

ORDINANCE NO. 2007-190

**WHEREAS**, a public hearing was held on May 29, 2007, according to requirements of law for the adoption of rules and regulations printed in book or pamphlet form by reference, concerning the following matter, and

**WHEREAS**, at said public hearing all objections registered or made known against the adoption of said rules and regulations were either over ruled or satisfied.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of the City of Dothan, Alabama, as follows:

**Section 1.** It is hereby found and determined that the provisions of Resolution No. 2007-168 adopted by this Commission on May 8, 2007, and other requirements of law for the adoption of rules and regulations printed in book or pamphlet form by reference to have been complied with.

**Section 2.** That Chapter 38, Fire Prevention Code of the Code of Ordinances of the City of Dothan, Alabama, is hereby amended in its entirety to read as follows:

**ARTICLE I. PURPOSE, ADMINISTRATION, PERMITTING AND INSPECTION REQUIREMENTS,  
FEES, PENALTIES**

**DIVISION 1. ADOPTION**

**Sec. 38-1. Adoption.**

That certain document, a copy of which is on file in the office of the city clerk of the CITY OF DOTHAN, Alabama, being marked and designated as the International Fire Code, 2006 Edition (as published by the International Code Council, Inc., and copyrighted in January, 2006), including Appendices B through G, inclusive, thereof, which is hereby incorporated by reference as a part of this article as though fully set forth herein, is hereby adopted as the "Fire Code of the CITY OF DOTHAN" (sometimes hereinafter called "Fire Code"), regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as therein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code with the additions, insertions, deletions and changes, if any, prescribed in the following sections of this article.

**DIVISION 2. PURPOSE; ADMINISTRATION**

**Sec. 38-2. Purpose of this chapter.**

In order to serve and protect the public health, safety and provide for the general welfare, the declared purpose of this chapter is to adopt the 2006 Edition of the International Fire Code and National Fire Protection Association (NFPA) Standards.

**Sec. 38-3. Administering authority.**

The Fire Marshal's Office under general direction of the Fire Chief shall be responsible for administration and enforcement of the provisions of this chapter.

### DIVISION 3. AMENDMENTS

#### **Sec. 38-4. *International Codes amended.***

- a) *Section 102.6. Referenced Codes and Standards (International Fire Code).* The Codes and Standards referenced in this Code shall be those that are listed in Chapter 45 of the 2006 Edition of the International Fire Code and such Codes and Standards, as the same may be revised or amended from time to time, shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between the revisions of this Code and the referenced Standards, the provisions of this Code shall apply.
- b) *Section 103.1. Fire Department.* The person in charge shall be known in this Code as the Fire Official, who shall be called the Fire Chief of the City of Dothan, and who is charged with the implementation, administration and enforcement of the City of Dothan's Fire Code.

### DIVISION 4. PERMIT AND INSPECTION REQUIREMENTS

#### **Sec. 38-5. *Inspection notice.***

When any of the trade work is ready for inspection, it shall be the duty of the sub-contractor of that trade or owner doing his own work to notify the inspection office orally, by telephone or in writing, not less than twelve working hours before the work is to be inspected or tested. All work shall be left uncovered, where it applies, until approved as having been done in accordance with this article.

#### **Sec. 38-6. *Plans review.***

- a) All commercial construction plans submitted for review shall be stamped and signed by an Alabama registered architect or engineer.
- b) All plans submitted must include the following information:
- Occupancy type(s) and capacities (for each area)
  - Construction type
  - Building dimension(s)
  - Life safety information (Exit information, lighting, protection systems, alarms, etc)
  - Correct physical address
  - Site plan

#### **Sec. 38-7. *Automatic fire sprinkler systems.***

- a) No person shall install, modify or repair an automatic fire sprinkler system without first obtaining a permit from the City of Dothan.
- b) Any person who installs fire sprinkler systems must be certified by the State Fire Marshal's office and approved by the Fire Official on an annual basis renewable in January of each year.
- c) Installer must have sprinkler plans approved by the Fire Official before commencing any part of the installation.
- d) No company shall perform maintenance or testing on any fire sprinkler system unless a representative of said company is certified by the State Fire Marshal's office and approved by the Fire Official.
- e) Upon final inspection, the NFPA Contractor's Material and Test Certificate for Aboveground Piping shall be properly completed and submitted to the Fire Official.
- f) The Fire Official shall require certain operational tests upon final inspection.
- g) A copy of the records of all maintenance and repairs made to any automatic fire suppression systems shall be sent to the Fire Marshal's Office monthly.

#### **Sec. 38-8. *Standpipe systems.***

- a) Any person who installs a standpipe system must be certified by the State Fire Marshal's office and approved by the Fire Official.
- b) No person shall install a standpipe system without first obtaining a permit from the City of Dothan.
- c) A copy of the records of all maintenance and repairs made to any standpipe system shall be sent to the Fire Marshal's Office monthly.
- d) The Fire Official shall require certain operational tests upon final inspection.

**Sec. 38-9. Fire pumps.**

- a) Any person who installs, repairs or services fire pumps must be a licensed Alabama sprinkler contractor and be certified by the State Fire Marshal's office and approved by the Fire Official on an annual basis renewable in January of each year.
- b) A copy of the records of all maintenance and repairs made to any fire pump shall be sent to the Fire Marshal's Office monthly.
- c) All testing of fire pumps shall comply with NFPA 25.
- d) The Fire Official shall require certain operational tests upon final inspection.

**Sec. 38-10. Fire alarm systems, servicing.**

- a) No person shall engage in the business of servicing fire alarm systems without possessing a current business license issued by the CITY OF DOTHAN on an annual basis renewable in January of each year.
- b) No person shall be issued a permit to install, modify, repair, test or service fire alarm systems who does not possess a then-current manufacturer's certification of training from the manufacturer of the type equipment to be installed, modified, repaired, tested or serviced, or be certified by the National Institute of Certification in Engineering Technologies (NICET) fire alarm certified - minimum level II.
- c) Owners of buildings may perform maintenance on their own systems as long as the individual who performs the system maintenance possess a then-current certificate of training issued by the manufacturer of that system's equipment or be NICET fire alarm certified - minimum level II.
- d) A service tag shall be required to be installed by the permitted alarm servicing individual or company at the control panel of each fire alarm system, stating the service company's name, address, phone number, name of the technician performing the service, date, and the type of service performed.

**Sec. 38-11. Fire alarm systems, installation.**

- a) Any person who installs a fire alarm system shall possess a current business license issued by the CITY OF DOTHAN on an annual basis renewable in January of each year.
- b) No person shall install or modify a fire alarm system without having the plans approved by the Fire Official before commencing any part of the work. No person shall commence working on a fire alarm system without first notifying the Fire Marshal's Office.
- c) Any person or entity who designs fire alarm systems must possess written evidence from the manufacturer of the equipment to be installed, certifying that the designer is qualified to design fire alarm systems or be National Institute of Certification in Engineering Technologies (NICET) fire alarm certified - minimum level III.
- d) Installer must possess written evidence from the manufacturer of the equipment to be installed, certifying that the installer is qualified to install such equipment or the installer must be NICET fire alarm certified - minimum level II.
- e) Licensed electricians may pull wire, mount ancillary equipment, and connect the main power to the control panel after a permit has been issued; but no one other than a qualified fire alarm installer shall be allowed to make any other connections inside the control panel.
- f) A certified fire sprinkler installer may install devices integral to the operation of the fire sprinkler system, but shall not make any connection to the fire alarm system.
- g) Upon final inspection, the NFPA Fire Alarm System Record of Completion form shall be properly submitted to the Fire Official and a fire alarm system test shall be performed in the presence of the Fire Official.

**Sec. 38-12. Portable fire extinguishers.**

- a) No person shall engage in the business of servicing portable fire extinguishers without possessing a current business license issued by the CITY OF DOTHAN, renewable in January of each calendar year.
- b) No person shall be issued a license to service portable fire extinguishers who does not possess a then-current manufacturer's certification of training for servicing the type extinguisher being installed or serviced.
- c) The technician who actually performs the work of servicing portable fire extinguishers shall sign and date the service tag verifying that all work was done in compliance with NFPA standards.

**Sec 38-13. Fixed Fire Extinguishing Systems, Servicing.**

- a) No person shall engage in the business of servicing and/or installing fixed fire extinguishing systems without first being approved by the Bureau of Fire Prevention's Fire Official on an annual basis, renewable in January of each calendar year.
- b) No person shall be issued a license to service or install fixed fire extinguishing systems who does not possess a then-current manufacturer's certification of training for servicing and/or installing the type system to be serviced or installed.
- c) The technician who actually performs the work of servicing fixed fire extinguishing systems shall sign and date the service tag verifying that all work was done in compliance with NFPA standards.

**Sec 38-14. Fixed Fire Extinguishing Systems, Installation.**

- a) No person shall be issued a permit to install a fixed fire extinguishing system that does not possess a then-current manufacturer's certification of training for installation of the type system to be installed.
- b) No person shall install a fixed fire extinguishing system without first having plans approved by the Fire Marshal's Office.
- c) The Fire Official shall require certain operational tests upon final inspection.

**DIVISION 5. PERMIT FEES**

**Sec. 38-15. Permit fees; in general.**

Permit fees shall be based upon the cost of construction or other valuation defined in Chapter 14 of the City of Dothan Code of Ordinances and in accordance with the fee schedule defined therein unless otherwise noted. On all buildings, structures or alterations requiring a building permit, as set forth therein, fee shall be paid as required at the time of filing of an application and before any construction begins.

Where the Fire Marshal determines that construction permits are required, application for said work must be made to the building official in accordance with provisions of this article. The building official shall establish procedures for making application and issuing required permits and performing inspections of building construction, alteration, repair, moving, and demolition activities in the city.

The following activities, in addition to others specified herein, require permits, the cost of which shall be in accordance with section 14-5 (minimum fee of \$50.00):

- a) Portable fire extinguisher installation and service
- b) Fire alarm systems
- c) Gasoline and bottled gas installation;
- d) Fire suppression sprinkler system installation (all fixed fire suppression systems to include, but not limited to: kitchen hoods, paint booths, etc).

**DIVISION 6. PENALTIES**

**Sec. 38-16. Penalties.**

(a) *Construction or other activities requiring permits before obtaining a permit.* Any contractor or others working without first obtaining a required permit for the work being done will be charged the lesser of \$500.00 or double the permit fee for the first two offenses in a 12 month period and the greater of double the permit fee or \$500.00 for the third or any additional offenses during any subsequent 12 month period.

(b) *Other violations.* Persons violating any section of the provisions of this code shall be guilty of a misdemeanor and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed, and upon conviction for any such violation such person will be punished.

**Section 38-17- Section 38-25. Reserved.**

## ARTICLE II. OPEN BURNING.

### DIVISION 1. GENERAL

#### **Sec. 38-26. Definitions.**

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

*Contractor* means the primary contractor/builder or subcontractor for a particular construction site for which a building permit has been issued.

*Fire extinguishing equipment* means an approved five-pound ABC fire extinguisher and any other equipment approved in writing in advance by the Fire Marshal.

*Fire Marshal* means the officer or other designated authority or their duly authorized representative charged with the administration and enforcement of the fire prevention code.

*Open burning* means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack, duct or chimney.

#### **Sec. 38-27. Purpose.**

This article is enacted to protect, preserve and promote the safety and welfare of the citizens of the city through the reduction, control and prevention of open burning.

#### **Sec. 38-28. Method of enforcement.**

The Fire Marshal and any person acting under his supervision, and any law enforcement officers are authorized to issue citations to appear in municipal court to answer charges of violations of any of the provisions of this article.

#### **Sec. 38-29. Penalties.**

Any person who violates or fails or refuses to obey or comply with any provision of this article shall upon conviction be punished, in addition to such other punishment, including a term of community service, as may be provided by the court, by minimum fines and penalties, for a first conviction of \$100.00 or by imprisonment for not more than ten days. For conviction of a second offense committed within one year after the date of the first offense, such person shall be punished by a fine of \$200.00 or by imprisonment for not more than 30 days or by both such fine and imprisonment. For conviction of a third or subsequent offense committed within one year after the date of the first offense, such person shall be punished by a fine of \$500.00 or by imprisonment for not more than three months or by both such fine and imprisonment. Multiple violations will result in a permanent ban of permit issuance for violators.

**State law references:** Penalties for ordinance violations, Code of Ala. 1975, § 11-45-9.

#### **Sec. 38-30. Exemptions.**

Nothing contained in this article shall be construed as applying to the regular military or naval forces of the United States, the duly authorized militia of the state, or the police and fire departments in the proper performance of their duty.

#### **Sec. 38-31. Compliance.**

No person shall cause, suffer, allow or permit open burning except as specifically permitted by this article.

#### **Sec. 38-32. Exceptions to prohibition.**

a) Open burning may be conducted, subject to the limitations as spelled out in the open burning permit which is issued upon approval. This grant of exception shall in no way relieve the person responsible for such open burning from the consequences of or the damages or injuries resulting from such burning. No open burning permits shall be issued without the prior approval of the Fire Marshal or his designated representative. The Fire Marshal's approval shall be based upon his judgment as to the fire safety potential of the proposed open burning activity.

- b) Open burning of leaves and small tree limbs, less than three inches in diameter, at a residence where collection for such material is not available. The determination of availability will be made by the Fire Marshal. Fires must be a minimum of 10 feet from any building on the owner's property and a minimum of 500 feet from any other buildings.
- c) Open burning for the disposing of materials grown on that tract of land may be conducted provided the following conditions are met:
1. Burning is done using an air curtain destructor or other approved device, at suitable sites as approved by the Fire Marshal, when such device is operated in a manner satisfactory, and with a valid open burning permit.
  2. The burning will take place on days and hours designated by the Fire Marshal. Designated days of burning will always be tentative and will be regulated according to weather conditions.
- d) Open burning as specified below may be conducted, subject to the limitations as spelled out in the permit which is issued upon approval by the Fire Marshal. This grant of exception shall in no way relieve the person responsible for such open burning from the consequences of or the damages or injuries resulting from such burning.
1. Ceremonial fires (such as school bonfires) when the fires are approved, ignited and extinguished by fire department personnel.
  2. Fires set between October 1 and April 30 for the purpose of providing warmth to workers at construction sites for which a building permit has been issued, providing the following conditions are met:
    - a. The fire is contained in a noncombustible container not to exceed 55 U.S. gallons, with the opening covered by an ash screen.
    - b. Fire containers shall be located a minimum of 25 feet from any structure, tree or bush.
    - c. Fire containers shall be located a minimum of 25 feet from electrical lines and/or electrical service.
    - d. Only clean fuel not containing garbage, rubber, plastics, metals, shingles, treated lumber, or other hazardous materials is permitted.
    - e. Fire extinguishing equipment shall be located within ten feet of the fire container.
    - f. Fires shall be extinguished when no worker is in attendance.
    - g. The contractor shall apply in advance for a permit issued in his name from the Fire Marshal and shall be held liable for all permit violations on the burn site.
  - e) Open burning activities as specified below may be conducted without an open burning permit. Notification of intent to conduct such activity as specified below shall be made 24 hours prior to the time the open burning activity is to begin. The person conducting any of the following open burning activities shall be responsible for the consequences of such activities and all damages or injuries resulting from such open burning:
    1. Fires set for the training and instruction of public or private firefighting personnel.
    2. Fires set by or at the direction of responsible fire control agencies for the prevention, elimination or reduction of a fire hazard.
    3. Smokeless flares or safety flares for the combustion of waste gases.
    4. Fires used for agricultural, horticultural and silvicultural purposes, when specifically recommended by the state extension service or the state forestry commission, provided such fires are conducted only in situations where the actual burning is at least 1,000 feet from the closest occupied building.
    5. Fires used to destroy pests, germs, dead animals, etc., when the open burning is being conducted in accordance with or under the direct supervision of personnel of the local or state health department.
  - f) No open burning permit or notification is required for fires used for cooking of food, including barbecues and outdoor fireplaces. Only clean fuel not containing garbage, rubber, plastics or other refuse is permitted.
  - g) No open burning permit is required for outdoor fireplaces, or outdoor heating containers for residential use.

## DIVISION 2. OPEN BURNING PERMITS

### **Sec. 38-33. Permits.**

Open burning permits may be issued subject to specific conditions, consistent with standards provided in this division, in which case the conditions shall be specified in writing. The holder of a permit shall comply with conditions contained in such permit as well as all applicable provisions of this article.

### **Sec. 38-34. Permit applications.**

Applications for open burning permits shall be in the form prescribed by the Fire Marshal and shall give all the information necessary to enable him to make the determinations required in this division. Applications should be submitted a minimum of three days prior to the requested burn date.

### **Sec. 38-35. Action on application.**

The Fire Marshal shall act, within a reasonable time, on an application for a permit and shall notify the applicant in writing of its approval, conditional approval or denial.

### **Sec. 38-36. Permit fees.**

- a) Open burning permit fees for individual residents shall be waived.
- b) Open burning permit fees for commercial developments shall be in the amount of \$50.00, with an additional \$10.00 per acre. Fees shall be made payable to the City of Dothan and shall be nonrefundable.
- c) Commercial permits shall be issued for a period of 7 days and can be extended to 10 days, due to weather delays.

### **Sec. 38-37. Transfer.**

Open burning permits shall not be transferable whether by operation of law or otherwise, either from one location to another, or from one person to another.

### **Sec. 38-38. Expiration of permit.**

Open burning permits shall expire on the date specified on the face of the permit. In no event, however, may an open burning permit be issued which has an expiration date of longer than ten days from the burn start date.

### **Sec. 38-39. Display of permits.**

Permits shall be displayed and available for inspection at the open burning site by any and all persons who may request to see the permits. Commercial developments shall display a "Notice" sign available from the Fire Marshal.

### **Sec. 38-40. Revocation of permit.**

Any open burning permit granted may be revoked for any of the following causes:

- a) Failure to comply with the provisions of this article.
- b) Failure to comply with any conditions of the open burning permit.
- c) Outdoor fire bans by the State due to weather, and drought periods (water usage).
- d) For any other cause if, in the judgment of the Fire Marshal, continuance of the permit is not consistent with the purposes of this article.

### **Section 38-41 – Section 38-50. Reserved.**

## ARTICLE III. Fuel storage tanks.

### **Sec. 38-51. Installation of aboveground or underground fuel storage tanks.**

- a) No person shall install any stationary aboveground or underground flammable or combustible liquid storage tank without first obtaining a permit from the CITY OF DOTHAN.

- b) No person shall be issued a permit until plans showing the complete fueling system have been submitted to the Fire Official for approval. Plans should include the relationship of the storage tank to the property lines, buildings, public ways, other tanks, and to the dispenser. The plans also shall show and list all the safety devices to be installed on the tank.
- c) The installation shall follow recognized industry standards for aboveground tanks and the requirements of NFPA 30 and NFPA 30A.
- d) Any person who installs underground flammable or combustible liquid storage tanks shall call for an inspection prior to covering the tank or piping.
- e) Installer shall call for a final inspection after completing the installation. The Fire Official shall require certain operational tests upon final inspection.

**Sec. 38-52. Non-permanent fuel storage tanks in excess of 100 gallons.**

- a) An annual permit for all non-permanent stationary aboveground flammable or combustible liquids storage tanks (AST) is required. The installation shall follow recognized industry standards for aboveground tanks and the requirements of NFPA 30 and NFPA 30A.
- b) Installation must meet the requirements of the International Fire Code 2006 edition.
- c) Tanks must be listed for aboveground use.
- d) Exception: Tanks used for storage of Class IIIB combustible liquids (crankcase draining) and fuel tanks permanently mounted on licensed vehicles.

**Section 38-53 – Section 38-55. Reserved.**

**ARTICLE IV. General requirements of the Fire Prevention Code.**

**Sec. 38-56. General Requirements.**

- a) No permit shall be issued to any individual or company who does not possess a then-current CITY OF DOTHAN business license related to the area of operation or business to be so permitted.
- b) No permit shall be issued to any individual or company who does not possess a then-current Certificate of Liability Insurance in the amount of One Million Dollars (\$1,000,000.00) and list the CITY OF DOTHAN as the certificate holder. Sprinkler contractors shall also have Errors & Omissions and/or Professional Liability Coverage Endorsement on the insurance certificate.
- c) It shall be required that a copy of all annual or semi-annual inspection reports be submitted to the Fire Marshal's Office with any and all deficiencies clearly noted (to be submitted monthly).
- d) No person or company shall be issued a permit under this Code until such time as they show proof of then-current certification of training and be approved by the Fire Official.
- e) Violation/Penalties. Where work for which a permit is required by this Code commences prior to obtaining said permit, the permit fee herein specified shall be doubled.
- f) Re-Inspection fee(s). A fee of Fifty Dollars (\$50.00) shall be paid for each re-inspection requested or required after the first re-inspection.
- g) Each additional letter of inspection or copy of an official inspection report shall cost Ten Dollars (\$10.00).
- h) Emergency Repairs. Where equipment replacement and/or repairs must be performed in an emergency situation, the permit application shall be submitted within the next business day at the Fire Official's office.
- i) Weekend and emergency inspections shall cost \$50.00 for the first (1st) hour and \$25.00 for each additional hour. Inspections needed as a result of a fire or other emergency will not be charged.
- j) Dothan Fire-Rescue Department, Fire Marshal's Office mailing address is 600 Columbia Hwy, Dothan, Alabama 36301.
- k) Payment. All checks and money orders shall be made payable to the CITY OF DOTHAN.
- l) All installation permits shall automatically expire 90 days from the date of issuance.
- m) Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.
- n) All private fire hydrants shall be color-coded in accordance with CITY OF DOTHAN Guidelines, with these additional requirements:
  1. Marking on private hydrants – the barrel shall be painted in accordance with the CITY OF Dothan's Guidelines and the bonnet shall be painted reflective yellow.
  2. All private hydrants shall have a control valve located and clearly marked near the hydrant.

3. Four blue reflective markers shall be placed in a diamond pattern in the street for rapid identification at night.

o) Maintenance of all private fire hydrants is the sole responsibility of the property owner. Any private fire hydrant found to be out-of-service shall be repaired immediately. The CITY OF Dothan will perform bi-annual inspections of all private fire hydrants.

p) Fire Department Connections (FDC) shall be located on the address side (front, or as otherwise specified) of all buildings. An exterior audible/visible device shall be installed in lieu of a water motor gong/bell.

q) A copy of the permit and approved plans shall be on the job site.

#### **Section 38-57 – Section 38-60. Reserved**

### **ARTICLE V. Sworn status.**

#### **Establishing the Arson Investigation Branch of the Fire Marshal's Office**

##### **Section 38-61. Arson Investigative Branch.**

a) Dothan Fire Department employees assigned to the Arson Investigative Branch by the Fire Chief are designated as law enforcement officers as defined by section 11-43-181, Code of Alabama, 1975 as amended, and Rule 1.4, Alabama Rules of Criminal Procedure.

b) Arson investigators shall maintain public order and investigate the commission or suspected commission of offenses related to arson or fire prevention and are hereby authorized to be armed and empowered with the full authority of law enforcement officers to make arrest and to take other such actions as may be legal, proper and necessary for the enforcement of the laws of the City of Dothan and the State of Alabama.

c) Arson investigators as law enforcement officers shall meet the minimum standards set out in section 36-21-46, Code of Alabama, 1975 as amended, and complete the Alabama Peace Officers Standards and Training Commission (A-POST) law enforcement academy and maintain certification as law enforcement officers as required by A-POST.

d) All other provisions of the City of Dothan ordinances not specifically amended herein shall remain in full force and effect.

e) Should any section or provision of this ordinance be held invalid it shall not affect the validity of any other section or provision hereof which is not of itself invalid.

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

#### **Section 38-62 – Section 38-65. Reserved.**

### **ARTICLE VI. Fireworks.**

##### **Sec. 38-66. Possession and sale of fireworks.**

No person, firm, or corporation shall possess, offer for sale, expose for sale, sell at retail, or use or explode any fireworks, except as herein provided.

##### **Sec. 38-67. Definition.**

Any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer (Explosive's 1.4G)", "theatrical and novelty (Explosives 1.4S)" or "display (Explosive's 1.3G)" fireworks as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, Title 49, Code of Federal Regulations (CFR), Parts 171-180.

##### **Sec. 38-68. Exceptions.**

a) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and pick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to said regulations.

b) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.

c) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

**Sec. 38-69. Permit required.**

The city fire department shall be permitted to adopt reasonable rules and regulations for the licensing of individuals or granting of permits for supervised displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals. Such permits shall be permitted to be granted upon application to the city fire department's fire marshal's office and approval in accordance with the regulations for the display and filing of a bond by the individual filing the permit application. An inspection and/or determination by the fire department will be performed after application and before issuance of permit. (See NFPA 1126, Code for Fireworks Display and NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience.)

A competent operator, licensed or certified as to competency by the city fire department, shall handle every such display. Every such display shall be of such composition and character and shall be located, discharged, or fired so as, in the opinion of the board of commissioners, after proper site inspection, not to be hazardous to any person or property. After such privileges have been granted, sales, possession, use, and distribution of fireworks for such displays shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

**Sec. 38-70. Proof of financial responsibility required.**

Before any permit for a pyrotechnic display shall be issued, the person, firm, or corporation making application therefore 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, firm, or corporation or any agent or employee thereof, in such amount, character, and form as the fire department determines to be necessary for the protection of the public.

**Sec. 38-71. Permitted uses.**

Nothing in this law shall be construed to prohibit any of the following:

- 1) The sale, at wholesale, of any fireworks for supervised displays by any approved resident manufacturer, wholesaler, dealer, or jobber, in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco, and Firearms (see Title 27, Code of Federal Regulations, Part 181) and the U.S. Department of Transportation.
- 2) The manufacture, transportation, or storage of fireworks at a manufacturing facility. The testing of fireworks under the direction of its manufacturer provided permission for such testing has been obtained from the authority having jurisdiction.
- 3) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fuses, automotive, aeronautical and marine flares and smoke signals.
- 4) The sale and use of blank cartridges for use in a show or theater; for signal or ceremonial purposes; in athletics or sports; or legal power tools.
- 5) The transportation, handling, or use of any pyrotechnic devices by the Armed Forces of the United States.
- 6) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.
- 7) The use of fireworks for agricultural purposes under the direct supervision of the U.S. Department of the Interior or an equivalent state or local agency. [See Title 16, Code of Federal Regulations, Part 1500.17(a)(8)].

**Sec. 38-72. Authority.**

The authority having jurisdiction shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale or stored or held in violation of the law. The Dothan Police Bomb and Explosive Detail will destroy seized items in accordance with ATF Standards.

**Sec. 38-73. Violation.**

Any person, firm, or corporation violating the provisions of this article shall be guilty of misdemeanor.

**Sec. 38-74. Severability.**

Any provisions of this article held to be unconstitutional shall not invalidate the remainder thereof. Any acts, laws, or parts of laws in conflict with any provision of this law are hereby repealed to the extent of the conflict.

**Section 3.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Dothan hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**Section 4.** That nothing in this ordinance or in the International Code Council and National Fire Protection Association (NFPA) Standards hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**Section 5.** That the City Clerk of the City of Dothan is hereby ordered and directed to cause this ordinance to be published.

**Section 6.** That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately after being advertised as required by law.

**PASSED, ADOPTED AND APPROVED on** \_\_\_\_\_ **May 29, 2007** \_\_\_\_\_.

\_\_\_\_\_  
**Mayor**

**ATTEST:**

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**Associate Commissioner**

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**City Clerk**

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**Associate Commissioner**

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**Associate Commissioner**

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**Associate Commissioner**

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**Associate Commissioner**

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**Associate Commissioner**  
**BOARD OF CITY COMMISSIONERS**