

ORDINANCE NO. 5329

AN ORDINANCE TO AMEND §94.05 USE OF FIREWORKS OF THE CODE OF FAYETTEVILLE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §94.05 Use of Fireworks by repealing sections (A) and (B) {previously (B) and (C) before the passage of Ordinance No. 5320} and by enacting replacement sections (A) and (B) as follows:

“94.05 Use of Fireworks

The use of any fireworks in Fayetteville is prohibited and constitutes a violation of law punishable for §94.99 except as provided below:

(A) *Consumer fireworks.* Fireworks which are not prohibited under state or federal law and which are considered consumer fireworks as defined by federal law and regulations may lawfully be discharged within Fayetteville only as prescribed below:

(1) Fireworks may only be discharged upon private property with the consent of the property owner and between the hours of 10:00 a.m. until 10:00 p.m. on July 1st, 2nd, and 3rd and from 10:00 a.m. until 11:00 p.m. on July 4th and at no other time or date.

(2) If any person less than the age of 16 years is present, an adult (at least 21 years of age) must supervise the discharge of all fireworks.

(3) No skyrockets or aerial fireworks attached to a stick may be discharged.

(B) *Public display of fireworks.* Public displays of fireworks may be allowed upon the application and granting of a public fireworks display permit by the Mayor or his designee subject to the following conditions:

(1) An applicant must possess a valid state fireworks permit and comply with all applicable state and federal laws and regulations and requirements of NFPA 1123 to apply for a Fayetteville public fireworks display permit.

(2) Public fireworks display permits may be issued for the dates allowed pursuant to subsections (D), (E), and (F) below, and for the hours of 10:00 a.m. through 11:00 p.m. on July 1st, 2nd, 3rd, and 4th.

(3) Public fireworks display permits may be issued as a part of any special event permit issued by the City.

PASSED and APPROVED this 1st day of June, 2010.

APPROVED:

ATTEST:

By: 
LIONEL JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer



AGENDA REQUEST

Added at
Agenda Session
5/25/10 NB (ast)

FOR: COUNCIL MEETING OF JUNE 1, 2010

FROM:

FIRE CHIEF DAVID DAYRINGER

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO AMEND §94.05 USE OF FIREWORKS OF THE CODE OF FAYETTEVILLE

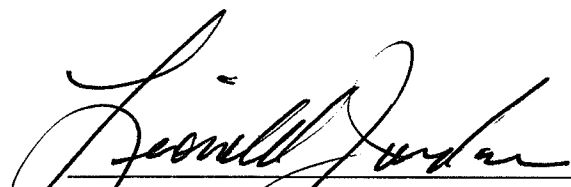
APPROVED FOR AGENDA:


David Dayringer, Fire Chief


5-25-10
Date


Don Marr, Chief of Staff

5-25-10
Date


Lioneld Jordan, Mayor

5/25/10
Date


Kit Williams, City Attorney
(as to form)

May 25, 2010
Date



From: David Dayringer
To: Williams, Kit
CC: Jordan, Lioneld; Jordan, Lioneld; Marr, Don
Date: 5/24/2010 11:40 AM
Subject: Use of Fireworks
Attachments: Use of Fireworks proposed ordinance.pdf

Hello Kit,

Attached you will find the proposed amendment previously prepared by your office for the "Use of Fireworks". This language should work for us. However, in section B, I would like to be authorized to grant a permit for public display for any special event that meets the requirements of that section. And not restricted to sporting events. This language also appears to exclude the use of bottle rockets, which is in line with our position. Will this language be 94.10 or will it be the new 94.05?

David C. Dayringer

Fire Chief
Fayetteville Fire Department
303 W Center St
Fayetteville, AR 72701
Office 479-575-8365
Mobile 479-841-5970

The U.S. Census takes place during March and April of this year. BE COUNTED! Your community is counting on you!

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor
City Council
Don Marr, Chief of Staff
David Dayringer, Fire Chief

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

DATE: **May 25, 2010**

RE: **Amendment to Use of Fireworks Ordinance**

Last week the City Council passed Ordinance No. 5320 which authorized the sale of fireworks within Fayetteville, but left unchanged restrictions upon fireworks use within Fayetteville. The Administration and Fire Chief Dayringer are now bringing forward an ordinance which would affect the permitted use of fireworks in Fayetteville.

The use of consumer fireworks by our citizens would be expanded to allow the use of firecrackers and other exploding fireworks which are now banned. This ordinance proposes to continue to ban skyrockets and aerial fireworks attached to a stick. Citizens would be authorized to discharge fireworks from 8:00 a.m. until 10:00 p.m. on July 1st, 2nd, and 3rd, and from 8:00 a.m. until 11:00 p.m. on July 4th.

Public fireworks displays (professional, nonconsumer fireworks) remain authorized, for the period of July 1st, 2nd, 3rd, and 4th (8:00 a.m. until 11:00 p.m.) Our current law would allow public displays also on July 5th and 6th.

The Administration also proposes that a public fireworks display permit may be issued by the Mayor "for any special event." This is a new and broad authority for the Mayor to authorize a public fireworks display. I have incorporated this proposal in subsection (3) of subsection (B) *Public display of fireworks*.

The current subsections (C), (D), (E) and (F) remain unchanged. Attached is Ordinance No. 5320 and the current code sections.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND §94.05 USE OF FIREWORKS
OF THE CODE OF FAYETTEVILLE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:**

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(2) If any person less than the age of 16 years is present, an adult (at least 21 years of age) must supervise the discharge of all fireworks.

(3) No skyrockets or aerial fireworks attached to a stick may be discharged.

(B) *Public display of fireworks.*

Public displays of fireworks may be allowed upon the application and granting of a public fireworks display permit by the Mayor or his designee subject to the following conditions:

(1) An applicant must possess a valid state fireworks permit and comply with all applicable state and federal laws and regulations and requirements of NFPA 1123 to apply for a Fayetteville public fireworks display permit.

(2) Public fireworks display permits may be issued for the dates allowed pursuant to subsections (D), (E), and (F) below, and for the hours of 8:00 a.m. through 11:00 p.m. on July 1st, 2nd, 3rd, and 4th.

(3) Public fireworks display permits may be issued as a part of any special event permit issued by the City.

PASSED and APPROVED this 1st day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

ORDINANCE NO. 5320

AN ORDINANCE TO AMEND CHAPTER 94 FIRE PREVENTION OF THE FAYETTEVILLE CODE BY AMENDING §94.05 SALE AND USE OF FIREWORKS AND BY ENACTING A NEW §94.09 SALE OF FIREWORKS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §94.05 by changing its title to **Use of Fireworks**, repealing subsection (A) in its entirety and relettering all the following subsections appropriately.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 94 **Fire Prevention** of the Fayetteville Code by enacting a new §94.09 **Sale of Fireworks** as follows:

“§94.09 Sale of Fireworks

“(A) No person shall sell or distribute any firecrackers, sky rockets, bottle rockets, sparklers, roman candles, or any other explosive used for amusement purposes, or any other device or composition used to obtain visible or audible pyrotechnic display, all commonly known as fireworks, except as specifically set out herein.

(B) Fireworks which are not prohibited under state or federal law and which are considered consumer fireworks as defined under federal law and regulations (27 C.F.R. § 555.11) may be sold between June 28th and July 5th of each year, subject to the provisions set out herein. Any person desiring to sell fireworks must obtain a permit. The fee for each permit shall be \$500.00 per location. One-half of the permit fee (\$250.00) shall be placed in a revenue account of the Fayetteville Fire Department to cover the cost of fire inspections of locations where fireworks are sold. Before a permit to sell fireworks is issued, the person applying for the permit must show proof that such location will be insured by a licensed insurance company for \$1,000,000.00 premises liability. A vendor must contact the Fayetteville Fire Department and arrange for an inspection to ensure compliance with this Code and any other applicable fire code requirements, prior to the sale of fireworks.

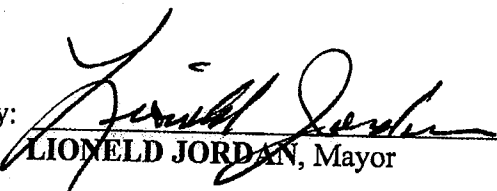
(C) No fireworks shall be sold or stored within a permanent structure. Furthermore, no fireworks stand shall be located at any place other than one in full compliance with all provisions of law.

(D) Fireworks stands shall not be located within 250 feet of a fuel dispensing facility and must be set back at least 50 feet from the nearest portion of the street or highway.

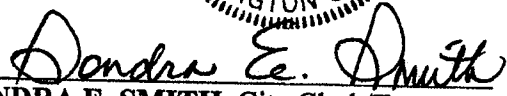
(E) Fireworks shall not be sold to a person less than sixteen (16) years of age.

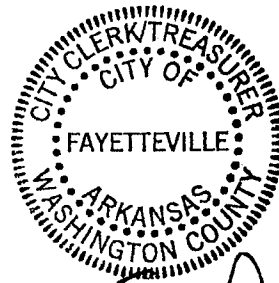
PASSED and **APPROVED** this 18th day of May, 2010.

APPROVED:

By: 
LIONELD JORDAN, Mayor

ATTEST:

By: 
SONDRA E. SMITH, City Clerk/Treasurer



FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

it immediately, and if such person shall refuse, neglect or fail to do so, any organized fire suppression force may summarily abate the nuisance thus constituted by controlling or extinguishing the fire, and the cost thereof may be recovered from such person by civil action. (Code 1965, §9-13; Ord. No. 1379, 12-9-63; Code 1991, §94.03)

19-99; Ord. No. 4308, 4-17-01; Code 1991, §94.04; Ord. 5096, 12-27-07)

Cross reference(s)--Penalty, §94.99.

State law reference(s)--Public displays excepted, A.C.A. §20-22-702; Power of municipalities unaffected, A.C.A. §20-22-704; Violation of subchapter, A.C.A. §20-22-705; Possession, sale and use unlawful-Exceptions, A.C.A. §20-22-708.

94.06 Flammable And Combustible Liquids; Liquefied Petroleum Gases

94.05 Sale And Use Of Fireworks

(A) It shall be unlawful for any person to offer fireworks for sale at retail within the city.

(A) Adoption of NFPA 30 and NFPA 30A.

(B) It shall be unlawful for any person to use fireworks within the city at any time except on the dates of July 3 and 4; provided that public displays pursuant to §3308 of the Arkansas Fire Prevention Code (2000 Edition) may be permitted on any date between July 1st and July 6th, inclusive.

(1) The requirements contained in this section shall be applicable to all aboveground tanks used for the outside storage and dispensing of flammable and Class II combustible liquids within the city. Such installations shall comply with the applicable requirements of National Fire Association Protection Standard (NFPA) 30-1993 and NFPA 30A-1993, except as modified herein. Refineries that comply with NFPA 30 and the applicable sections of the Standard Fire Prevention Code adopted by the city shall be exempt from this section.

(C) It shall be unlawful for any person to use the following fireworks at any time except at a public display pursuant to § 2002.2 of the Arkansas Fire Prevention Code (1991 Edition):

(B) Definitions.

(1) Skyrockets; and

(1) In addition to the definitions contained in NFPA 30 and NFPA 30A, the following definition shall apply:

(2) Firecrackers, or any other exploding fireworks.

(D) The fire chief or mayor shall be authorized to declare an emergency and prohibit all use of fireworks upon a determination that such use would create a fire hazard due to dry conditions.

Premises: A parcel of land, which may include one or more contiguous platted lots, occupied or intended for occupancy for a particular use or set of uses, including buildings together with accessory buildings, the yard area, and parking spaces.

(E) The fire chief or mayor shall be authorized to approve an alternate date for any lawful public display which is canceled due to adverse weather conditions or pursuant to §94.04(E).

(C) Outside aboveground flammable and combustible liquid tanks.

(F) It shall also be lawful for the University of Arkansas to conduct the annual "Fireworks Night" to celebrate and congratulate the Razorback Baseball Team at its last home game of the year in or near Baum Baseball Stadium. Said fireworks display shall comply with all applicable regulations and laws of the State of Arkansas.

(1) All aboveground tanks used for the outside storage of flammable and Class II combustible liquids in quantities in excess of 200 gallons shall comply with the following:

(G) It shall be lawful for First Night Fayetteville to conduct an annual public fireworks display to celebrate New Year's if approved by the Fayetteville Fire Marshall and if in full compliance with all applicable regulations and laws of the State of Arkansas.

(a) Such tanks shall be fire resistant tanks as defined in NFPA 30A and shall comply with all the requirements for fire resistant tanks in NFPA 30A in addition to any applicable requirements specified herein, or

(b) Such tanks shall be installed in vaults that meet all the applicable requirements of NFPA 30A.

(2) The fire official may impose additional

(Code 1965, §9-9.1; Ord. No. 1705, 10-6-69; Ord. No. 1807, 8-2-71; Ord. No. 2156, 10-21-75; Ord. No. 3359, 6-7-88; Ord. No. 3553, 6-18-91; Ord. No. 3706, §1, 6-1-93, Ord. No. 4195, 10-

remove
Changing Title
remove
All the rest is relettered, but remains the same.

RECEIVED

JUN 25 2010

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

NORTHWEST ARKANSAS NEWSPAPERS_{LLC}

Northwest Arkansas Democrat Gazette
The Morning News of Springdale
The Morning News of Rogers
Northwest Arkansas Times
Benton County Daily Record

212 North East Avenue, Fayetteville Arkansas 72701/ PO Box 1607, 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Northwest Arkansas Newspapers LLC. Printed and published in Washington & Benton County, (Lowell), Arkansas and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville –Proclamation

June 17, 2010

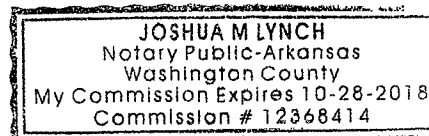
Publication Charge : \$ 58.37

Signed: Cathy Wiles

Subscribed and sworn to before me
This 23 day of June, 2010.

Notary Public Joshua M. Lynch

My Commission Expires: 10-28-2018



Do not pay from Affidavit, an invoice will be sent

PROCLAMATION

I, Fayetteville Mayor Lioneld Jordan, do hereby proclaim on this 14th day of June, 2010, the results of the Special Election of May 18, 2010, held in the City of Fayetteville for Ordinance No. 5305 which was referred to the voters by the Fayetteville City Council.



An Ordinance to Amend Ordinance No. 3900 to authorize use of the revenue from the existing Parks Hotel, Motel and Restaurant Tax for development, construction and maintenance of city parks.

For Proposed Ordinance No. 5305 7,539

Against Proposed Ordinance No. 5305 1,748

These election results were certified by the Washington County Board of Election Commissioners on May 28, 2010.

LIONELD JORDAN, Mayor