

ORDINANCE No. 2022-04

MUNICIPAL FIREWORKS ORDINANCE
**ORDINANCE OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF
GLUCKSTADT, MISSISSIPPI, REGULATING THE SALE AND USAGE OF
FIREWORKS WITHIN MUNICIPAL LIMITS**

WHEREAS many cultures use fireworks as a form of expressing celebration for their culture, customs, and heritage; and

WHEREAS Mississippi Code Section 21-19-15 grants the power to the City of Gluckstadt's Mayor and Board of Alderman as the governing authorities to prohibit or regulate the sale or use of fireworks as defined therein; and

WHEREAS the City of Gluckstadt is a new municipality having finally incorporated and obtained its Charter in 2021 and wishes to prevent injury or damage as it relates to the display for sale and the retail sales of fireworks as a result; and

WHEREAS, the 2021 Zoning Ordinance limits such sales to areas zoned C-2, and requires an approved Conditional Use permit; and

WHEREAS it is the intent of the City of Gluckstadt to address the spirit of International Fire Code, while not impeding the opportunity for free commerce, but in keeping with the responsibility of the City to provide code enforcement.

Now, therefore, be it **ORDAINED** by the Mayor and Board of Alderman for the City of Gluckstadt, Mississippi, as follows:

SECTION 1: DEFINITIONS

CITY: City of Gluckstadt

FIRE OFFICIALS: The Fire Chief, Fire Marshal, or their Designee of the South Madison County Fire Protection District.

FIRE DEPARTMENT: The South Madison County Fire Protection District, also known as the "Gluckstadt Fire Department," to include all authorized representatives of the department.

PLANNING AND ZONING DEPARTMENT: The City of Gluckstadt Planning and Zoning department, to include all authorized representatives of the department.

CLASSIFICATION OF FIREWORKS:

Class "C" Common Fireworks (Designated by Interstate Commerce Commission) - Fireworks are labeled by said commission with the Class C common fireworks label, and which contain a statutorily restricted amount of pyrotechnic composition and were designed to produce an audible effect or pyrotechnic display by combustion; their explosive composition cannot exceed two (2) grains in weight; by way of example they shall include such items as cone fountains, fire crackers,

small Chinese crackers, skyrocket;-bottle-rockets,-small- non-explosive Roman candles and rockets, pyrotechnics commonly known as "snap pops," or other matter or substances similar thereto. For purposes of this section the term "fireworks" shall also include such 1.4G fireworks which comply with the construction, chemical composition and labeling regulations of the DOT for Fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR Parts 1500 and 1507, but does not include 1.3G fireworks, the sale of which is not permitted by this ordinance.

Excluded from the prohibition of this ordinance is the sale of toy pistols, toy canes, toy guns or other devices in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipping of toy paper caps are used, and toy pistol paper caps manufactured as provided in this subsection, the sale and use of which shall be permitted at all times.

Class "B" Fireworks - Exhibited and professional fireworks display which must be shot under controlled supervision by a licensed professional pyrotechnic operator, which may be part of any public entertainment sponsored by the City, any other public civic organization or private citizen desiring to have a fireworks display will be allowed within the City. Any public civic organization or private citizen shall be required to obtain approval from the Board of Aldermen prior to the conducting of any fireworks display or exhibition. Any such approval by the Board of Aldermen shall be conditioned upon the satisfaction by the applicant of all requirements set forth in Mississippi Code Ann. Section 45-13-11 regarding the permitting of fireworks exhibitions, as well as any other conditions deemed necessary by the Board, including but not limited to the requirement of a cash deposit or bond for damages or injuries caused by the display, or provision for reimbursement to the City for mobilization of fire equipment and personnel to maintain safety at any such display.

NET EXPLOSIVE WEIGHT (net weight). The weight of explosive material expressed in pounds. The net explosive weight is the aggregate amount of explosive material contained within buildings, magazines, structures, or any portions thereof, used to establish quantity-distance relationships.

PERMITTED HOLIDAYS:

INDEPENDENCE DAY (4th of JULY); 8:00 AM – 11:00 PM

CHRISTMAS HOLIDAY (25th of DECEMBER); 8:00 AM – 11:00 PM

NEW YEAR'S HOLIDAY (31st of DECEMBER and 1st of JANUARY); 8:00 AM – MIDNIGHT

SECTION 2: APPLICATION (SALES OF CLASS "C" COMMON FIREWORKS)

APPLICATION FOR PERMITS.

(a) An applicant for permit for sale of fireworks shall file a written application duly subscribed and sworn to by the applicant. Additionally, an Applicant must obtain a Conditional Use permit secured from the Planning and Zoning Department for fireworks stands in any C-2 zone, and the Applicant must also obtain a Transient Vendor privilege license and notify the Police Department in accordance with Section 406.08 of the City's adopted Zoning Ordinance. Once approved by the Board of Aldermen, a Conditional Use permit will remain valid, unless modifications are made to

the site, the temporary structure, or the location. Ownership and operation of the Conditional Use may not be transferred, subleased, sold, or conveyed to any other individual, firm or entity. Any such change in ownership or operation will necessitate an application for a new Conditional Use permit.

(b) Any permit granted by the Board of Aldermen under which fireworks sale, possession, or is allowed shall be issued in compliance with Section 1123 of the National Fire Protection Association, as revised, and the Mississippi Fire Prevention Code, as revised. Such permits shall require that the persons in charge of such exhibitions shall be experienced in the handling of fireworks and the members of the public attending the exhibitions shall be kept at a safe distance therefrom. Any fireworks held in storage for such exhibitions shall be kept in a closed box until removed therefrom for firing. See Miss. Code Ann. § 45-13-11.

(c) Any application(s) for the sale of fireworks shall set forth the following:

(1) The name of the association, organization, or corporation, together with the names of the persons to be in charge of the sales.

(2) The dates and time of the day at which the sales are to be held.

(3) A diagram/ sketch of the location to serve as a sales location. To be included in the diagram are:

A) Arrow indicating NORTH,

B) Structure location, all (streets, roads, drives, alleys, – public or private), Utilities that will service site, closest fire hydrant, any and all structures (inhabited or uninhabited) within six hundred (600) feet.

C) Ingress and egress for public, off road parking accommodations.

D) Temporarily erected structures shall be no closer than forty (40) feet to the property right-of-way.

E) Any on-site staff accommodations used at the sales location shall comply with all other ordinances and regulatory authorities.

(4) Based on the location of site, movable and immovable hazardous, distance to traffic lanes, and other specified and unspecified hazards, the Fire Official can set limitations on amount of net explosive materials that may be stored on site of the retail locations.

(5) A license fee for the sale of fireworks at each location shall be in the sum of two hundred and fifty dollars (\$250.00).

(6) A structure erected for the sale of fireworks shall comply with those requirements set forth thru this ordinance, and all other city ordinances or regulations. The structure shall be approved for occupancy, including NO SMOKING signs, EXIT signs, and FIRE EXTINGUISHERS.

(7) The Fire Department will confer with the Zoning and Planning Department to ensure neither department has any issues prior to approving the occupancy of the fireworks stand. Occupancy shall include the stocking of items for the sale.

(8) City representatives, including the Building Inspector, as well as a Fire Official, are authorized to inspect the site and make periodic follow-up checks, as deemed necessary, to ensure continued compliance.

SECTION 3: STORAGE, SALE, AND HANDLING

(a) 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. Fireworks shall be stored in a room set aside for storage of fireworks only and shall have a sign over the entrance that reads, "Fireworks – No Smoking – Keep Open Flames Away." There shall be no less than two (2) approved (and fully charged) fire extinguishers kept in close proximity to the stock of fireworks where they are sold. Signs reading, "Fireworks for Sale – No Smoking Allowed" shall be displayed in the temporary structure that is selling and/or displaying fireworks. All fire extinguishers required herein shall be at least of type A standard (2A-10BC).

(b) Dates of sale shall be reflective of state law.

(c) Firework sales are seasonal sales only, within the times permitted by state law. No fireworks shall be sold or offered for sale at retail within the City of Gluckstadt before the fifteenth day of June and after the fifth day of July, and before the fifth day of December and after the second day of January of each year. Permitted holidays recognized for the purpose of sale shall be limited to the 4th day of July, the 25th day of December, the 31st day of December and the 1st day of January.

(d) Retail Sales Restricted. Persons desiring to sell fireworks at retail in the city shall secure a transient vendor permit from the Zoning Administrator and a privilege license from the City of Gluckstadt. Such permit shall be issued upon payment of the required two hundred- and fifty-dollar (\$250.00) fee.

(e) 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, or the firework is equipped with a threaded safety fuse. All retail stands will display a minimum of four (4) "No Smoking" signs in a prominent place, viewable to the public. The permittee shall be responsible for strict enforcement of the no-smoking regulation.

(f) It shall be unlawful for fireworks to be stored, kept, sold, or discharged within three hundred (300) feet of the property line of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold. Additionally, all fireworks sales sites are required to be twenty-five hundred (2,500) feet away from other existing fireworks outlets, and five hundred (500) feet from any residential properties. Public safety, ingress, egress, and adequate parking will be factors considered by the Fire Official and Building Official before recommending any fireworks sales site for approval by the Mayor and Board of Aldermen.

(g) It shall be unlawful to offer for sale any fireworks of a type that have not been evaluated and approved for sale and use within the State of Mississippi by the state fire marshal. All new pieces of fireworks not having been evaluated by the state fire marshal shall be submitted to the state fire marshal for test and approval or rejection before being offered for sale to retailers or individuals within the city. It shall be unlawful to sell any fireworks item that is not properly labeled as to the manufacturer and contents of the item. It shall be unlawful to sell, possess, manufacture, fire, or transport, except as provided herein, all fireworks as defined herein, not bearing the label "I.C.C. or D.O.T. Class C common fireworks."

(h) It is hereby provided by this ordinance that all fireworks sales must be located in the Highway Commercial District (C-2) as defined by the City's Zoning Ordinance.

(i) It is further provided by this ordinance that all fireworks locations must have a permanent power pole with an electrical panel box, with a minimum of a 200-amp main. There are to be no generators, portable lighting such as light towers and/or generated powered light trees used for the sites main power source or lighting. Additionally, temporary signs are allowed to be displayed on site with proper permit, in accordance with regulations found in the City's adopted zoning ordinance.

(j) No fireworks vendor may establish a retail sales location at an existing business, parking lot, or other facility in which fireworks retail sales is not the primary intended use. No storage of any excess or unsold inventory will be allowed within the City of Gluckstadt after the expiration of fireworks seasons. No onsite storage trailers or containers shall be allowed; all fireworks merchandise shall be located in a secure enclosed area. Violation of this section shall be grounds for immediate revocation of the fireworks permit.

(k) Parking: any fireworks location wherein fireworks are being sold must have a parking lot constructed of an asphalt/asphalt composition or compacted limestone with a minimum of ten (10) off street parking spaces. Primary parking in the grass or impediment of traffic is strictly prohibited.

(l) It shall be unlawful for any person, firm, partnership, entity, or corporation to sell or offer for sale any type of fireworks until the Gluckstadt Planning and Zoning Department and/or Fire Official's office inspects and approves all facilities for occupancy. If any violations are found, they shall be fixed prior to allowing the stand to open.

(m) Age requirement. No fireworks shall be sold to any person under the age of sixteen (16) years. All persons involved in the sale of fireworks shall be at least eighteen (18) years of age.

(n) No fireworks shall be sold to any intoxicated person or any individual suspected to be under the influence of alcohol or drugs.

(o) In addition to the requirements set forth herein, this ordinance does hereby incorporate any and all provisions of the law pertaining to Section 45-13-1 through Section 45-13-15 of the Mississippi Code of 1972 Annotated.

SECTION 4: USAGE OF FIREWORKS

The discharging, shooting, and igniting of Class “C” Common fireworks within the municipal limits of the City of Gluckstadt is limited to permitted holidays as defined above. It shall be unlawful for any person to shoot, discharge, fire, explode or otherwise use any fireworks on or in any of the streets, sidewalks, alleys, residential areas or elsewhere within the City limits, except during the permitted dates and times listed under “permitted holidays” above. Any individual violating this provision shall be punished by a fine not to exceed fifty dollars (\$50.00), per each occurrence.

It is unlawful to use fire or discharge any fireworks along the route of and during any parade or in any place of public assembly unless it is an event as described and authorized by permit. If the person in charge of or sponsoring any lawful public gathering, demonstration or celebration, desires to have a fireworks display at such gathering, demonstration or celebration, the Mayor and Board of Aldermen may approve issuance of a permit authorizing the possession, and use of fireworks for such display, after first finding and determining that a reasonably competent person will be in charge of such display and that such display can be conducted at any such gathering, demonstration or celebration with reasonable safety.

It is unlawful at any time to throw, toss or aim any fireworks at any person, animal, or vehicle, nor shall any persons throw the same from a motor vehicle.

It is unlawful to explode any fireworks within three hundred (300) yards of any railroad depot or warehouse as described under Mississippi Code Section 97-37-27.

It shall be unlawful to explode or ignite fireworks within five hundred (500) feet of any church or school (while in session or during a church or school sponsored event), hospital, asylum, or within three hundred (300) feet of where fireworks are offered for sale.

SECTION 5: VIOLATION AND PENALTIES


(a) Violation of any provision of this ordinance shall be unlawful and shall be punishable by a fine of not more than \$1,000, or by imprisonment for a period not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court. Each violation shall constitute a separate offense.

(b) In addition, any violations of the provisions of this ordinance which result in a conviction in the Gluckstadt Municipal Court, or any state court within Mississippi, shall bar the person so convicted from obtaining city permits and licenses relating to fireworks for a period of two years.

SECTION 6: EFFECTIVE DATE

This Ordinance shall be effective one (1) month from and after the date of its adoption and following newspaper publication as provided by Miss. Code Ann. § 21-13-11 (Rev. 2015).

SO ORDAINED, THIS THE 10th DAY OF MAY, 2022.


WALTER C. MORRISON, IV
MAYOR

Attest:


LINDSAY D. KELLUM
CITY CLERK



	Aye	Nay
ALDERWOMAN BATES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ALDERMAN POWELL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ALDERMAN SLAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ALDERMAN TAYLOR	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ALDERWOMAN WILLIAMS	<input checked="" type="checkbox"/>	<input type="checkbox"/>