

**ORDINANCE NO. 1688**

**AN ORDINANCE TO REPEAL ORDINANCE NO. 1438 AND TO REGULATE THE SALE AND POSSESSION OF FIREWORKS WITHIN THE CORPORATE LIMITS OF THE CITY OF TALLADEGA AND ITS POLICE JURISDICTION.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TALLADEGA, ALABAMA, PURSUANT TO THE PROVISIONS OF SECTION 8-17-210 THROUGH 8-17-226, CODE OF ALABAMA (1975), AND AS MAY BE AMENDED, AS FOLLOWS:  
SECTION 1: DEFINITIONS.**

The following terms shall have the meanings ascribed to them, unless clearly indicated otherwise:

- (1) BUSINESS LICENSE. City of Talladega written authority to conduct business or sales within the City of Talladega and its police jurisdiction.
- (2) CITY. The City of Talladega and its police jurisdiction.
- (3) DISTRIBUTOR. Any person engaged in the business of making sales of fireworks for resale to all holders of the required Alabama permits who in turn shall resell to any permit holder; or any person who receives, brings, or imports any fireworks of any kind into the State of Alabama, except to a holder of an Alabama manufacturer's or distributor's permit.
- (4) D.O.T. CLASS C COMMON FIREWORKS. All articles of fireworks as are now or hereafter classified as D.O.T. Class C common fireworks in the regulations of the U.S. Department of Transportation for the transportation of explosive and other dangerous articles.
- (5) PERMIT. The written authority of the City Fire Chief of the City of Talladega issued under the authority of this ordinance.
- (6) PERSON. Includes any corporation, association, co-partnership or one or more individuals.
- (7) RETAILER. Any person engaged in the business of making sales of fireworks to consumers within the City of Talladega and its police jurisdiction during a calendar year from January 1 through December 31 from a permanent building.
- (8) SALE. An exchange of articles or fireworks for money, including barter, exchange, gift, or offer thereof, and each such transaction made by any person, whether as principal proprietor, salesman, agent, association, co-partnership, or one or more individuals.
- (9) FIREWORKS SEASONS. The dates of June 20 through July 10 and December 15 through January 2 of each year shall be the only periods when seasonal retailers may sell fireworks.
- (10) SEASONAL RETAILER. Any person engaged in the business of making sales of fireworks to consumers within the City of Talladega and its police jurisdiction during the fireworks season(s) only, from permanent buildings or temporary or moveable stands.
- (11) SPECIAL FIREWORKS. All articles of fireworks that are classified as Class B explosives in the regulations of the U.S. Department of Transportation, including all articles classified as fireworks other than those classified as Class C.
- (12) STATE PERMIT. The written authority of the State Fire Marshal issued under the authority of Code of Alabama (1975), Section 8-17-210 through 8-17-226.

**SECTION 2: SALE OF FIREWORKS – BUSINESS LICENSE**

- (A) Only holders of a City retailer or City seasonal retailer business license may engage in the retail sales of permitted fireworks items as defined in State Code 1975, Section 8-17-217 and to include all future amendments.
- (B) Prior to issuance of a retailer or seasonal retailer business license by the City, each applicant must provide the City Revenue Office with the following:
  - 1) Completed business license application/renewal notice
  - 2) Copy of State Permit from State Fire Marshal
  - 3) Copy of City Permit from City Fire Chief
  - 4) Security Deposit of \$500 (company or personal checks accepted). The security deposit is to assure compliance with the provisions and requirements of this ordinance, including but not limited to the removal of the temporary stand and cleaning of the site. Said deposit shall be held by the City until such a time that the applicant (retailer) no longer wishes to renew the business license.
  - 5) Certificate of Liability Insurance with a combined single limit of \$500,000.00 or greater. The City must be listed as an additional insured on the certificate.
  - 6) Business License fee of \$750.00 for seasonal retailer to be purchased in June before the temporary stand is open or \$1,000 for retailer to be purchased by January 31 of each year. This business license fee will not be discounted or prorated for a partial year or partial season of operation.
- (C) Should the applicant be denied a business license or withdraw their application before a business license is issued, the security deposit and the business license fee will be refunded in

full unless an outstanding balance is due to the City for expenses incurred for violations of this or any other City ordinance.

(D) Said business license may be revoked by the City if violations occur. Should this be the case, said business license fees and security deposits are not refundable.

### **SECTION 3: STRUCTURES WHERE FIREWORKS SALES ARE PERMITTED**

(A) All structures, permanent and temporary, must follow the requirements for storage, display, and locating of fireworks sales as stated in State Code 1975, Section 8-17-221 and to include all future amendments.

(B) No fireworks stand, temporary or permanent, shall be located within 25' (feet) of any building.

(C) No fireworks stand, temporary or permanent, shall be located within 100' (feet) of any gasoline pump, tank, or vents for gasoline tanks, nor gasoline dispenser.

(D) Temporary fireworks stands need not comply with the provision of the building code, provided however, that all stands shall be erected in a manner that will reasonably insure the safety of attendance and customers.

(E) All fireworks stands, temporary or permanent, may be inspected by the City at any time during hours of operation.

(F) All temporary fireworks stands where the buying public enters must have at least two (2) exits. Each exit must be properly marked and must remain unlocked and clear of any items which may be blocking the exit during the hours in which the fireworks stand is open for business.

(G) All fireworks stands, temporary or permanent, shall have in place a 10 pound ABC fire extinguisher at each door. The extinguisher must have a current inspection tag in place.

### **SECTION 4: GENERAL REQUIREMENTS**

(A) All weeds and combustible material shall be cleared from the location of temporary fireworks stands including a distance of at least 20' (feet) surrounding the stand.

(B) "NO SMOKING" and "FIREWORKS" signs in letters not less than four inches in height shall be prominently displayed on all four sides of the permanent or temporary fireworks stand.

(C) Presence of lighted cigars, pipes, or any flame or glowing heat shall be declared unlawful within 10' (feet) of the permanent or temporary fireworks stand.

(D) Each temporary or permanent stand must have an adult over the age of 19 in attendance and in charge during the business hours. No person under the age of 19 years may obtain a business license to sell fireworks in the City.

(E) Each temporary fireworks stand and all litter shall be removed from the temporary location within ten (10) days after each fireworks season. Any stand left on the premises will be charged \$100.00 (one hundred dollars) per day for each day that the stand remains at its temporary location.

### **SECTION 5: USE OF FIREWORKS**

(A) It shall be unlawful for any person to ignite, explode, project, or otherwise fire or use or permit the ignition, explosion or projection of any fireworks upon, over, or onto the property of another, or to ignite, explode, project, or otherwise fire and make use of any fireworks within ten (10) feet of any residence of dwelling.

(B) It shall be unlawful to explode or ignite fireworks within 600 feet of any church, hospital, asylum, public school, any enclosed building, or within 200 feet of where fireworks are stored, sold, or offered for sale as stated in State Code 1975, Section 8-17-222 and to include all future amendments.

(C) 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 or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people as stated in State Code 1975, Section 8-17-222 and to include all future amendments.

### **SECTION 6: PENALTIES**

Persons violating this ordinance shall or may be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than \$100 or more than \$1,000 or imprisoned for not less than 30 days, or more than, one year or both, in the discretion of the court or as stated in State Code 1975, Section 8-17-224 and to include all future amendments.

### **SECTION 7: SPECIAL FIREWORKS FOR PUBLIC DISPLAYS**

(A) Persons setting up and/or shooting fireworks displays must provide the City with a current "DISTRIBUTOR" permit issued by the State Fire Marshal.

(B) A City Display Permit must be purchased from the Revenue Office for \$25.00 prior to location inspection by the City Fire Chief. Should an applicant have multiple and consecutive displays at the same location (example: a church wants to have a display each night for one week) only one fee of \$25.00 is charged, and only one inspection is required.

(C) After approval of said location by the City Fire Chief, proper authorities must sign the State of Alabama application for a display permit issued by the State Fire Marshal.

(D) Person responsible for the fireworks display must provide a certificate of liability insurance with \$1,000,000.00 combined single limits.

**SECTION 8:** This ordinance shall become effective upon its adoption and publication as required by law.

**APPROVED AND ADOPTED** this the 21<sup>st</sup> day of February 2011.

Dr. Horace Patterson, Council President

Dr. Jimmy Davis, Council Member

Ms. Elizabeth Grissett, Council Member

Mr. Eddie L. Tucker, Council Member

Mr. Robert D. Miller, Council Member

Attested to by Elizabeth Cheeks, City Clerk