

CHAPTER 93: FIREWORKS; FIRE PREVENTION

Section

Fire Prevention

- 93.01 Definitions
- 93.02 Standards of safety adopted
- 93.03 Fire limits
- 93.04 Fire protection service outside city limits

Fire Department

- 93.10 Fire Department access
- 93.11 Obstructing fire hydrants and Fire Department access roads
- 93.12 Fire Inspection Program
- 93.13 Designated Enforcement Officer

Smoke Detectors

- 93.20 Administration/smoke detector
- 93.21 Requirements
- 93.22 Installation, maintenance
- 93.23 Conflicting provisions

Open Burning

- 93.30 Open burning prohibited; exceptions
- 93.31 Burning of leaves and household rubbish prohibited
- 93.32 Open burning location requirements
- 93.33 Open burning regulations
- 93.34 Open burning attendance required

Fireworks

- 93.40 Sales and use of fireworks
- 93.41 Storage of fireworks and pyrotechnical devices
- 93.42 Violations
- 93.43 Penalty and enforcement

FIRE PREVENTION**§ 93.01 DEFINITIONS.**

For the purpose of this subchapter the following definitions shall apply unless context clearly indicates or requires a different meaning.

COMPETENT DISPLAY OPERATOR. The person with the overall responsibility for the operation and safety of a fireworks display. They shall hold a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) License and have participated as an assistant in firing at least five public displays.

DWELLING. Any building which contains one or more dwelling units or any rooming unit, rooms, or area designed or used for sleeping purposes either as a primary use or use on casual occasions. This term shall include, but not be limited to, a rooming house, hotels, motels, tourist homes, school dormitories, and apartment buildings.

DWELLING UNIT. Any group of rooms located within a building and forming a single housekeeping unit with facilities which are used or designed to be used for living, sleeping, cooking, or eating.

FIRE DEPARTMENT ACCESS ROAD. A road which is designed to allow Fire Department apparatus access, pursuant to § 93.04, to a building or site. Access roads shall be located and constructed in accordance with § 93.04(A) - (F).

FIREWORKS. 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 fireworks" as defined in KRS 227.702 or "display" fireworks as defined in KRS 227.706 and as set forth in the United States Department of Transportation's (DOT) hazardous materials regulations.

GARBAGE. Putrescible animal and vegetable matter accumulated by a family in a residence in the course of ordinary day to day living.

HOUSEHOLD RUBBISH. Waste material and trash, not to include garbage, normally accumulated by a family in a residence in the course of ordinary day to day living.

MULTIPLE STRUCTURES. Structures located on the same property but not connected by common construction.

NEW BUSINESS. A business that begins operations at a new location or that changes its use at an existing location.

OPEN BURNING. The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney.

OWNER. Any person who alone, jointly, or severally with others:

(1) Shall have all or part of the legal title to any real property without or without accompanying actual possession thereof, or shall have all or part of the beneficiary ownership of any real property and a right to present use and enjoyment thereof, including a mortgage in possession; or

(2) Shall have charge, care, or control of any real property including but not limited to; owner, executor, administrator, trustee, guardian of the estate, real estate agent acting in managerial role, property manager, business manager, employee, landlords, tenants or anyone representing the entity. Any such person thus representing the actual owner shall be bound to comply with the owner's obligations under this chapter.

PERMANENT FIREWORKS ESTABLISHMENT. Any person, firm co-partnership, nonprofit, or corporation intending to sell "consumer fireworks", as the primary source of business, that is not a seasonal retailer as defined in this section.

PUTRECIBLE. Having the ability to become putrid.

RECREATIONAL OR CEREMONIAL PURPOSES. A fire not more than five feet (1,524 mm) by five feet (1,524 mm) in dimensions and shall not burn longer than three hours. The size and duration of said fire shall only be increased by the Fire Chief or his designee when it is determined that fire safety requirements for the situation and the desirable duration of burn warrant the increase. Fuel for said fire shall consist only of seasoned dry firewood and shall be ignited with a small quantity of paper. The fire shall not be used for waste disposal purposes and the fuel shall be chosen to minimize the generation of air contaminants.

RED FLAG WARNING.

(1) A term used by fire-weather forecasters to call attention to limited weather conditions of particular importance that may result in extreme burning conditions. It is issued when it is an on-going event or the fire weather forecaster has a high degree of confidence that Red Flag criteria will occur within 24 hours of issuance.

(2) Red Flag criteria occurs whenever a geographical area has been in a dry spell for a week or two, or for a shorter period, if before spring green-up or after fall color.

ROOMING UNIT. Any room which is designed or used for sleeping purposes. This term may include a room in a rooming house, a hotel, a motel, tourist home, a school dormitory, or an apartment building which may or may not have some additional facilities for eating or cooking contained therein.

SEASONAL RETAILER. Any person, firm co-partnership, nonprofit, or corporation intending to sell "consumer fireworks" between June 10 and July 7, or December 26 and January 4 of each year or both, and shall include permanent businesses, temporary businesses, stores, stands, or tents.

SILVICULTURAL. The practice of cultivating trees, forestry.

TENANT. Any individual, company, partnership, trustee or any other entity that occupies a structure.

(Ord. 15-10-04, passed 10-19-15)

§ 93.02 STANDARDS OF SAFETY ADOPTED.

(A) There is hereby established, within the city, a fire inspection program in accordance with KRS 227.320 and The Kentucky Standards of Safety (Fire Prevention Code) as promulgated in 815 KAR 10:060 by the Commissioner of the Department of Housing, Building and Construction on the advice and recommendation of the State Fire Marshal, and which includes by reference the NFPA Fire Prevention Code, is hereby adopted in full. Copies of the code book are available through the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Frankfort, Kentucky.

(1) The Benton Fire Chief or his designee is authorized to inspect all property for the purpose of ascertaining and causing to be corrected any conditions likely to cause fire loss, or determining the cause or origin of any fire loss, or discovering any violation of a law or ordinance relating to fire prevention and protection. This authority shall apply to the interior of occupied, private dwellings only when a fire loss has occurred therein or when the officer has reason to believe that unsafe conditions exist in the building. Inspections of property located within the Benton city limits shall be made in accordance with an inspection schedule approved by the Benton Fire Chief and/or State Fire Marshal. The Benton Fire Chief and/or State Fire Marshal reserve the right to inspect any premises at any time outside the schedule if deemed necessary.

(2) No owner shall fail to furnish and use reasonable adequate protection and safeguards against fire loss, or fail to adopt and use processes and methods reasonably adequate to render such places safe from fire loss as defined by 815 KAR 10:060 - Kentucky Standards of Safety.

(3) No owner shall require or allow the public or any employee to go into or be in any property under his control which is not reasonably safe from fire loss as defined by 815 KAR 10:060 - Kentucky Standards of Safety.

(4) Whenever the Benton Fire Chief or his designee(s) find a property which, for want of repairs, lack of sufficient exits or escape facilities, lack of alerting devices, dilapidated condition, or any other cause, is especially liable for fire loss, or whenever the Benton Fire Chief or his designee(s) find in any property, combustible or explosive matter or inflammable materials likely to result in fire loss, he shall order it to be remedied. The Benton Fire Chief or his designee(s) shall deliver the order, describing the deficiencies, to the owner. The owner shall conform to the order within the specified time. If any owner fails to comply with an order within the specified time, the Benton Fire Chief or his designee(s) may cause the property to be repaired, or removed if repair is not feasible, and all fire hazard conditions remedied, at the expense of the owner. Any such expense incurred by the city shall be enforced against any property of such owner and shall have a lien for such expense on the real estate or property involved.

(5) Whenever the Benton Fire Chief or his designee(s) find any property in violation of any provisions of the fire code, he/she shall notify the owner in writing of such specific finding(s) and violations(s) and instruct the owner to correct the violation within a period of time not to exceed 60 days.

(B) Nothing in this section shall be interpreted to inhibit, circumvent, alter, change, or delay the Fire Chief or his designee's statutory authorizations involving immediate abatement of any dangerous condition(s).

(C) The City Clerk shall at all times keep in their possession for reference a copy of the most recent edition of the Standards of Safety.

(D) An attested copy of this chapter shall be transmitted to the office of State Fire Marshal and the rates section of the Department of Insurance of the Commonwealth of Kentucky.
(Ord. 15-10-04, passed 10-19-15)

§ 93.03 FIRE LIMITS.

The fire limits of the city include and are established as all areas within the business and industrial zones, and Marshall County Hospital Development.
(Ord. 15-10-04, passed 10-19-15)

§ 93.04 FIRE PROTECTION SERVICE OUTSIDE CITY LIMITS.

City fire apparatus and personnel shall not be utilized to fight fires outside the city limits unless pursuant to a mutual aid agreement with another governmental entity, or, at the discretion of the Mayor or his designee(s), or where fire threatens an occupied public school in Marshall County.
(Ord. 15-10-04, passed 10-19-15)

FIRE DEPARTMENT

§ 93.10 FIRE DEPARTMENT ACCESS.

(A) All premises which the Fire Department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads, parking lot lanes, or a combination thereof so that all buildings on the premises are accessible to fire apparatus.

(B) Plans for Fire Department access roads, fire hydrant systems and fire sprinkler system connections shall be provided to the Benton Fire Chief, or his designee, for review and approval prior to construction.

(C) A Fire Department access road shall extend to within 50 feet (15m) of at least one exterior door that can be opened from the outside and that provides access to the interior of the building. Access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located no more than 150 feet (46m) from Fire Department access roads as measured by an approved route around the exterior of the building or facility.

(D) More than one Fire Department access road shall be provided when it is determined by the Benton Fire Chief, or his designee, that access by a single road could be impaired by vehicle congestion, condition of the terrain, climatic conditions or other conditions that could limit access.

(E) Fire Department access roads shall have an unobstructed width of at least 20 feet including adjacent traffic lanes, with the road edge closest to the building at least eight feet from the building. Access roads shall have an unobstructed vertical clearance of at least 13 feet six inches (4.1m). Any dead-end access roads more than 150 feet long shall be provided with an approved turn-around at the closed end. The turnaround shall be either a cul-de-sac (120-foot diameter) or a T (50-foot arms). Curves in the access road shall not reduce the width of the road. Turns shall be constructed with a minimum radius of 60 feet (18.2m) to the outside of the turn.

(F) Fire Department access roads shall be constructed and maintained to support the imposed loads of Fire Department apparatus and shall be provided with an all-weather driving surface. The surface of access roads shall be marked with approved markings. Signs shall be posted that read "No Parking Fire Lane".

(G) Buildings or facilities containing automatic fire alarm or automatic fire sprinkler systems shall provide Fire Department access through the installation of key access boxes approved by the Benton Fire Chief or his designee.

(H) Fire Department access shall be provided to gated subdivisions or developments through the use of key switches or devices approved by the Benton Fire Chief or his designee.

(I) Industrial, commercial and institutional facilities that manufacture, process, use or store hazardous materials shall mark their facilities in accordance with NFPA 704. This section shall be retroactive to include all facilities for which the standard applies.

(J) Buildings equipped with fire sprinkler systems shall locate the Fire Department connection(s) away from the building a distance of at least one-and-a-half times the height of the building or at the street, whichever is closer. The Fire Department connections shall be located no closer than 20 ft (6 m) or further than 80 ft (24.2m) from a fire hydrant. Exception: Existing fire sprinkler installations.

(K) Fire hydrants shall be spaced apart no further than 450 feet (106 m) in residential areas, and 305 feet (136m) in commercial and industrial areas. Blue raised street reflectors shall be installed to indicate the location of fire hydrants. When a fire hydrant is located at an intersection, reflectors shall be installed on each street. Blue raised hydrant reflectors shall be installed on any city street that is resurfaced. Cost for the blue raised hydrant reflectors and their installation shall be borne by the contractor and the cost included in the street resurfacing bid.

(L) Any person violating any of the provisions of this section, in addition to any other penalties or fines, shall become liable to the city for any expense, loss, or damage occasioned by the city by reason of such violation.

(Ord. 15-10-04, passed 10-19-15)

§ 93.11 OBSTRUCTING FIRE HYDRANTS AND FIRE DEPARTMENT ACCESS ROADS.

(A) It shall be unlawful for any person to park any automobile or any other motor vehicle within ten feet of a fire hydrant or Fire Department connection. Fire hydrants and Fire Department connections shall be free of any and all obstructions within ten feet.

(B) It shall be unlawful for any person to park any automobile or any other motor vehicle on, or to obstruct in any manner, a Fire Department access road.

(C) Motor vehicles found in the prohibited area as described in this section shall be removed by authority of the Chief of Police, Benton Fire Chief or their designees, the cost of such removal or towing and all other costs are to be borne or paid by the violator.

(D) Any objects or materials found to be obstructing a fire hydrant, Fire Department connection or Fire Department access road shall be caused to be removed by authority of the Policy Chief, Benton Fire Chief or their designees, and the cost of such removal and all other costs are to be borne or paid by the violator.

(Ord. 15-10-04, passed 10-19-15)

§ 93.12 FIRE INSPECTION PROGRAM.

(A) Routine Fire Safety Inspections shall be conducted by the City of Benton Fire Department Office on the following occupancies:

(1) Assemblies, Private Educational, Lodging and Rooming Houses, Mercantile, Business, Industrial, Storage and Special occupancy. Definitions for this section shall be determined by referring to NFPA 1 which is incorporated by reference as if it is fully stated herein.

(2) Hotels, motels, dormitories and apartment buildings (three or more units and a common space). Definitions for this section shall be determined by referring to NFPA 1 which is incorporated by reference as if it is fully stated herein.

(B) (1) A written report of each inspection shall be made and kept on file in the office of the Fire Chief of the Benton Fire Department.

(2) *Stand alone buildings.* Determined by the exterior dimensions of the structure(s). If a structure or space(s) within a structure cannot be measured from the exterior, then the square footage will be determined by its interior measurements.

Benton - General Regulations

(C) Multiple occupancies within a single structure. These occupancies shall be considered separate structures. The occupancies square footage shall be determined by its interior measurements.

(D) If multiple structures are on the same property, they shall be considered separate and will be inspected and assessed the corresponding fee(s).

(E) To ensure owner compliance with routine fire safety inspection deficiencies and/or notice of violations, re-inspection(s) of a property shall be conducted when warranted. Notice of violations shall be issued to the owner(s) as defined in § 93.01.

(F) Notices of violations that go uncorrected shall be forwarded to the Code Enforcement Board. This action shall not limit the authority of the Benton Fire Chief or his designee as outlined in § 93.01.

(G) Any violation(s) that in the opinion of the Benton Fire Chief or his designee to represent an immediate threat to life or property shall be enforced.

(H) Prior to obtaining a business license, for a new business or new business location, the owners must present a fire inspection report indicating the facility is compliant with all applicable fire codes. The fire inspection shall have been conducted by the Benton Fire Chief's office or the State Fire Marshal's Office.

(Ord. 15-10-04, passed 10-19-15)

§ 93.13 DESIGNATED ENFORCEMENT OFFICER.

The Benton Fire Chief or his designee(s) shall be designated as the local enforcement agent for the Kentucky Standards of Safety.

(Ord. 15-10-04, passed 10-19-15)

SMOKE DETECTORS**§ 93.20 ADMINISTRATION/SMOKE DETECTOR.**

(A) *Purpose.* The purpose and intent of this subchapter is to prescribe minimum requirements and controls to safeguard life, property or public welfare from conditions hazardous to life, property, or public welfare in the use or occupancy of residential rental property.

(B) *Intent.* This subchapter shall be constructed to serve its expressed intent is to insure public safety, health and welfare as it pertains to smoke detectors in rental properties.

(C) *Administrative liability.* The official, officer or employee charged with the enforcement of this subchapter, while acting for the jurisdiction, shall not thereby be rendered personally liable and is hereby relieved from all personal liability for any damage to persons or property as a result of any act required or permitted in the discharge of official duties.

(D) *Jurisdictional liability.* The jurisdiction shall not be liable under this subchapter for any damage to persons or property by reason of the inspection or re-inspection of building, structures or equipment authorized herein, or failure to inspect or re-inspect such building, structures or equipment or by reason of the approval or disapproval of any building, structure, or equipment authorized herein.
(Ord. 15-10-04, passed 10-19-15)

§ 93.21 REQUIREMENTS.

(A) *Type and placement of smoke detectors.* Battery-operated smoke detectors that are ionization or photoelectric type detectors approved by a nationally recognized testing laboratory shall meet the minimum standard smoke detector required by this subchapter.

(B) Smoke detectors shall be placed in accordance with applicable N.F.P.A. standards. Detectors may be ceiling or wall mounted. However, if they are wall mounted, they shall be within 12 inches, but not closer than six inches, of the ceiling.

(C) In a dwelling unit which contains a well-defined sleeping room separated from the other activity areas of the same unit, the detector shall be located in the corridor within the unit or interior area giving access to the rooms used for sleeping purposes and inside each bedroom. Where sleeping areas are separated or where a single smoke detector will not adequately service all sleeping areas, there shall be a smoke detector installed adjacent to each sleeping area and in sleeping rooms. In a rooming unit the detector shall be centrally located on the ceiling.

(D) In a dwelling containing two or more dwelling units or any rooming unit, in addition to the requirements for individual smoke detectors in each dwelling unit or rooming unit, detectors shall be placed in centrally located common areas so that smoke detectors will adequately service all sleeping areas.

(E) Smoke detectors shall be required in the living area of every dwelling unit and on every story of the dwelling unit, including basements.
(Ord. 15-10-04, passed 10-19-15)

§ 93.22 INSTALLATION, MAINTENANCE.

(A) The owner of a dwelling shall be responsible for supplying and installing, in an operable condition, the required detectors and for providing the manufacturer's maintenance and testing instructions to a tenant when appropriate.

Benton - General Regulations

(B) The owner of a dwelling shall be responsible for maintenance and testing of detectors, in accordance with manufacturer's instructions, which are located in common areas and detectors in dwelling units and rooming units where the occupancy of any one tenant is for less than one month.

(C) The tenant in any occupancy of one month or more shall be responsible for maintaining and testing the detector, in accordance with the manufacturer's instructions, which are within his exclusive control during the life of the tenancy. The tenant shall be responsible for notifying the owner when a detector becomes inoperable, where after the owner has 24 hours in which to repair or replace it. In the battery operated type of detector, battery replacement shall be the responsibility of the tenant.

(D) At every change of tenancy where the occupancy of any one tenant is of one month or more, it shall be the duty of the owner to test and ascertain that those detectors contained in the unit are in operable condition, and if not, the owner shall be responsible for placing them in operable condition. (Ord. 15-10-04, passed 10-19-15)

§ 93.23 CONFLICTING PROVISIONS.

In any case where a provision of this subchapter is found to be in conflict with a provision of any fire or safety code of the city, the provision which establishes the higher standard for the promotion and protection of health and safety shall prevail.

(Ord. 15-10-04, passed 10-19-15)

OPEN BURNING**§ 93.30 OPEN BURNING PROHIBITED; EXCEPTIONS.**

Except as provided in this section, no person shall cause, suffer or allow any open burning or open fires. Fires may be set for the following purposes, provided that the fires do not violate any of the provisions of KRS Chapter 149, 150, 227, and other laws of the Commonwealth of Kentucky or any local ordinances:

(A) Fires set for the cooking of food for human consumption on other than commercial premises;

(B) Fires set for recreational or ceremonial purposes;

(C) Small fires set by construction and other workers for comfort heating purposes, when the temperature is below 50 degrees Fahrenheit, provided excessive or unusual smoke is not created and only clean non-treated lumber, paper or fire wood is burned and the fires is contained to a 55 gallon (maximum) drum;

(D) Fires set for the purpose of weed abatement, disease, and pest prevention;

(E) Fires set for prevention of a fire hazard, including the disposal of dangerous materials where no safe alternative is available;

(F) Fires set for the purpose of bona fide instruction and training of public and industrial employees in the methods of fighting fires;

(G) Fires set for recognized agricultural, silvicultural, range and wildlife management practices;

(H) Fires set for the purpose of disposing of accidental spills or leaks of crude oil, petroleum products or other organic materials, and the disposal of absorbent material used in their removal, where no other economically feasible means of disposal is available and practical and provided permission is obtained from the Natural Resources and Environmental Protection Cabinet prior to burning;

(I) Fires set for disposal of natural growth for land clearing, and trees and tree limbs felled by storms, provided that no extraneous material such as tires or heavy oil which tend to produce dense smoke are used to cause ignition or aid combustion and the burning is done on sunny days with mild winds. The measurement of the fire shall not exceed 25 feet by 25 feet by eight feet.
(Ord. 15-10-04, passed 10-19-15)

§ 93.31 BURNING OF LEAVES AND HOUSEHOLD RUBBISH PROHIBITED.

The burning of leaves, foliage, household rubbish and garbage, construction debris, painted/stained or treated wood products, animal bedding, tires, coated wire, furniture and chemical containers is in violation of the Environmental Protection Agency's regulations and is strictly prohibited within the city limits.

(Ord. 15-10-04, passed 10-19-15)

§ 93.32 OPEN BURNING LOCATION REQUIREMENTS.

The location for any open burning shall not be less than 50 feet (15,240 mm) from any structure or utility line and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure or utility line. Fires in approved containers shall be permitted provided that such fires are not less than 15 feet (4,572 mm) from any structure.

(Ord. 15-10-04, passed 10-19-15)

§ 93.33 OPEN BURNING REGULATIONS.

Open burning shall not be used for waste disposal purposes, shall be of the minimum size for the intended purpose, and the fuel shall be chosen to minimize the generation and emission of air contaminants.

(Ord. 15-10-04, passed 10-19-15)

§ 93.34 OPEN BURNING ATTENDANCE REQUIRED.

Any open burning shall be constantly attended until the fire is extinguished. Adequate and appropriate fire-extinguishing equipment shall be available for immediate use.

(A) Factory built outdoor fire places; chimineas and fire pits shall be installed, maintained, and used in accordance with the manufacturer's instructions or the International Mechanical Code.

(B) Masonry built outdoor fireplaces, chimineas, and burn pits shall be constructed in accordance with the International Building Code.

(C) Outdoor fire places, chimineas and fire pits shall be maintained in proper working condition free from any defects.

(D) The Benton Fire Chief or his designee(s) shall prohibit burning which will be offensive or objectionable due to smoke or odor emissions or when atmospheric conditions or local circumstances make such fire hazardous. The Benton Fire Chief or his designee(s) shall order the extinguishment, by the owner or the Fire Department, of any burning which creates or adds to a hazardous or objectionable situation.

(Ord. 15-10-04, passed 10-19-15)

FIREWORKS**§ 93.40 SALES AND USE OF FIREWORKS.**

(A) Consumer fireworks, as described in KRS 227.702, are legal for sale provided all federal and state requirements are met in addition to the requirements of this chapter.

(1) Any person, firm, co-partnership, nonprofit, or business intending to sell consumer fireworks within the city limits of Benton shall meet the requirements of KRS 227.715.

(2) Permanent business establishments open year-round and in which the sale of consumer fireworks as defined in KRS 227.702(1), is ancillary to the primary course of business shall register annually with the City of Benton Fire Department.

(3) A seasonal retailer shall register with the City of Benton Fire Department.

(4) Permanent Fireworks Establishments intending to sell consumer fireworks as defined in KRS 227.702(2) and (3), shall register with the City of Benton Fire Department.

(5) The annual registration required by this section shall be received by the City of Benton Fire Department at least 15 days prior to offering fireworks for sale at the site for which the registration is intended. Evidence that a permit has been obtained from the State Fire Marshal shall be presented as a condition of registration.

(6) Sites at which fireworks are to be sold shall pass a Fire Safety Inspection conducted by the City of Benton Fire Department.

(7) Each site at which fireworks are offered for sale shall have its state and local registration certificate displayed in a conspicuous location at the site.

(8) The City of Benton Fire Department may revoke the registration of any site which is in violation of a requirement of KRS 227.715 or § 93.42.

(9) A person lawfully possessing consumer fireworks, as defined as “Ground or Handheld Sparkling Devices” in KRS 227.702(1), may use those items if:

(a) Fireworks are not ignited within 50 feet of a structure.

(b) Those under 18 years of age are supervised by an adult.

(10) A person lawfully possessing consumer fireworks, as defined as aerial devices or audible ground devices in KRS 227.702(2) and (3) may use those items if:

(a) He or she is at least 18 years of age;

(b) Fireworks are not ignited within 200 feet of any structure, vehicle, or any other person.

(B) *Public displays of fireworks/sales of display fireworks.*

(1) Sale or use of display fireworks shall meet the requirements of KRS 227.710 and this section.

(2) The Benton Fire Chief or Mayor may grant permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.

(3) Permit applications shall be filed with the Benton Fire Chief at least 15 days prior to the date of the display. Permit applications filed less than 15 days prior to the date of display will be assessed a \$100 fee. For the purposes of this division, “public display of fireworks” shall include the use of pyrotechnic devices or pyrotechnic materials and flame affects before a proximate audience, whether indoors or outdoors.

(4) Permits shall be issued upon compliance with application requirements and NFPA 1123, 1124 and 1126.

(5) Any person remaining within the display fallout area shall be identified as licensed by the ATF, or an employee thereof, or be an assistant in training to become a competent display operator. All persons remaining within the display fallout area shall be at least 18 years of age.

(6) No permit shall be issued unless the applicant shall give bond or evidence of liability insurance in a sum not less than \$1,000,000. However, the Benton Fire Chief, or State Fire Marshal may require a larger amount if in their judgment the situation requires it, conditioned for the payment of all damages which may be caused thereby either to a person or to property by reason of the permitted display, arising from any acts of the licensee, his agents, employees or subcontractors.

(7) Fireworks can only be used within the city limits on the 4th of July and on the Saturday immediately prior to and immediately after the 4th of July unless the 4th of July falls on a Saturday in which event fireworks may be used from the Friday before to the following Sunday. Other than these dates and times, it is unlawful to explode, fire, shoot, or set off fireworks inside the corporate limits of the city.

(8) The Benton Fire Chief or Fire Marshal may revoke a permit for the "Public Display of Fireworks" if any of the provisions of this section, or state and federal regulations, are not followed.

(9) Any person convicted of violating this section shall be fined not less than \$50 nor more than \$1,000, or confined in the county jail for not more than 30 days, or both. Each day a violation occurs shall constitute a separate offense.

(Ord. 15-10-04, passed 10-19-15; Am. Ord. 18-06-05, passed 6-25-18; Am. Ord. 23-10-01, passed 10-16-23)

§ 93.41 STORAGE OF FIREWORKS AND PYROTECHNICAL DEVICES.

(A) The storage of consumer fireworks, display fireworks, or theatrical pyrotechnic devices, at retail, wholesale, storage, or manufacturing facilities shall be reported in writing to the Benton Fire Chief and State Fire Marshal.

(1) The report shall be completed by the owner or lessee of the property or the supplier of the fireworks, and shall include the address of the facility, the location of the fireworks to be stored, a copy of the shipping bill, and whether they are consumer fireworks, theatrical pyrotechnic devices, or display fireworks.

(2) The initial report shall be submitted 15 days before storage begins for new businesses. The report for permanent business establishments open year round shall be updated annually and upon a change in location of the stored items.

(B) Seasonable retailers, as defined in KRS 227.715, shall submit, at least 15 days prior to opening for sale each year, a report to the Benton Fire Chief identifying:

- (1) The address where the sale will be taking place;
- (2) The address where the fireworks will be stored; and

(3) A description of how the fireworks will be stored. Only one report is due if the seasonable retailer stores the same product at the same location for both the June 10 through July 7 and December 26 through January 4 seasons.

(C) Failure to submit a report required under this section shall be cause to cease and desist operation of the facility or site until such time as the required information is properly submitted.

(D) Sites at which fireworks are to be stored shall pass a fire inspection conducted by the Benton Fire Chiefs office prior to storing fireworks at the site.
(Ord. 15-10-04, passed 10-19-15)

§ 93.42 VIOLATIONS.

(A) The Benton Fire Chief or Fire Marshal shall cause to be removed at the expense of the owner all stocks of fireworks which are stored and held in violation of KRS 227.700 - 750 and or of this chapter.

(B) Any fireworks seized by the City of Benton shall be disposed of in accordance with KRS 227.750.
(Ord. 15-10-04, passed 10-19-15)

§ 93.43 PENALTY AND ENFORCEMENT.

(A) Any violation of this chapter may be enforced by the Benton City Police Department or Marshall County Sheriff's Department as a misdemeanor through District Court unless a stronger penalty is allowed by the KRS.

(B) As an alternative to enforcement through District Court, any violation of this chapter shall constitute a civil offense pursuant to KRS 654.8808(1) unless otherwise prohibited by KRS 65.8808(3) and enforced by Benton's Code Enforcement Board under Chapter 41 of the Benton Code of Ordinances with the amount of the penalties being as follows:

Benton - General Regulations

<i>Violation</i>	<i>Amount</i>
Any offense of the chapter not otherwise addressed by the KRS	\$100

(C) In the event a violation is enforced as a civil penalty then the same violation shall not be enforced as a criminal penalty.

(D) The city may abate the nuisance and bring the property in compliance with the provisions of this chapter. In addition to any penalties or fines for violating the provisions of this chapter, the city may charge the violator, or owner of the property where the violation occurred, with the reasonable cost of abatement. All abatement cost can be taxed to the violator/owner and if not paid within 30 days after notice of the abatement cost incurred, a lien may be placed on the violator's/owner's property for the unpaid abatement cost.

(E) Each day during which a stationary violation continues, except in cases in which a given time has been allowed for corrective action to be taken, shall be a separate and distinct offense.
(Ord. 15-10-04, passed 10-19-15; Am. Ord. 23-03-05, passed 3-20-23)