVILLE, ALABAMA**

**RECITALS:**

**WHEREAS**, the city of Hanceville, Alabama (the “City”) desires to protect the health and safety of its citizens along with the peaceful enjoyment of its citizens’ property by restricting the use and sale of fireworks; and

**WHEREAS**, the City intends by this Ordinance to limit and restrict the time during the day when fireworks may be discharged inside the city limits; and

**BE IT ORDAINED** by the City Council of the City of Hanceville, Alabama, as follows:

**Section 1.** Repealer.

Ordinance No. 508, a fireworks ordinance, which was approved on February 27, 2006 is hereby repealed.

**Section 2.** Definitions.

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

(1) “Fireworks” means any item or object which consists in whole or in part of a packaging of chemicals designed to create a loud and/or bright explosion upon being lit or discharged in any other manner. It also means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, caygo bombs, sparklers or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except that the term “fireworks” shall not include model rockets and model rocket engines, designed, sold and used for the purposes of propelling recoverable acro models and shall not include toy pistol, toy canes, toy guns, or other devices in which paper or plastic caps manufactured in accordance with the United States Department of Transportation Regulations for packing and shipping of toy paper or plastic caps are used and toy paper or plastic caps manufactured as provided therein, the sale and use of which shall be

permitted at all times. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.

(2) "Person" means any natural person, partnership, corporation, association or any other legal entity.

(3) "Use" means to ignite, explode, or in any manner set off.

**Section 3.** Restriction on time and use of fireworks.

(1) Fireworks may only be discharged on the following dates at the set forth times:

a. December 31st after the hour of 5:00 p.m.

b. January 1st between the hours of 12:00 a.m. and 1:00 a.m.

c. July 4th after the hour of 5:00 p.m.

d. July 5th between the hours of 12:00 a.m. and 1:00 a.m.

(2) It shall be unlawful for any person to throw or place any fireworks, including pyrotechnic devices, in such a manner that the explosion of same will be likely to endanger or cause injury or damage to any person or property.

(3) It shall be unlawful for any person to possess, throw, use, explode, detonate or shoot, within the City limits, bottle rockets, rockets of all types and size and any and all fireworks with an aerial trajectory having a cylinder or cartridge that is not intended to be completely consumed before landing.

(4) It shall be unlawful for any person to throw, use, explode, detonate, aim, point or shoot fireworks, including pyrotechnic devices, in such a manner that, after it is ignited, will propel it, or any part thereof, such that it, or any part thereof, lands on property not owned by the person shooting the fireworks. If there is damage to any property resulting from any of the aforesaid actions, it shall be the responsibility of the person or persons violating this Section.

(5) It shall be unlawful for any person to discharge fireworks by throwing, placing or discharging any fireworks in any gathering of persons or to direct fireworks toward any person.

(6) It shall be unlawful for any person to throw, place or ignite or discharge any fireworks on the sidewalks, streets, alleys or within the City Parks or any public property of the City .

(7) It shall be unlawful for any person to set off or discharge any fireworks in any building.

(8) It shall be unlawful for any person to use, ignite or discharge or permit to be used, ignited or discharged any Fireworks within the City in or on any:

(1) park

(2) playground

- (3) school property
  - (4) Church property; or
  - (5) parking lot
- without the express written consent of the owner.

**Section 4. Storage, sale and handling.**

- (1) It shall be unlawful for any person, firm or corporation to store, sell or offer for sale fireworks of any type within the City limits except as provided herein.
- (2) Fireworks shall not be sold or kept for sale in a place of business where paints, oils, varnishes, turpentine or gasoline, or other flammable substances are kept. Four approved and fully charged fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all buildings where fireworks are sold. All fire extinguishers required herein shall be at least of type A standard (2A-10BC). Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have two fire extinguishers.
- (3) No person shall offer fireworks for sale before the 28<sup>th</sup> day of June and after the 10<sup>th</sup> day of July and before the 20<sup>th</sup> day of December and after the 10<sup>th</sup> day of January.
- (4) Retail Sales Restricted. Persons desiring to sell fireworks at retail in the city must secure a permit each year from the Fire Chief or designee. The applicant shall take the permit to the City Clerk for issuance of a business license. Such permit shall only be issued upon payment of the required fee. A separate permit for fireworks sale only shall be required for each separate sales location, but there is a limit of one permit and sales location per person. There shall be a limit of three permits issued in the city per year.
- (5) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where fireworks are in the original package, and all fireworks kept for sale on front counters must remain in original packages, except where an attendant is on constant duty. All retail stands will display "No Smoking" signs.
- (6) It shall be unlawful for fireworks to be stored, kept, sold or discharged within 200 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold.
- (7) The sale of such fireworks shall be under the direct supervision and control of a competent person at least twenty-one (21) years of age and duly qualified and responsible for enforcing all safety regulations, standards and measures. Smoking, matches, open flames and any and all other spark-producing devices and firearms, except those firearms within the legal possession of duly authorized law enforcement officials, shall not be permitted within twenty-five (25) feet of a showcase. Signs shall be posted in conspicuous places in, on and around all indoor displays with the words "FIREWORKS – NO SMOKING" in letters of not less than four (4) inches in height. Not less than two (2) exits shall be maintained upon the premises and shall remain

unobstructed at all times with no exceptions.

(8) All permits issued are personal to the applicant and non-transferable. The sale of fireworks or operation of a facility for the sale of fireworks by someone other than the license holder shall void the permit and cause forfeiture of the permit fee. In the event that an applicant wishes to operate more than one geographical location within the City, each location must have a separate permit and each permit is subject to the applicable permit fee

(9) Any such person, firm or corporation making application for a permit shall accompany said application with a non-refundable fee of ten dollars (\$10.00) for each location that a permit is sought.

(10) Sales shall be limited to B1 and B2 Zones. The actual stand or facility shall be at least one hundred (100) feet from any temporary or permanent building.

(11) Every outdoor display shall be located not less than twenty-five (25) feet from all rights-of-way including, but not limited to, highways, streets, avenues, roads, plazas, alleys, curbs, ways, lots, lanes, sidewalks or any other building or structure located on the same property.

(12) No person, firm or corporation shall give, offer for sale, or sell any Fireworks to any person under eighteen (18) years of age.

(13) No person, firm or corporation shall offer for sale, expose for sale, or sell Fireworks except between the hours of 8:00 a.m. and 10:00 p.m.

(14) Notwithstanding all other provisions contained in this ordinance, applicants and those receiving permits and business licenses must comply with all provisions of the International Fire Code 2006 Edition, which has been adopted by the Hanceville City Council.

#### **Section 4. Variance.**

Upon the making of an application to the Fire Chief, or his/her designee, an individual or entity may be granted a variance in the form of a permit (the "Permit") to discharge fireworks at a date and time not set forth above. Prior to approval of the application, the Fire Chief, or his/her designee, shall inspect the area upon which the applicant proposes to discharge said fireworks to ensure the safety of the proposed location and nearby property. The Permit shall prescribe the location, date, time and permitted discharger of the fireworks. Absent exigent circumstances, no permit shall be granted for any fireworks to be discharged between the hours of 1:00 a.m. and 5:30 p.m. Any individual found discharging fireworks at a date and time not set forth in Sections 2 or 3 of this Ordinance or in compliance with a valid Permit shall be in violation of this Ordinance.

#### **Section 5. Penalties.**

Any person who shall violate or permits the violation of any provision of this Ordinance or shall do any act prohibited hereby shall, upon conviction thereof, be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed one hundred eighty (180) days or by both such fine and imprisonment. Each day on which a violation occurs or continues to occur shall be deemed a separate offense.

**Section 6.** Exceptions.

Nothing herein shall preclude the City from allowing and/or sponsoring firework displays.

**Section 7.** Severability.

If any provision of this Chapter, including any exception, part, phrase, or term, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and in this end the provisions of this Chapter are declared severable.

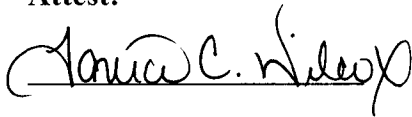
**Section 9.** Publication and effective date .

This ordinance shall become effective immediately upon its adoption and publication as required by law.

**ADOPTED AND APPROVED THE 10<sup>th</sup> DAY OF May, 2012.**

  
KENNETH NAIL, Mayor

**Attest:**



*I certify this Ordinance has been posted in the following public places: Hanceville City Hall, Hanceville Public Library, Hanceville Post Office on 5/18/12.*  
*Tania Wilcox*  
*City Clerk*