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## State Fire Marshal Division

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### Frequently Asked Questions on Enforcement Of the MUFC as It Relates to Fireworks

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Although a new law changes the definition of fireworks in Minn. Stat 624.20(c), it does nothing to change enforcement of the Minnesota Uniform Fire Code (MUFC) as it relates to these legal consumer fireworks. As a service to the Minnesota Fire Service, the State Fire Marshal Division has assembled this list of frequently asked questions relating to fireworks and the MUFC. This analysis was done in response to a request by the Minnesota State Fire Chief's Association. The SFMD does not recommend or approve any particular scenario or enforcement strategy, but is providing this information to encourage a thorough understanding of the material and options available.

#### **Question 1 – Are local jurisdictions allowed to adopt requirements that exceed the fire code as it relates to fireworks?**

**Answer to question 1 –** Yes, this has always been available to local jurisdictions and is permitted in Minn. Rules 299F.011, Subd. 4. For example, a city or town could adopt a local ordinance relating to the time of year for sale, use and possession, or could limit where fireworks are sold. This could take the form of limits on the quantities for sale, what fire safety measures must be provided for retail sales outlets or similar requirements.

#### **Reference for question 1:**

299F.011 Uniform fire code; adoption.

Subd. 4. Applicability; local authority. The uniform fire code shall be applicable throughout the state and in all political subdivisions and municipalities therein. However, nothing in this subdivision shall prohibit a local unit of government otherwise authorized by law from adopting or enforcing any ordinance or regulation which specifies requirements equal to, in addition to, or more stringent than the requirements of the uniform fire code. Any ordinance or regulation adopted by a local unit which differs from the uniform fire code must be directly related to the safeguarding of life and property from the hazards of fire, must be uniform for each class or kind of building covered, and may not exceed the applicable requirements of the uniform building code adopted pursuant to sections 16B.59 to 16B.73.



**Question 2 – Retail sale of consumer fireworks is not directly addressed in the MUFC, thus would it be appropriate to reference an NFPA or other standard for fire safety requirements for retail sale?**

**Answer to question 2 –** Yes, since the fire code has language to allow a code official to deal with hazards that arise and are not specifically addressed in the MUFC. The fire code currently regulates the storage of high hazard commodities in retail settings (group A plastics or flammable liquids, for example), so the introduction of unregulated hazards is cause for concern. Since retail sale of fireworks is not addressed by the MUFC, code officials are authorized to enforce other standards to mitigate the hazard and could include NFPA 1124, the supplement to the UFC, APA Standard 87-1, or other documents as possible choices.

**Reference for question 2:**

MUFC 101.3 Subjects Not Specifically Regulated by this Code. Where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized firesafety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this code. See also Section 9001.2. Nothing herein shall derogate from the power of the chief to determine compliance with codes or standards for those activities or installations within the chief's jurisdiction or responsibility.

**Question 3 – Can local jurisdictions require a permit for fireworks retail sale or storage, just as they do for hazardous materials or high piled storage?**

**Answer to question 3 –** Yes. The MUFC currently allows for permits to be obtained for fireworks and although not specific, this could include retail sale or storage operations, for example. In setting up a permit system, a community could establish the levels for the permit and any fire safety requirements necessary to operate within the permit, just as is done with other permits. Since there is not specific language in the MUFC dealing with retail sale of fireworks, a concerned community could enforce compliance with some minimum level of safety through the permit process (i.e. retail sale must meet NFPA 1124 or the UFC supplement, for example).

**Reference for question 3:** MUFC Section 105.8 f.2

**Question 4 – Can a code official require additional fire protection systems in retail sales occupancies selling or storing fireworks or in warehouses with fireworks storage?**

**Answer to question 4:** Yes. When a code official has determined that a special hazard exists in addition to the normal hazard of an occupancy, additional safeguards can be required. An example would be the addition of fireworks to a large storage warehouse where the sprinkler system is designed to protect class I – IV commodities and the code official is concerned about the added hazard and the ability of the sprinkler system to protect the new hazard.

**Reference for question 4:**

MUFC 1001.9 Special Hazards. For occupancies of an especially hazardous nature or where special hazards exist in addition to the normal hazard of the occupancy, or where access for fire apparatus is unduly difficult, the chief is authorized to require additional safeguards consisting of additional fire appliance units, more than one type of appliance, or special systems suitable for the protection of the hazard involved. Such devices or appliances can consist of automatic fire alarm systems, automatic sprinkler or water spray systems, standpipe and hose, fixed or portable fire extinguishers, suitable fire blankets, breathing apparatus, manual or automatic covers, carbon dioxide, foam, halogenated or dry chemical or other special fire-extinguishing systems. Where such systems are provided, they shall be designed and installed in accordance with the applicable

**Question 5 – Can a code official limit smoking in retail sales buildings, warehouses or tents containing fireworks?**

**Answer to question 5:** Yes. If the chief determines that smoking constitutes a fire hazard, the chief is authorized by the MUFC to prohibit smoking in such areas.

**Reference for question 5:**

MUFC 1109.4.1 Designated areas. When the chief determines that smoking constitutes a fire hazard in any areas of piers, wharves, warehouses, stores, industrial plants, institutions, schools, places of assembly and in open spaces where combustible materials are stored or handled, the chief is authorized to order the owner or occupant to post approved NO SMOKING signs in each building, structure, room or place in which smoking is prohibited. Such signs shall be conspicuously and suitably located and shall be maintained. When necessary, the chief is authorized to designate specific safe locations in any building, structure or place where smoking is allowed.

**Question 6 – Can a code official prevent fireworks from being used near tents or road side stands?**

**Answer to question 6:** Yes - for structures falling under the requirements of Article 32 (Temporary tents and membrane structures greater than 200 square feet in area), the MUFC prohibits fireworks use and open flames inside or adjacent to the structure.

**Reference for question 6:**

MUFC 3215.2 Fireworks, Open Flames and Hot Objects. Fireworks, open flames and devices capable of igniting combustible materials shall not be used in or adjacent to a temporary membrane structure, tent or canopy, unless otherwise approved.

**Question 7 – Does Article 77 (Explosives) of the MUFC apply to the manufacture, storage and transportation of fireworks?**

**Answer to question 7:** Yes, Article 77 (Explosives) of the MUFC applies to manufacture, storage and transportation of fireworks. There is an exception on the application of Article 77 for the sale, possession or use of fireworks, so this leaves manufacture, storage and transportation open to enforcement of Article 77. As such, the quantity limits, separation distances, storage practices etc. of Article 77 could be enforced where manufacture, storage and transportation of fireworks occurs.

**Reference for question 7:**

MUFC 7701.1 Scope. Manufacture, possession, storage, sale, transportation and use of explosive materials shall be in accordance with Article 77.

EXCEPTIONS:

3. The sale, possession or use of fireworks 1.4G (Class C common fireworks).

**Question 8 – Does the MUFC consider fireworks to be flammable solids and subject them to the requirements for H occupancies when storing above the 125-pound limit in Article 80?**

**Answer to question 8:** No. Although this may appear to be a possible enforcement option, the definitions in the MUFC for flammable solid do not support such a determination. Also, the examples found in Appendix Chapter VI-A, make no mention of fireworks being a flammable solid. In summary, the State Fire Marshal does not recommend using this reference in relation to consumer fireworks.

### Reference for question 8:

**MUFC Definitions - FLAMMABLE SOLID** is a solid substance, other than one which is defined as a blasting agent or explosive, that is liable to cause fire through friction or as a result of retained heat from manufacture, which has an ignition temperature below 212°F (100°C), or which burns so vigorously or persistently when ignited that it creates a serious hazard. Flammable solids include finely divided solid materials which when dispersed in air as a cloud could be ignited and cause an explosion.

#### **Appendix VI-A**

2.1.4 Flammable solids.

2.1.4.1 Organic solids. Examples: camphor, cellulose nitrate and naphthalene.

2.1.4.2 Inorganic solids. Examples: decaborane, lithium amide, phosphorous heptasulfide, phosphorous sesquisulfide, potassium sulfide, anhydrous sodium sulfide and sulfur.

2.1.4.3 Combustible metals (except dusts and powders). Examples: cesium, magnesium and zirconium.

2.1.4.4 Combustible dusts and powders (including metals). Examples: wood sawdust, plastics, coal, flour and powdered metals (few exceptions).

### **Question 9 – Is the chief allowed to prohibit the use of fireworks in hazardous fire areas as authorized by Appendix II-A?**

**Answer to question 9:** Yes. Appendix II-A of the fire code has been adopted and may be enforced as such. When the chief has identified a hazardous fire area, Section 10 of Appendix II-A prohibits the possession or use of fireworks in such areas.

### Reference for question 9:

MUFC SECTION 10 - FIREWORKS Fireworks shall not be used or possessed in hazardous fire areas. The chief is authorized to seize, take, remove or cause to be removed fireworks in violation of Section 10.

**NOTE:** The State Fire Marshal Division is currently in the process of adopting the International Fire Code and anticipates that a similar analysis of fireworks requirements under the new code will be needed.