

ORDINANCE NO. 14-421

AN ORDINANCE AMENDING THE MOUNT CARMEL MUNICIPAL CODE TITLE 7

WHEREAS, the Mount Carmel Planning Commission has determined that the public health, welfare, and safety of the Town of Mount Carmel require passage of the following Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF MOUNT CARMEL, TENNESSEE, as follows:

SECTION I. Title 7 of the Mount Carmel Municipal Code should be amended by the addition of Chapter 4 as follows:

Chapter 4 Fireworks

Sec. 7-401 - Definitions

Sec. 7-402 - Penalty

Sec. 7-403 - Unlawful; exception

Sec. 7-404 - Issuance of permit at discretion of fire chief

Sec. 7-405 - Restrictions

Sec. 7-406 - Applicability

Sec. 7-401 - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fireworks means any composition or device designed or intended to produce a visible or an audible effect by combustion, deflagration, or detonation, including those now or hereafter classified as 1.4G Fireworks (formerly Class C, Common Fireworks) and 1.3G Fireworks (formerly Class B, Special Fireworks) by the United States Department of Transportation.

Sec. 7-402 - Penalty.

Any person violating this division shall be guilty of an offense and, upon conviction, shall pay a civil penalty of up to \$50.00 for each offense. Each occurrence shall constitute a separate offense. The imposition of a civil penalty hereunder shall not prevent the Town from taking any other legal action necessary to enforce the provisions of this division, including injunctive relief in the state courts.

Sec. 7-403 - Unlawful; exception.

(a) For the protection of the health, safety, and welfare of the citizens and residents of the Town, it is unlawful for any person to manufacture, use, discharge, possess with the intent to discharge, or offer for sale, expose for sale, sell at retail or keep with intent to sell at retail, fireworks in the Town, except as authorized in Section 7-404.

(b) There is a rebuttable presumption that a person possesses fireworks with the intent to discharge such fireworks if possession is:

- (1) In a public place or outside a fully enclosed residential or commercial building, and fireworks have recently been discharged or reported discharged in the general vicinity of such possession; or
- (2) In a public park or on public school property.

Sec. 7-404 - Issuance of permit at discretion of fire chief.

The fire chief may issue a permit authorizing the manufacturing, transportation, or storage of fireworks in accordance with applicable state laws and fire codes. The fire chief may issue a permit authorizing the handling, supervised use, or display of fireworks in accordance with and as permitted under the conditions approved by the fire chief and NFPA 1123, Code for Fireworks Display, 2000 edition, National Fire Protection Association, or any subsequent edition that has been adopted by the state fire marshal by rule. Every such permitted handling, use, or display of fireworks shall be located, discharged, or fired so as not be hazardous to property or endanger any person and shall be handled by a competent operator licensed by the state and approved by the fire chief. Before any permit for handling, use, or display of fireworks shall be issued, the person making application therefor shall furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person or any agent or employee thereof, in such amount, character, and form as the fire chief determines is necessary for the protection of the public.

Sec. 7-405 - Restrictions.

In the interest of public health and safety, the Board of Mayor and Aldermen may further restrict the storage or discharge of fireworks from time to time at its discretion.

Sec. 7-406 - Applicability.

Nothing in this division shall be construed to prohibit any wholesaler, dealer, or jobber from selling fireworks at wholesale, provided the same are to be shipped directly out of the corporate limits of the Town 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.

SECTION II. LEGAL STATUS PROVISIONS

A. Conflict with Other Ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the Town of Mount Carmel, the most restrictive shall in all cases apply.

B. Validity. If any section, clause, provision, or portion of this Ordinance shall be held to be in doubt or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

C. Effective Date. This ordinance shall become effective upon passage and publication, the public welfare requiring it.

LARRY FROST, Mayor

ATTEST:

MARIAN SANDIDGE, Recorder

APPROVED AS TO FORM:

C. CHRISTOPHER RAINES, JR.
Town Attorney

Passed on First Reading: FAILED FOR LACK OF A SECOND

Passed on Second Reading: _____

FIRST READING	AYES	NAYS	OTHER
ALDERMAN EUGENE CHRISTIAN			
ALDERMAN WANDA DAVIDSON			
ALDERMAN LEANN DEBORD			
ALDERMAN FRANCES FROST			
ALDERMAN CARL WOLFE			
VICE-MAYOR PAUL HALE			
MAYOR LARRY FROST			
TOTALS			

PASSED FIRST READING: FAILED FOR LACK OF A SECOND

SECOND READING	AYES	NAYS	OTHER
VICE-MAYOR EUGENE CHRISTIAN			
ALDERMAN WANDA DAVIDSON			
ALDERMAN LEANN DEBORD			
ALDERMAN FRANCES FROST			
ALDERMAN CARL WOLFE			
VICE-MAYOR PAUL HALE			
MAYOR LARRY FROST			
TOTALS			

PASSED SECOND READING: _____

PUBLICATION AFTER PASSAGE:

DATE: _____

NEWSPAPER: *Kingsport Times-News*