

ORDINANCE NO. 6102

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, SECTION 46-5 RELATING TO FIREWORKS INCLUDING THE MANUFACTURE, USE, DISCHARGE OR SALE OF THE SAME; TO PROVIDE FOR THE PERMIT PROCESS FOR CERTAIN SUPERVISED USE OR DISPLAY OF FIREWORKS; TO PROVIDE AUTHORITY FOR THE BOARD OF MAYOR AND ALDERMEN TO FURTHER RESTRICT THE STORAGE AND USE OF THE SAME; TO FIX A PENALTY AND OTHER LEGAL ENFORCEMENT FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That Section 46-5 of the Code of Ordinances, City of Kingsport, Tennessee, is hereby amended by deleting the section in its entirety and substituting in its place the following:

Sec. 46-5. Fireworks.

(a) As used in this section 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.

(b) For the protection of the health, safety and welfare of the citizens and residents of the city 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 city, except as authorized in subsection (c). 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.

(c) The fire chief, acting in conjunction with the fire marshal, may issue a permit authorizing the manufacturing, transportation, or storage of fireworks in accordance with applicable state laws and fire codes. The fire chief, acting in conjunction with the fire marshal, 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 marshal 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.

(d) 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.

(e) Nothing in this section 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 Kingsport 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.

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

SECTION II. That this ordinance shall take effect from and after its date of passage, as the law directs, the welfare of the City of Kingsport, Tennessee requiring it.

DENNIS R. PHILLIPS, Mayor

ATTEST:

ANGELA MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: July 19, 2011

PASSED ON 2ND READING: August 2, 2011