

Anderson County Board of Commissioners
OPERATIONS COMMITTEE
AGENDA

July 12, 2021
6:00 p.m. Room 312

- **Call to Order**
- **Prayer / Pledge of Allegiance**
- **Approval of Agenda**
- **Appearance of Citizens**

- **Fireworks Regulations** – Requested by the Law Director
- **Purdue Bankruptcy Settlement** – Requested by the Law Director
- **Requests from Mayor Frank**
 1. Authorization to submit letter of intent for Multi-Modal Grant for sidewalk project for Norwood area.
 2. Creation/Designation of four (4) Witness Rooms and Lobby Space; reconfiguration of active storage in existing third floor Archives and Records space. Shrinking and shifting of existing County Clerk space to make room for permanent Archives space on concrete slab, first floor.
 3. Any updates requested by commissioners.

- **Updates** – Requested by Chairman Wandell
 1. East Wolf Valley Convenience Center
 - 2 Ben's Mobil Home Park Claxton
 - 3 ARP Funding

New Business

1. Follow-up on Sinking Springs Road closure
2. Status update on Boys and Girls Club of North Anderson County

Old Business

Adjournment



ANDERSON COUNTY GOVERNMENT

TERRY FRANK
COUNTY MAYOR

July 7, 2021

Commissioner Tim Isbel
Chairman, Operations Committee

Dear Chairman Isbel and Honorable Members of Operations Committee,

I wish to request the following items be placed on the Agenda:

1. Authorization to submit letter of intent for Multi-Modal Grant for sidewalk project for Norwood area.
2. Creation/Designation of Four (4) Witness Rooms and Lobby Space; reconfiguration of active file storage in existing 3rd floor "Archives & Records" space. Shrinking and shifting of existing County Clerk space to make room for new permanent Archives space on concrete slab/first floor. One window would remain for new Archives space to allow better security control of documents/records. As the majority of courthouse citizen traffic is to the Clerk's office, the Clerk shift will allow nearly direct access from new single entry, eliminating citizen traffic and Clerk line stacking that occurs in and through HR, CareHere Clinic & Pre-Trial corridor. Requesting review and approval of concept in order to take next steps. Next steps: work with Purchasing and Architects to develop RFP and go to bid. (I will print large copies of concept designs for commissioners and put in your boxes)
3. Any updates requested by Commissioners.



Anderson County Schools
Every Student, Every Day

Annette Prewitt <aprewitt@acs.ac>

Operations Committee

4 messages

Annette Prewitt <aprewitt@acs.ac> Wed, Jul 7, 2021 at 10:58 AM
 To: CC - Bob Smallridge <rjsmal@yahoo.com>, CC - Catherine Denenberg <cdenberg@andersoncountytyn.gov>, CC - Chuck Fritts <cf3533@msn.com>, CC - Denver Waddell <denverwaddell@gmail.com>, CC - Jerry Creasey <jcreasey@bellsouth.net>, CC - Jerry White <jwhite@andersoncountytyn.gov>, CC - Joshua Anderson <joshandersondistrict3@gmail.com>, CC - Phil Yager <pyager@andersoncountytyn.gov>, CC - Rick Meredith <rick@andersoncountychamber.org>, CC - Robert Jameson <robjam333@comcast.net>, CC - Robert McKamey <robertmckamey@comcast.net>, CC - Shain Vowell <jsvowell1@gmail.com>, CC - Steve Mead <meadsteven@att.net>, CC - Theresa Scott <scottacc7@gmail.com>, CC - Tim Isbel <isbelt@ymail.com>, CC - Tracy Wandell <twandell@andersoncountytyn.gov>, Terry Frank <tfrank@andersoncountytyn.gov>, CC - ZZ Jeff Cole <jeffcole@acs.ac>, "CC - ZZ Jay Yeager, Law Director" <jyeager@aclawdirector.com>

A reminder that today at noon is the deadline for the Operations Committee Agenda.

--
 Annette R. Prewitt
 Chief Deputy to the Anderson County Commission
 Phone: (865) 463-6866
 Fax: (865) 264-6264
 Web Site: www.andersoncountytyn.gov

Jay Yeager <jyeager@aclawdirector.com> Wed, Jul 7, 2021 at 11:07 AM
 To: Annette Prewitt <aprewitt@acs.ac>

Annette:
 Please add Fireworks Regulations
 Purdue Bankruptcy Settlement

*Chairman Isbel
 Status update on Board
 Girls Club of N. And. Co.
 Chairman Anderson
 New Business
 Follow up on Sinking Springs Rd.
 Closure*

Thanks,
 Jay

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Commissioner Tracy Wandell <twandell@andersoncountytyn.gov> Wed, Jul 7, 2021 at 11:10 AM
 To: Annette Prewitt <aprewitt@acs.ac>, CC - Bob Smallridge <rjsmal@yahoo.com>, Commissioner Catherine Denenberg <cdenberg@andersoncountytyn.gov>, CC - Chuck Fritts <cf3533@msn.com>, CC - Denver Waddell <denverwaddell@gmail.com>, CC - Jerry Creasey <jcreasey@bellsouth.net>, Commissioner Jerry White <jwhite@andersoncountytyn.gov>, CC - Joshua Anderson <joshandersondistrict3@gmail.com>, Commissioner Phil Yager <pyager@andersoncountytyn.gov>, CC - Rick Meredith <rick@andersoncountychamber.org>, CC - Robert Jameson <robjam333@comcast.net>, CC - Robert McKamey <robertmckamey@comcast.net>, CC - Shain Vowell

<jsvowell1@gmail.com>, CC - Steve Mead <meadsteven@att.net>, CC - Theresa Scott <scottacc7@gmail.com>, CC - Tim Isbel <isbel@ymail.com>, Terry Frank <tfrank@andersoncountyttn.gov>, CC - ZZ Jeff Cole <jeffcole@acs.ac>, "CC - ZZ Jay Yeager, Law Director" <jyeager@aclawdirector.com>

Thank you.

I respectfully request the following items be added to the Operations agenda.

- East Wolf Valley convenience center - update
- Ben's Mobile Home park Claxton -update
- ARP Funding – update

Thank you.

Respectfully,
Tracy

Tracy L. Wandell
Anderson County Commissioner
District 1
twandell@andersoncountyttn.gov
865-388-0921

[Quoted text hidden]

[Quoted text hidden]

Annette Prewitt <aprewitt@acs.ac>
To: Commissioner Tracy Wandell <twandell@andersoncountyttn.gov>
Cc: "CC - ZZ Jay Yeager, Law Director" <jyeager@aclawdirector.com>

Wed, Jul 7, 2021 at 11:14 AM

Thank you!
[Quoted text hidden]



- February 2020, went before AC School Board about using AC Head Start building at 308 6th Street, Rocky Top for a teen center. This was with the intention of providing a place for middle school students to go and introduce them to middle school BGC programs. It is hard to get middle school students to go back to the elementary school.
- Pandemic occurred on March 13, 2020 which shut schools down and BGC which programs out of LCES had to close.
- Due to school board agreeing to BGC using Head Start building, BGC had a location to move programming to and serve essential employees during the pandemic. BGC open the doors on Wednesday, March 18, 2020.
- During pandemic, AC Schools fed all BGC kids, Bill and Chrissy Haslam sent 4 tutors that worked with members on ELA and math, we ran a VBS partnered with MSBC, and did not close once with contact tracing.
- Due to success, Clinton City reached out for help with their afterschool program which they ran out of Clinton Community Building. With COVID restrictions, they could only serve 50 kids in municipal buildings. There were 40-50 kids needing afterschool service. BGC opened a BGC at Clinton Elementary School on August 17. The program quickly grew to 50 members and exceed 50 to around 100 members by end of school. Program was so successful, Kelly Johnson, Director of Clinton City Schools, asked if BGC would run their afterschool programs at North and South Clinton Elementary as well. BGC opened those programs on January 4th. By end of school BGC was averaging 160/day.
- At school end, BGC merged all three school sites to one location at Clinton Community Building. It is averaging 135/day. With the LC club BGC is averaging over 200/day in AC.
- When school begins, BGC will open clubs back at 3 Clinton Elementary schools, LCES, and planning to open teen centers at Clinton Community building and 308 6th Street in LC. A total of 6 BGC in the area.
- Met with city/county leaders about operating a BGC out of Clinton Armory once Roane State leaves beginning of 2022. This is a planning session of seeing if operation a free standing facility in Clinton will be feasible and if community will help support it. This is needed because it will provide a space for the industrial parks to send employees kids when school is out for weather and illness. BGC would like to help with the employment problem by providing childcare for the industrial plants and having the armory would make this easier.


**OFFICE OF THE COUNTY LAW DIRECTOR
ANDERSON COUNTY, TENNESSEE**

101 South Main Street, Suite 310
CLINTON, TENNESSEE 37716

N. JAY YEAGER
Law Director

TELEPHONE: (865) 457-6290
FACSIMILE: (865) 457-3775
Email: jyeager@aclawdirector.com

MEMORANDUM

TO: Tim Isbel, Operations Chairman
CC: County Mayor, Commission Members and Operations Committee Members
FROM: N. Jay Yeager 
DATE: July 11, 2021
RE: Proposed Fireworks Regulations

Mr. Chairman:

To begin with, the adoption of fireworks regulations and the associated documents that will need approval, is a large task and I would advise we move forward carefully, methodically and fully debate the numerous important decisions that need to be made along the way. Needless to say, I don't think we can fully vet all possible options at tomorrow night's Operations Committee meeting, nor do I advise passing these regulations and resolutions at the July 19th meeting. I would advocate an initial discussion at tomorrow night's Operations Committee meeting focusing on the path forward as to what decisions need to be made, evaluate the established law supporting those decisions and the various documents and

resolutions that need to be constructed and passed to legally enact local regulations to reasonably and safely control the use of fireworks in our community. I would also support either another mid-cycle Operations meeting or perhaps assign this issue to a small sub-committee focused specifically on this issue, or refer to an existing sub-committee for proper study.

After final drafts have been approved, I would recommend that we hold a Public Hearing to discuss these regulations and to also fulfill the zoning amendment requirements. This would also include public notice to all the county municipalities and an invitation for those municipalities to participate in the public hearing and sub-committee meetings.

I foresee this process taking another thirty (30) to sixty (60) days to fully complete. The only pressing time deadline that needs to be kept in mind is that the new Private Act must be ratified by December 1, 2021.

I. DISCUSSION ISSUES

I fully understand that many additional issues will develop, but some of the important issues that need to be discussed in detail are:

- 1) Which department(s) will have jurisdictional control, permitting, enforcement and general oversight over fireworks regulations in Anderson County?

- 2) Will we use the Anderson County Zoning Resolution to designate sales locations, and if so, which zoning districts?
- 3) Will we allow sales tents or only brick and mortar, or sheet metal?
- 4) What will be the permit fee to sales locations?
- 5) Will there be a public display fee, and are governmental entities, volunteer fire department and civic organizations exempt from these fees?
- 6) What are the fines and punishments for non-compliance?

II. NEEDED DOCUMENTS AND RESOLUTIONS

Along these lines, I have tried to construct some very rough drafts for us to use as working documents throughout this process. This will give you an idea of some of the options and also the amount of documents that need to be created, passed and approved by County Commission. By no means should this list of regulations and documents be considered all-inclusive and I'm hopeful other ideas will be brought forward by commission members, our mayor, community members and the various stakeholders. These proposed documents include, but are not limited to:

- 1) Resolution Adopting Fireworks Regulations;
- 2) Fireworks Regulations specifically;

- 3) Zoning Resolution Amendments;
 - 4) Public Notice;
 - 5) Resolution Authorizing Appointment of County Fire Marshal.
- (optional)

III. ADDITIONAL RESOURCES

For your consideration, I have also provided a copy of the new Private Act passed by the General Assembly and the verification form to be completed after the Private Act is locally ratified. I have also attached the statute authorizing the appointment of a County Fire Marshal and the CTAS description of that position.

I look forward to working with everyone on this project so that we can put together a set of reasonable and effective regulations designed to allow the use of fireworks in a safe manner.

Please feel free to call or write if any member or stakeholder has questions or ideas that may be beneficial to this project.

Thank you,

Enclosures:

EXHIBIT 1: Draft Fireworks Regulations

EXHIBIT 2: Draft Resolution Adopting Fireworks Regulations

EXHIBIT 3: Draft Resolution Amending Zoning Resolution (District)

EXHIBIT 4: Draft Resolution Amending Zoning Resolution (Regs.)

EXHIBIT 5: Draft Resolution Appointing County Fire Marshal

EXHIBIT 6: Public Hearing

EXHIBIT 7: New Fireworks Private Act

EXHIBIT 8: Secretary of State Ratification Form

EXHIBIT 9: County Fire Marshal – Statutory Authority

EXHIBIT 10: CTAS Job Duties for County Fire Marshal

EXHIBIT 1

DRAFT FIREWORKS REGULATIONS

ARTICLE _____ FIREWORKS

SECTION I. DEFINITIONS

- A. "County" refers to Anderson County, Tennessee.
- B. "D.O.T. Class C, Consumer Grade Fireworks" means all articles of fireworks as are now or hereafter classified as 1.4G, Consumer Grade, or as "D.O.T. Class C Common Fireworks" in the regulations of the United States Department of Transportation.
- C. "Permit" means the written authority of Anderson County issued under the authority of this section.
- D. "Person" means any individual, firm, partnership, or corporation.
- E. "Retailer" means any person engaged in the business of making retail sales of fireworks.
- F. "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer thereof and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, co-partnership, or one (1) or more individual(s).
- G. "State Fire Marshall Permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshall under the authority of Tennessee Code Annotated 68-104-101 et seq.

SECTION II. PERMITS AND PERMIT FEES

- A. It shall be unlawful for any person to sell, offer for sale, ship, or cause to be shipped, into Anderson County any item of fireworks without first having secured a State Fire Marshall Permit and a Permit issued by the **Anderson County** _____
All permits shall be clearly posted at each sales site.
- B. Permits are not assignable or transferable.
- C. ~~A permit (to sell fireworks to the general public) shall be valid only from June 20 through July 5 (Summer Period) or December 21 through January 1 (Winter Period).~~

~~****Are we designating hours of sales and what about Sunday sales hours?~~

D. Anderson County shall charge a permit fee in the amount of ~~\$1,200.00~~ for the Summer Period and ~~\$700.00~~ for the Winter Period as provided for in this section for retail sale permits.

***** DO WE CHARGE VOLUNTEER FIRE DEPARTMENTS ?

E. The fee for public display events using Special Display (1.3G), or Display Grade Fireworks shall be \$200.00.

*****Do we charge other governmental entities?

F. Community groups such as schools, weddings, businesses, and civic clubs who desire to have a special group display of Class C, Consumer Grade Fireworks may obtain a permit to use fireworks for any time of the year if a \$25.00 permit is obtained from Anderson County.

G. A permit to sell fireworks in Anderson County must be obtained ~~at least two weeks~~ prior to the date on which the applicant desires to begin making sales. Each application shall contain the following:

1. Name, address, and telephone number of applicant. The applicant must be a natural person who will operate or be responsible for sales. The applicant shall be liable for all violations of this resolution by persons under their supervision.
2. A site plan must be submitted to the Anderson County Department _____ that includes the approximate dimensions of the lot (unless lot is more than two acres), size and location of sales structure, ~~floor plan layout of the sales structure, verification that sales structure meets requirements set forth in Section VII,~~ setback of sales structure from the road right-of-way, location and number of parking places, setback from the closest residence, hospital, or church, if within or near the applicable setbacks listed in Section VIII, and location of other fireworks outlets if located within or near 500 feet of the retail structure. ~~Also submit a building permit.~~
3. Evidence that general liability insurance has been obtained by applicant naming Anderson County as additional insured for at least \$2,000,000.00 for each occurrence, whether in respect to bodily injury liability and/or property damage liability arising out of the maintenance or use of Insured Retail Premises used principally for the retail sale of Consumer Fireworks and related items.
4. The location address (or map and parcel number) where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

5. ~~Written, notarized, authorization by the property owner~~ allowing use of the property for fireworks sales must accompany any permit application.
6. ~~After the completed application has been submitted, an Anderson County _____ shall inspect the site for compliance with all applicable regulations. After the completion of a satisfactory inspection, a permit will be issued allowing both the sale and the use of the structure for the sale of D.O.T. Class C, Consumer Fireworks for the period of time noted on the permit.~~

SECTION III. PERMIT REVOCATION. The ~~Anderson~~ County _____ or his/her designee shall be authorized to revoke any permit upon failure of retailer to correct any of the following conditions within twenty four (24) hours after written notice is given by the ~~Anderson~~ County _____ or his/her designee, if:

- A. In the event that the permittee or the permittee's operator violates any lawful rule, regulation, or order of the ~~Anderson~~ County _____ or his/her designee.
- B. In the event that the permittee's application contains any false or untrue statements.
- C. In the event the permittee fails to timely file and/or pay, or report, tax, fee, fine, or legally imposed permit fee or fine, or any other charges.
- D. In the event the permittee or the permittee's operator violates any fireworks resolution or statute.

SECTION IV. PERMISSIBLE FIREWORKS. It is unlawful for any individual, firm, partnership, or corporation to possess, sell, or use within Anderson County or ship into the county, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items identified in Private Chapter No. 34 of the Private Acts of 2021:

- A. Those items now or hereafter classified by the Department of Transportation as Class C, 1.4G Consumer Grade Fireworks, or
- B. Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

C. Any display event using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician.

SECTION V. SALE OF FIREWORKS. ~~Permissible items or fireworks may be sold within Anderson County only from June 20 through July 5 and December 21 through January 1 of each year.~~

*****Times and Days

SECTION VI. STORING AND STRUCTURES. No person shall smoke within a structure where fireworks are sold. No person selling fireworks shall permit the presence of lighted cigars, cigarettes, vaping device, lighters, matches, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words, "Fireworks – No Smoking" in letters not less than four (4) inches high with contrasting colors for alpha-numeric characters and background color. A workable Class A, ten (10) lbs. fire extinguisher must be present at each retail fireworks site for each 2,000 square feet of sales area. Fireworks sold at retail shall only be sold from a freestanding structure.

SECTION VII. LIMITATIONS ON STRUCTURES. Tents may be used for the retail sale of fireworks. Tents must be constructed of a flame retardant material. No structure from which fireworks are sold shall exceed 4,000 square feet. Fireworks may not be stored and sold in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block. Temporary lights must be securely fastened to a ridged frame or fixture by zip ties and no portable generator(s) shall be started or activated within forty (40) feet of fireworks, combustible materials or flammable substances.

SECTION VIII. LOCATION AND SETBACK OF FIREWORKS OUTLETS. Fireworks sales are only permissible in unincorporated areas of the county ~~in areas zoned as C-1 and C-3 in section 7.7B of the Anderson County Zoning Resolution.~~ A temporary sales structure must be located a minimum of 20' from the road right-of-way and 50' from the right-of-way if there is parking to be allowed between the sales structure and the road right-of-way. The sales location in which a fireworks retail use is permitted shall be a minimum of five hundred (500) feet from other similar uses. This distance shall be measured from structure to structure. If there is a conflict, priority shall be given to the retailer who submitted a completed permit application the earliest (if the requested sales sites had never before been used). If one of the sales sites has been used in the past, priority will be given to the retailer that has been at the same site the previous year. ~~A fireworks sales structure shall be at least one hundred (100) feet from a permanent (on foundation) occupied residence.~~ **Change to at least (100) feet from any residence?**

SECTION IX. PARKING FOR RETAIL FIREWORK SALES SITE. The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street customer parking including required handicapped parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that

backing of vehicles onto the street will not be necessary. **The site and/or parking area must be configured to prevent loose gravel or storm water run-off from entering a County roadway and pose a hazard for motorists.**

SECTION X. CHILDREN, UNLAWFUL SALE AND USE OF FIREWORKS. It shall be unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated or seemingly irresponsible person. It shall be unlawful to explode or ignite fireworks within six hundred (600) feet of any church, hospital, funeral home, public or private school, or within two hundred (200) feet of where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such motor vehicle, or at or near any person or group of persons. A user of fireworks shall not ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. Fireworks shall not be launched or fired onto property of persons who have not given permission. Fireworks shall not be used at times, places, or in any manner, which adversely affect other persons, or in violation of the Anderson County Noise Resolution.

SECTION XI. LIMITED TIME PERIOD TO USE FIREWORKS. It shall be unlawful to discharge or use fireworks except for the following time periods.

- A. July 1 through July 4 – The permissible hours shall only be from 10 AM to 11:59 PM.
- B. December 31 and January 1 - The permissible hours shall only be from five hours before and one hour after the start of the New Year.
- C. Any other calendar day fireworks may be discharged between the hours of 10:00AM and 10:00PM.

SECTION XII. EXCLUSIONS. Nothing in this chapter shall be construed to prohibit:

- A. The sale of any kind of fireworks which are to be shipped directly out of the corporate limits of the county in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.
- B. The use of fireworks by railroads or other transportation agencies for signal purposes or illumination.
- C. The sale or use of blank cartridges for theater.
- D. The use of fireworks for military and police operations of agencies of the state or federal government.

E. The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

F. Supervised displays of fireworks as hereinafter provided.

SECTION XIII. PENALTY FOR VIOLATION. All individuals that violate any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed ~~five hundred dollars (\$500), pursuant to T.C.A. 5-7-121,~~ plus costs if a violation is not corrected within 24 hours after receiving a written notice of such violation from Anderson County. Each rule violation or transaction shall be considered a separate violation, ~~each day such violation shall continue constitutes a~~ **separate offense.** Employers of fireworks vendors and permit holders shall also be guilty for violations by persons in their employment and persons under their supervision.

BE IT FURTHER RESOLVED:

Conflict: In case of conflict between this resolution or any part thereof, and the whole or part of any existing resolution of Anderson County, the confliction resolution is repealed to the extent of the conflict but no further.

Severability: If any section, subsection, clause, provision or portion of this resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provisions or portion of this resolution.

Effectiveness: That this resolution shall take effect from and after its final passage and publication thereof, the general welfare of Anderson County, Tennessee, requiring it.

EXHIBIT 2

RESOLUTION AUTHORIZING FIREWORKS REGULATIONS

Anderson County, Tennessee
Board of Commissioners

RESOLUTION NO. _____

A RESOLUTION OF ANDERSON COUNTY TENNESSEE PROVIDING THAT THE ANDERSON COUNTY CODE BE AMENDED BY ADDING A NEW ARTICLE, TO BE NUMBERED ARTICLE _____ TO ESTABLISH REGULATIONS FOR THE SALES AND USE OF FIREWORKS.

WHEREAS, Anderson County has determined that the sale and use of fireworks should be permissible but regulated in accordance with Private Chapter No. 34 of the Private Acts of 2021; and

WHEREAS, Insert Clause - patriotic symbolism.

WHEREAS, Insert Clause - inherent dangers.

WHEREAS, Insert Clause - strain public safety resources.

WHEREAS, Insert Clause - unregulated use potentially a public nuisance.

WHEREAS, Anderson County desires to utilize T.C.A. §5-1-118 as it pertains to exercising powers granted to all municipalities under T.C.A. §6-2-201(22) and (23) which will allow Anderson County to adopt and enforce laws that:

1) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers; and

2) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained.

WHEREAS, Insert Clause - need for reasonable regulations to promote health, safety and welfare.

NOW THEREFORE, BE IT RESOLVED by the Anderson County Legislative Body meeting in regular session at Clinton, Tennessee, on this ____th day of ____, 20__, the following is hereby duly adopted and approved:

SECTION 1. That the Code of Anderson County be amended by adding a new article, to be numbered Article _____, attached herein to this resolution.

SECTION 2. This resolution shall take effect upon its passage and approval, the public health, safety, and welfare requiring it.

RESOLVED, this ___th day of _____ 20__.

Joshua N. Anderson, Chair, County Commission

Terry Frank, County Mayor

ATTEST:

Jeff Cole, County Clerk

EXHIBIT 3

Resolution Amending Zoning Resolution

(Zoning Districts - Locations)

Anderson County, Tennessee
Board of Commissioners

RESOLUTION NO. _____

A RESOLUTION OF ANDERSON COUNTY TENNESSEE PROVIDING THAT THE ANDERSON COUNTY ZONING RESOLUTION BE AMENDED BY ADDING ANDERSON COUNTY ZONING RESOLUTION SECTION _____, SEASONAL SALES OF FIREWORKS, TO ANDERSON COUNTY ZONING RESOLUTION ARTICLE ____.

WHEREAS, Anderson County has determined that the sale of fireworks should be regulated on a controlled basis; and

WHEREAS, Anderson County desires to adopt fireworks regulations as required by Tennessee law, allowing the permitted sale of fireworks; and

WHEREAS, the aforesaid permitted sale of fireworks shall be regulated by the Anderson County Department of Engineering and Public Works.

NOW THEREFORE, BE IT RESOLVED by the Anderson County Legislative Body meeting in regular session at Clinton, Tennessee, on this ____ day of _____, 20____, the following is hereby duly adopted and approved:

SECTION 1. That the Anderson County Zoning Resolution be amended by adding a new article, to be numbered Article 7, Section 7.7.B.17, attached herein to this resolution.

SECTION 2. This resolution shall take effect upon its passage and approval, the public health, safety, and welfare requiring it.

RESOLVED, this ____th day of _____ 20____.

Joshua N. Anderson, Chair, County Commission

Teny Frank, County Mayor

ATTEST:

Jeff Cole, County Clerk

EXHIBIT 4

Second Amendment Zoning Resolution

(Regulations)

Anderson County, Tennessee
Board of Commissioners

RESOLUTION NO. 285

A RESOLUTION OF ANDERSON COUNTY TENNESSEE PROVIDING THAT THE ANDERSON COUNTY ZONING RESOLUTION BE AMENDED BY ADDING ANDERSON COUNTY ZONING RESOLUTION SECTION 8.6 FIREWORKS TO ANDERSON COUNTY ZONING RESOLUTION ARTICLE 8.

WHEREAS, Anderson County has determined that the sale of fireworks should be regulated on a controlled basis; and

WHEREAS, Anderson County desires to adopt fireworks regulations as required by Tennessee law, allowing the permitted sale of fireworks; and

WHEREAS, the aforesaid permitted sale of fireworks shall be regulated by the Anderson County Department of Engineering and Public Works.

NOW THEREFORE, BE IT RESOLVED by the Anderson County Legislative Body meeting in regular session at Clinton, Tennessee, on this ____th day of _____, 20____, the following is hereby duly adopted and approved:

SECTION 1. That the Anderson County Zoning Resolution be amended by adding a new article, to be numbered Article 8, Section 8.6, attached herein to this resolution.

SECTION 2. This resolution shall take effect upon its passage and approval, the public health, safety, and welfare requiring it.

RESOLVED, this ____th day of _____ 20____.

Joshua N. Anderson , Chair, County Commission

Terry Frank, County Mayor

ATTEST:

Jeff Cole, County Clerk

EXHIBIT 5

**RESOLUTION
APPOINTING COUNTY
FIRE MARSHAL**

Anderson County, Tennessee
Board of Commissioners

RESOLUTION NO. 0 _____

**A RESOLUTION OF ANDERSON COUNTY TENNESSEE PROVIDING THAT
_____ BE APPOINTED THE
ANDERSON COUNTY FIRE MARSHAL.**

WHEREAS, Anderson County has need of an appointed Fire Marshal; and

WHEREAS, Pursuant to Tennessee Code Annotated 68-102-111(c)(2), the county legislative body has the authority to appoint such person; and

WHEREAS, Insert qualifications: and

WHEREAS, Insert statutory Duties; and
; and

NOW THEREFORE, BE IT RESOLVED by the Anderson County Legislative Body meeting in regular session at Clinton, Tennessee, on this _____th day of _____, _____, the following is hereby duly adopted and approved:

SECTION 1. _____ is appointed the Anderson County Fire Marshal under the direction and control of the County Mayor.

SECTION 2. This resolution shall take effect upon its passage and approval, the public health, safety, and welfare requiring it.

RESOLVED, this _____th day of _____.

Joshua N. Anderson, Chair, County Commission

Terry Frank, County Mayor

ATTEST:

Jeff Cole, County Clerk

EXHIBIT 6

**NOTICE OF PUBLIC
HEARING**

NOTICE OF PUBLIC HEARING

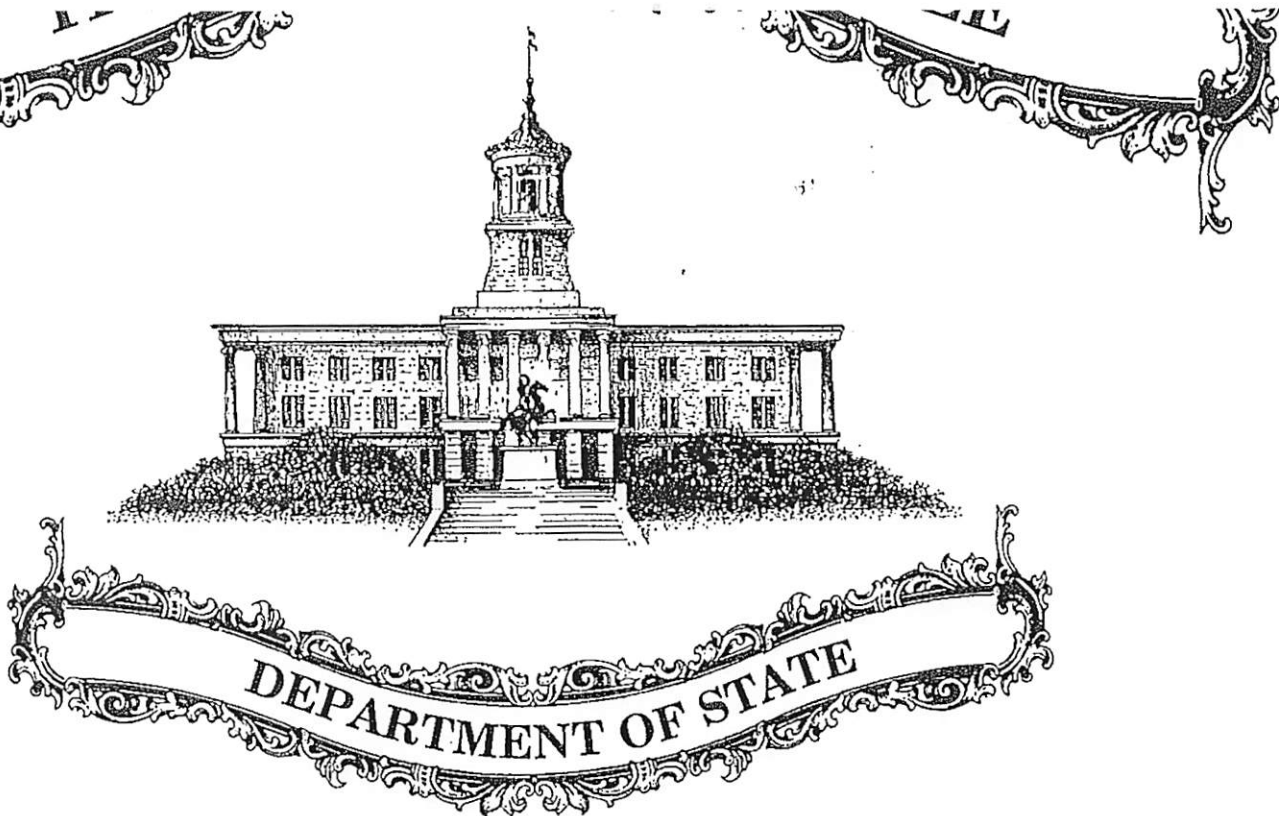
The Anderson County Board of County Commissioners will hold a public hearing for the purpose of adopting a Fireworks Resolution Authorizing the Sale and Use of Fireworks within Anderson County and additions to the Anderson County Zoning Resolution Article 7, Section 7.7 and Article 8, Section 8.6 to accommodate the Fireworks Resolution. The public hearing will be held on _____, _____ at 6:00 P.M. in room 312 of the Anderson County Courthouse.

Copies of the proposed resolutions may be viewed on the County website, or the Zoning Office in room 127 of the Anderson County Courthouse.

Joshua N. Anderson, Chair, Anderson County Commission

EXHIBIT 7

NEW FIREWORKS PRIVATE ACT



To all to whom these Presents shall come, Greeting:

*I, Tre Hargett, Secretary of State of the State of Tennessee,
do hereby certify that the annexed is a true copy of*

Private Chapter No. 34
House Bill No. 1631
Senate Bill No. 1651
112th General Assembly

*the original of which is now on file and a matter
of record in this office. In Testimony Whereof,
I have hereunto subscribed my official signature
and by order of the Governor affixed the Great
Seal of Tennessee at the Department
in the City of Nashville,
this 3rd day of June, A.D. 2021.*



Tre Hargett

EXHIBIT 8

SECRETARY OF STATE RATIFICATION FORM



**NOTICE TO SECRETARY OF STATE
OF RATIFICATION OF PRIVATE ACT**

SECRETARY OF STATE
Division of Publications
312 Rosa L. Parks Avenue
Eighth Floor
William R. Snodgrass Tennessee Tower
Nashville, TN 37243

Private Chapter No. 34, which is House
(Senate or House)

Bill No. 1631 of the 112th General Assembly, (please choose one):

Passed Failed No Action Taken

The vote took place on _____; and the results were as follows:
Date (mm/dd/yyyy)

_____ Votes For

_____ Votes Against

_____ Abstention

(please list number of votes)

Presiding Officer of the Local Legislative Body

Embossed Seal:
(if applicable)

County or City

Date (mm/dd/yyyy)

EXHIBIT 9

COUNTY FIRE MARSHAL STATUTORY AUTHORITY

Lexis®

Document: Tenn. Code Ann. § 5-6-121

Tenn. Code Ann. § 5-6-121**Copy Citation**

Current through the 2021 First Extraordinary Session and Chapter 154 (excluding Ch. 64) of the 2021 Regular Session. The commission may make editorial changes to this version and may relocate or redesignate text. Those changes will appear on Lexis Advance after the publication of the certified volumes and supplements. Pursuant to TCA sections 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code. Until the annual issuance of the certified volumes and supplements, references to the updates made by the most recent legislative session should be to the Public Chapter and not TCA.

**TN - Tennessee Code Annotated Title 5 Counties Chapter 6 County Mayors Part 1
Substantive Provisions**

**5-6-121. County fire marshal — Appointment — Compensation —
Qualifications.**

(a) The **county** mayor for each **county** may appoint a **fire marshal**, whose duty shall be to coordinate the efforts of volunteer **fire** departments, enforce local **fire** safety regulations and assist in the prevention of **fire** and arson. If a **county fire marshal** is employed, the **county** mayor shall establish the compensation of the **county fire marshal** within the amount appropriated for such purpose by the **county** legislative body.

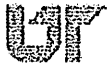
(b) The **county fire marshal** shall:

- (1) Have at least five (5) years of experience as a firefighter;
- (2) Have and maintain certification from the state **fire marshal** in accordance with § 68-120-113;
and
- (3) Serve at the pleasure of the **county** mayor.

History

EXHIBIT 10

CTAS JOB DUTIES FOR COUNTY FIRE MARSHAL



County Technical Assistance Service

Published on e-Li (<http://eli.ctas.tennessee.edu>)

July 11, 2021

Fire Safety

Tennessee Code Annotated
Tennessee Attorney General Opinions

Reference Number: CTAS-185

Reference Number: CTAS-185

Countywide Fire Departments. The county legislative body may form an agency to provide countywide fire protection whose powers and duties are delegated by the legislative body and provided by statute. T.C.A. §§ 5-17-101, 5-17-102. The countywide fire department is empowered to do all things necessary to provide coordinated fire protection to all areas of the county. T.C.A. § 5-17-102. The county fire chief is appointed by the county mayor subject to confirmation by the county legislative body. T.C.A. § 5-17-103. The county fire department must have one or more districts comprising the entire county outside the incorporated municipalities if property taxes are used to fund the department. However, a municipality may contract with the county for inclusion in the district. T.C.A. § 5-17-105. A county may fund protection of the unincorporated areas of the county with general fund revenues so long as the revenues were generated by situs based taxes collected in the unincorporated areas, are monies that have already been shared with municipalities, or are contributions to the county. T.C.A. § 5-17-101. The countywide fire department must prepare an annual budget of anticipated receipts and expenditures, which must be submitted to the legislative body. T.C.A. § 5-17-104. If fire tax districts are created, then the legislative body must levy an annual fire tax upon the property owners of each district sufficient to pay the district's share of the total budget of the countywide fire department. T.C.A. § 5-17-106. See Op. Tenn. Atty. Gen. 07-134 (Sept. 11, 2007).

Volunteer Fire Departments. The county legislative body may appropriate general fund money to assist nonprofit volunteer fire departments. T.C.A. § 5-9-101. Counties may also contract with municipalities to furnish fire protection in the unincorporated areas as an alternative to forming a county fire department. Op. Tenn. Atty. Gen. 93-53 (Aug. 9, 1993); Op. Tenn. Atty. Gen. 07-87 (June 5, 2007); Op. Tenn. Atty. Gen. 07-134 (Sept. 11, 2007).

No county, municipality or other organization (i.e., volunteer fire department) may operate a fire department in Tennessee unless it has been duly recognized by the state fire marshal's office.

In order to obtain recognition, the county, municipality or other organization must file an application to begin service or a renewal application to continue service. Once recognized, each fire department will be classified as career, volunteer or combination. The recognition certificate is valid for three years. After July 1, 2003, no new fire department may be established or recognized without the approval of the local elected governing body with jurisdiction over the territory to be served by the proposed new department. T.C.A. § 68-102-301 *et seq.*

→ **County Fire Marshal.** The county mayor may also appoint a county fire marshal, whose duty shall be to coordinate the efforts of volunteer fire departments, enforce local fire safety regulations and assist in the prevention of fire and arson. The county mayor shall establish the

fire marshal's compensation within the amount appropriated for such purpose by the county legislative body. T.C.A. § 5-6-121.

Burning Bans. In 2008, T.C.A. §§ 39-14-304(a) and 39-14-306 were amended to authorize the commissioner of agriculture, in consultation with the state forester and the county mayors of impacted counties, to issue a burning ban prohibiting all open air fire in any area of the state. A violation of the ban would be considered reckless burning, which is a Class A misdemeanor. This would not apply to fires that may be set within the corporate limits or any incorporated town or city that has passed an ordinance controlling the setting of fires.

Source URL: <http://eli.ctas.tennessee.edu/reference/fire-safety>



Lexis®

Document: 2007 Tenn. AG LEXIS 5

2007 Tenn. AG LEXIS 5

Copy Citation

Office of the Attorney General of the State of Tennessee

TN Attorney General Opinions

Reporter

2007 Tenn. AG LEXIS 5 *

Opinion No. 07-08

January 22, 2007

Core Terms

firework, retailer, state fire marshal, calendar year, municipality, seasonal, new location, chief executive officer, manufacture, has, wholesaler, distributor, expire, ship, conducting business, legislative intent, chief executive, obtain a permit, exhibitor, latest, city

Headnotes

[*1]

Interpretation of Fireworks Permit Statutes by the State Fire Marshal

Request By: Honorable Beth Harwell

State Representative
107 War Memorial Building
Nashville, TN 37243-0156

Question

1. Whether Tenn. Code Ann. § 68-104-102(c) mandates that a fireworks manufacturer, distributor, wholesaler, retailer, exhibitor or seasonal retailer wishing to conduct business year-round obtain a fireworks permit, at the latest, by January 2 of the calendar year for which the permit is sought?
2. Whether the State **Fire Marshal** has reasonably interpreted the phrase "chief executive officer of the **county** or municipality" in Tenn. Code Ann. § 68-104-105(a) as referring to the mayor, city manager or **county** manager?
3. Whether a municipality's chief executive officer's statement that the sale of fireworks in such municipality is permissible must accompany a fireworks permit application for a "new location" as defined by Tenn. Code Ann. § 68-104-105(a)?

OPINIONS

1. Yes. Tenn. Code Ann. § 68-104-102(c) mandates that a fireworks manufacturer, distributor, [*2] wholesaler, retailer, exhibitor or seasonal retailer wishing to conduct business year-round obtain a fireworks permit, at the latest, by January 2 of the calendar year for which the permit is sought.
2. Yes. The State **Fire Marshal** has reasonably interpreted phrase "chief executive officer of the **county** or municipality" in Tenn. Code Ann. § 68-104-105(a) as referring to the mayor, city manager or **county** manager.
3. Yes. A municipality's chief executive officer's statement that the sale of fireworks in such municipality is permissible must accompany a fireworks permit application for a "new location" as defined by Tenn. Code Ann. § 68-104-105(a).

Opinion By: ROBERT E. COOPER, JR., Attorney General & Reporter; MICHAEL E. MOORE ▼, Solicitor General; JUAN G. VILLASENOR ▼, Assistant Attorney General

Opinion

ANALYSIS

1.

As the State **Fire Marshal**, the Commissioner of the Tennessee Department of Commerce & Insurance is charged, in relevant part, with enforcement of laws relating to the "storage, sale and use of combustibles and explosives." Tenn. Code Ann. §§ 68-102-102(2) & [*3] 68-102-112. Consistent with this mandate, the General Assembly has placed supervisory authority over intra-state firework sales with the State **Fire Marshal**:

It is the legislative intent that all fireworks sold and delivered to consumers within this state must take place within this state and be sold and delivered only by a Tennessee dealer holding a Tennessee fireworks permit, and that all fireworks coming into the state and sold within the state be under the supervision of the state fire marshal as provided in this chapter.

Tenn. Code Ann. § 68-104-102(a) (emphasis added). This provision also proscribes, in relevant part, the manufacture, sale, distribution, or shipping of fireworks into or within Tennessee without an

appropriate permit:

It is unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped or received into or within this state, except as herein provided, any item of fireworks, without first having secured the required applicable permit, as a manufacturer, distributor, wholesaler, retailer or seasonal retailer, from the state **fire marshal**. [*4] This provision applies to nonresidents as well as residents of this state.

Id.

The State **Fire Marshal** may issue a fireworks permit to individuals 18 years of age and older for a specific calendar year, which expires on December 31, and the permit holder has a two-day grace period to obtain a permit for the next calendar year:

All permits shall be for the calendar year or any fraction thereof and shall expire on December 31. A grace period of two (2) days shall be allowed each holder of a permit. Permits issued to retailers and seasonal retailers must be displayed. No permit provided for herein shall be transferable to another person or location unless such transfer shall have been approved by the state **fire marshal**.

Id. at § 68-104-102(c). The State **Fire Marshal's** decision "as to what type of permit or permits shall be required of each person under this chapter shall be final." *Id.* "No permit provided for herein shall be transferable to another person or location unless such transfer shall have been approved by the state **fire marshal**." *Id.* A violation of these provisions constitutes a class C misdemeanor. Tenn. Code Ann. § 68-104-114 [*5] .

Your question states that, in the past, the State **Fire Marshal** had allowed fireworks companies, seasonal retailers in particular, to obtain permits by June 1, six months after the expiration of the previous permit. Presently, the State **Fire Marshal** requires that all individuals seeking a fireworks permit obtain it by January 2 of the calendar year for which the permit is sought.

The question posed is one of statutory interpretation, requiring us to determine whether a fireworks manufacturer, distributor, wholesaler, retailer, exhibitor or seasonal retailer wishing to conduct business year-round must obtain their fireworks permits, at the latest, by January 2 of the calendar year for which the permit is sought. In construing statutes, we must "ascertain and give effect to the legislative intent without unduly restricting or expanding a statute's coverage beyond its intended scope." *Wilson v. Johnson County*, 879 S.W.2d 807, 809 (Tenn. 1994). When the statute is unambiguous, legislative intent is determined from the plain and ordinary meaning of the language used. *Freeman v. Marco Transp. Co.*, 27 S.W.3d 909, 911 (Tenn. 2000). [*6] The statutory language must be "read in the context of the entire statute, without any forced or subtle construction which would extend or limit its meaning." *National Gas Distribs. v. State*, 804 S.W.2d 66, 67 (Tenn. 1991). Statutes that are related to the same subject matter must be read in *pari materia*. *In re C.K.G.*, 173 S.W.3d 714, 722 (Tenn. 2005).

We note that, in Tennessee, "interpretations of statutes by administrative agencies are customarily given respect and accorded deference by courts." *Riggs v. Burson*, 941 S.W.2d 44, 50-51 (Tenn. 1997) (citing *Chevron U.S.A. v. Natural Resources Defense Council*, 467 U.S. 837, 844 (1984)). Accordingly, courts will defer to the State **Fire Marshal's** interpretation without substituting "their own construction of a statutory provision for a reasonable interpretation made by the administrator of an agency." *Chevron*, 467 U.S. at 844.

Applying the above principles of statutory interpretation, we conclude that, under Tenn. Code Ann. § 68-104-102(c), a fireworks [*7] manufacturer, distributor, wholesaler, retailer, exhibitor or seasonal retailer wishing to conduct business year-round must obtain a fireworks permit, at the latest, by January 2 of the calendar year for which the permit is sought. [1] Because we find that § 68-104-102(c) is unambiguous, we determine legislative intent from the plain meaning of the statute's language. *Freeman*, 27 S.W.3d at 911. The statute's plain text provides that fireworks permits to manufacture, distribute, or sell at wholesale, retail or seasonally "shall be for the calendar year or any fraction thereof and shall expire on December 31." Tenn. Code Ann. § 68-104-102(c). Thus, the State **Fire Marshal** may issue fireworks permits that are valid for the calendar year, or for any fraction thereof. The permits must expire on December 31 of the particular calendar year and are not renewable *per se*. Under the "grace period" provision in § 68-104-102(c), a fireworks permit holder

may operate for two days after expiration of the permit -- January 1 and 2 -- but must obtain a new permit by January 2 of the calendar year in progress. [2] If the permit [*8] holder has failed to obtain a permit for the current calendar year by January 2, and continues to manufacture, sell, distribute or ship fireworks in Tennessee, the individual would be in violation of Tenn. Code Ann. § 68-104-102(a) and would be subject to prosecution. *Id.* at § 68-104-114.

[*9]

2.

This question deals with the State Fire Marshal's interpretation of Tenn. Code Ann. § 68-104-105(a) regarding the meaning of the term "chief executive officer" used therein. You state that the State Fire Marshal has interpreted the term "chief executive officer" in this provision as the city manager, mayor or county mayor of the particular municipality in question.

Section 68-104-105(a), which only applies to retailers or seasonal retailers of fireworks, requires that any application for a "new location" after May 2, 1983, be accompanied by a statement from the municipality's "chief executive officer," where the fireworks will be sold, stating that the sale of fireworks is locally [3] permitted:

Any request for the issuance of a retailer's or seasonal retailer's fireworks permit for a new location after May 2, 1983, shall be accompanied by a statement from the chief executive officer of the county or municipality wherein such fireworks are to be sold that the sale of fireworks in such county or municipality, respectively, is permissible.

Tenn. Code Ann. § 68-104-105(a).

[*10]

Applying the principles of statutory interpretation discussed above, we conclude that the State Fire Marshal has reasonably interpreted the phrase "chief executive officer of the county or municipality" in Tenn. Code Ann. § 68-104-105(a) as referring to the mayor, city manager or county manager. Because we also find that § 68-104-105(a) is unambiguous, [4] we determine legislative intent from the plain meaning of the statute's language. Freeman, 27 S.W.3d at 911. "Chief" means a "person of highest title or authority" and, in turn, a chief executive officer is the "highest executive officer of an organization." *Webster's New World College Dictionary* 254 (4th ed. 2001). Because the title of the chief executive of particular municipalities or counties will vary, the General Assembly wisely chose terminology that would subsume the essence of his or her functions into a universally understood term. While in some localities the chief executive may have a different title, such as mayor, or city or county manager, by function he will always be the chief executive officer.

[*11]

3.

The third question deals with the meaning of "new location" in Tenn. Code Ann. § 68-104-105(a) and its effect on whether the chief executive officer's statement that the sale of fireworks in such municipality is permissible must accompany a fireworks permit application. You state that the State Fire Marshal considers any permit application after January 2 to be a permit for a "new location," thus requiring the applicant to supply the letter from the municipality's "chief executive officer" stating that the sale of fireworks in that location is permissible. Again, this question calls for us to interpret a different portion of the same statutory provision discussed in the previous question.

The provision at issue defines the term "new location" as follows:

For purposes of this section, "new location" means any location where fireworks were not sold at retail as of May 2, 1983. "New location" does not include any location wherein the lawful sale of fireworks has transpired for the immediate two (2) years prior to May 2, 1983.

Tenn. Code Ann. § 68-104-105(a).

We conclude that the plain [*12] meaning of § 68-104-105(a) requires that the statement from the chief executive officer accompany an application for retailers or seasonal retailers of fireworks for a "new location." The statute gives the term "new location" prospective application, defining it "as any location where fireworks were not sold at retail as of May 2, 1983." *Id.* Yet, the section also has a

"grandfather clause" that excludes from the definition of "new location" any location in which fireworks were lawfully sold "for the immediate two (2) years prior to May 2, 1983." *Id.* Thus, if a fireworks retailer had sold fireworks for the immediate two years before May 2, 1983, and if the retailer applied for a new permit to sell at the same location, **5** the application would *not* be for a "new location" because fireworks were sold for two years immediately before May 2, 1983. This fireworks retailer would, in our view, benefit from the "grandfather clause" contained in Tenn. Code Ann. § 68-104-105(a), which exempts it from obtaining the statement from the chief executive officer of the respective municipality. By contrast, if fireworks had *not* been sold [*13] at that location for the immediate two years before May 2, 1983, the application *would be* for a "new location" and would, therefore, trigger the requirement that the application include the statement from the chief executive officer. Because we must "construe the statute so that no part will be inoperative, superfluous, void or insignificant," *State v. Northcutt*, 568 S.W.2d 636, 637-38 (Tenn. 1978), the statement from the chief executive officer must accompany permits for a "new location" as just described.

Load Date: 2014-06-28

TN Attorney General Opinions

Footnotes

1

We assume that the fireworks manufacturer, distributor, wholesaler, retailer, exhibitor or seasonal retailer had complied with Tenn. Code Ann. § 68-104-102(a) and had obtained an appropriate permit to manufacture, sell, distribute, or ship fireworks for the previous calendar year.

2

The materials accompanying the request suggest that the requirement to obtain a permit by January 2 to manufacture, sell, distribute or ship fireworks poses onerous obstacles to *seasonal fireworks retailers* because of the uncertainty associated with finding suitable locations in which to conduct business. Presumably, because seasonal fireworks retailers only operate during a fraction of the calendar year, they may lawfully obtain a fireworks permit *after* January 2 but *before* the date they commence business operations. For example, if a seasonal retailer seeks to operate in July only, it could obtain a permit after January 2 but before July 1. On the other hand, if the seasonal retailer wishes to operate in January only, it must obtain a permit, at the latest, by January 2. In any event, we note that Tenn. Code Ann. § 68-104-102(c) allows the State **Fire Marshal** to transfer a valid permit to another person *or* location.

3

We note that most municipalities may enact stricter ordinances "further prohibiting or restricting the sale or use of fireworks." Tenn. Code Ann. § 68-104-116.

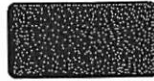
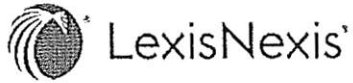
4 ¶ In any event, we have researched the legislative history of the relevant Senate and House bills for this provision, but we were unable to find any germane material.

5 ¶ That is, on or after January 3 of the calendar year for which the permit is sought between 1984 and the present.

Content Type: Administrative Materials

Terms: county fire marshal

Narrow By: Jurisdiction: Tennessee



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Anderson County, Tennessee
Board of Commissioners

RESOLUTION NO. _____

RESOLUTION TO PROVIDE FUNDING FOR THE PURCHASE OF A NEW FIRE TRUCK, RESCUE VEHICLES, OR OTHER APPROVED VEHICLE APPARATUS FOR ANDERSON COUNTY FIRE DEPARTMENTS CONTINGENT UPON ANNUAL FUNDING APPROVED BY THE BOARD OF COMMISSIONERS.

WHEREAS, the Anderson County Board of Commissioners wishes to authorize an annual donation of \$229,511.85 to governmental career fire departments and totally Volunteer Fire Departments and the Anderson County Rescue Squad for the purchase a new Class A fire truck, rescue vehicle or other approved vehicle apparatus on an established yearly cycle as outlined below. These plans are contingent upon proper annual funding and budgetary constraints decided and agreed to annually by the Anderson County Board of Commissioners; and

WHEREAS, the terms of this Resolution shall be strictly construed, and otherwise binding and mandated on any and all Fire Departments and Rescue Squads accepting and receiving appropriated funds under the terms of this Resolution and any violations of the content herein shall be considered prima facie evidence of non-compliance thereby resulting in forfeiture of future funding and repossession of assets purchased under the terms of this Resolution; and

WHEREAS, it is the intent of this resolution to include the Anderson County Rescue Squad in the rotation cycle as they must purchase an emergency vehicle to best provide mutual aid assistance to the Fire Departments, law enforcement agencies and the Anderson County Emergency Medical Service when requested; and

WHEREAS, beginning in fiscal year 2013/2014 the annual appropriation of \$229,511.85 shall be increased in each subsequent fiscal year in the County budget by two and one-half percent (2 ½ %) for the cost of inflation as budgeted and approved annually by Anderson County Board of Commissioners; and

WHEREAS, each fire department must purchase with the approved annual appropriation from the Board of Commissioners, a Class A Fire Pumper as defined by NFPA 1901 standards and ISO Requirements, or a rescue vehicle, or other approved vehicle apparatus as recommended by the Anderson County Director of Emergency Medical Services and Director of Emergency Management and approved by the Anderson County Board of Commissioners; and

WHEREAS, it is the intent of the replacement cycle and appropriation plan to ensure replacement and augmentation of a new fire truck or approved rescue vehicle or other vehicle apparatus to provide adequate public safety responses for the residents of Anderson County that will comply with NFPA standards and best meet the needs of all Anderson County citizens, and

WHEREAS, it is felt that the cities of Oak Ridge, Clinton, Norris, Oliver Springs, and Lake City should be included in the rotation schedule as career or combination fire departments that serve the emergency needs of all Anderson County citizens, and

WHEREAS, all Fire Departments and the Rescue Squad shall only respond to Emergency Medical and First Responder calls when dispatched accordingly or requested by Anderson County EMS, Emergency Management, law enforcement or required under other mutual aid agreements; and

WHEREAS, fire departments receiving an annual appropriation under the terms of this Resolution shall not charge for their services other than governmental taxing authority approved by the local county or municipal legislative body or Tennessee General Assembly. Fire departments who privately charge Anderson County citizens for emergency service responses are unable to receive a county donation for the purchase of new fire truck, rescue vehicle or other vehicle apparatus; and

WHEREAS, all Fire Departments and the Rescue Squad shall respond without charge to mutual aid requests at any time without any delay in response per the State Mutual Aid Guidelines; and

WHEREAS, if a Department wishes not to respond to mutual aid requests from other County Departments, or Emergency Medical Calls, that Department should be removed from the rotation of funds for a fire truck, rescue vehicle or other vehicle apparatus; and

WHEREAS, the Fire Departments or Rescue Squad, shall be responsible for providing liability insurance on the vehicle while in their possession, and Anderson County Government shall be named as an additional insured party at all times. Proper proof of liability coverage shall be submitted to the Anderson County Purchasing Department prior to receiving appropriations governed by this Resolution; and

WHEREAS, if the Department wishes to use borrowed funds to increase the amount of the purchased apparatus, they must list Anderson County as an additional lien holder, second only to the lending institution; and

WHEREAS, if the Fire Department dissolves, ceases to formerly exist, fails to maintain Tennessee Secretary of State legal status or Internal Revenue Service Not-For-Profit status, Anderson County will have the right without additional legal process to immediately repossess all vehicles, equipment and apparatus bought with Anderson County funds under the terms of this Resolution. Anderson County reserves the right to repossess assets bought with funds received under the terms of this Resolution for non-compliance with any requirement herein embodied in this Resolution; and

WHEREAS, all Fire Departments and the Rescue Squad receiving these funds, will attend announced meetings of the Anderson County Fire Commission, as the Fire Commission will administer, recommend to the Board of Commissioners and govern the schedule of these funds for the purposes set forth. Fire Departments that fail to attend fifty-one percent (51%) of Fire Commission meetings for any given fiscal year will be ineligible to receive appropriations under this Resolution for the following three (3) fiscal years unless waiver of this provision is approved by the Anderson County Commission; and

WHEREAS, it will be the responsibility of the Fire Departments to provide routine, needed repairs and emergency maintenance on purchased apparatus and ancillary emergency response equipment for the term of this agreement including routine safety and maintenance checks for all apparatus including ladders, breathing apparatus and other life safety equipment as mandated and approved by the Anderson County Director of Emergency Medical Service and the Director of Emergency Management; and

WHEREAS, all purchases under the terms of this Resolution shall be competitively bid through the Anderson County Purchasing Department and legally compliant with all mandates of the 1957 Purchasing Act and Fiscal Management Act. Members of the Board of Commissioners, County officials, both elected and appointed, employees of Anderson County and members of the Fire Commission shall not be financially interested in, receive personal financial gain, make a profit or commission from the purchase of a fire truck, rescue vehicle or other vehicle apparatus from funds received under the terms of this Resolution; and

WHEREAS, all departments receiving funds under this Resolution shall be required to maintain routine inspections of all fire suppression equipment as mandated and determined by the Anderson County Fire Commission as recommended through consultation with the Director of EMS and the Emergency Management Director.

WHEREAS, all fire departments receiving funds under this Resolution shall submit to annual audits, or otherwise requested audits approved and funded by the Anderson County Board of Commissioners.

NOW, THEREFORE, BE IT RESOLVED by the Anderson County Board of Commissioners meeting in day session this 15th day of April 2013 that the above-stated provisions are strictly required and not just mere recitals and are incorporated herein as mandatory for any fire department to receive funding for assets purchased under the terms of this Resolution.

BE IT FURTHER RESOLVED that the rotation cycle is established as follows:

1. Briceville Volunteer Fire Department
2. Oliver Springs Fire Department
3. Clinton Fire Department
4. Lake City Fire Department
5. Norris Volunteer Fire Department
6. Claxton Volunteer Fire Department, Inc.
7. Andersonville Volunteer Fire Department
8. Marlow Volunteer Fire Department
9. Oak Ridge Fire Department
10. Medford Volunteer Fire Department
11. Anderson County Rescue Squad, Inc.

BE IT FURTHER RESOLVED that the this agreement and any and all other required documents be executed by all Fire Departments and the Rescue Squad prior to any funds being distributed pursuant to this Resolution.

BE IT FURTHER RESOLVED that it is the intent of the Anderson County Board of Commissioners to fund this donation on an annual basis; however, nothing contained herein shall be considered as a contractual obligation to fund this fire truck replacement schedule on a yearly basis and bind the County to future budgetary obligations without year to year approval by the Anderson County Board of Commissioners.

RESOLVED, duly passed and approved this ____ day of _____, 2013.

APPROVED:

Chuck Fritts, Chairman, County Commission

Terry Frank, County Mayor

Attest:

Jeff Cole, Anderson County Clerk

