



Amended

ORDINANCE NO. 32 OF 2013

**AN ORDINANCE REPEALING ORDINANCE 32 OF 2004 AND ORDINANCE 33 OF 2011,
PROVIDING FOR THE LIMITED USE AND SALE OF FIREWORKS WITHIN THE CITY OF
BENTON DURING CERTAIN TIMES OF THE YEAR; PRESCRIBING PENALTIES FOR THE
VIOLATION OF SAME; DECLARING AN EMERGENCY;
AND FOR OTHER PURPOSES**

WHEREAS, the City of Benton, Arkansas desires to regulate the sale of fireworks within the city limits of the City of Benton, Arkansas and in accordance with A.C.A. §20-22-704; and

WHEREAS, the City desires that there be permit requirements for the operation of fireworks stands within the city; and

WHEREAS, the City desires to adopt safety rules and regulations concerning the operation of firework stands within the city; and

WHEREAS, the city desires to allow patriotic participation in celebrating certain holidays in the City of Benton; and

WHEREAS, the City desires to regulate the safety of such celebrations when the individual use of fireworks is involved; and

WHEREAS, the City desires to allow the public usage of fireworks during said holidays.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Benton, Arkansas as follows:

Section 1. Definitions

- A. Fireworks - The term "fireworks" means and includes any combustible composition or any substance, combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion deflagration, or detonation and includes, but is not limited to sky rockets, roman candles, daygo bombs blank cartridges, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sparklers, or other fireworks of like construction, any fireworks containing any explosive substance. This definition includes items which contain even small amounts of silver fulminate, potassium nitrate, ammonium perchlorate, or other chemical or pyrotechnical composition intended to produce a pyrotechnic event or effect, even if not classified as a "hazard material" under federal regulation.

1st of June each year. If June 1 follows on Saturday or Sunday then the date for sub

- B. Public Display – Any event that includes special fireworks which means all articles that are classified as Class B explosives in the regulations of the Interstate Commerce Commission and shall include all articles other than those classified as Class C but shall not include such dangerous items of commercial fireworks as cherry bombs, tubular salutes repeating bombs, aerial bombs, torpedoes, and fireworks containing more than 50mg of explosive powder.

Section 2. Regulating Sales of Fireworks

- A. Permit Fee - This permit fee is paid in lieu of a Privilege License and is hereby imposed on the owners, operators, lessors, or upon their agents and receivers, a permit fee in the amount of \$500.00 per year per stand, for the selling of fireworks from approved locations in the City of Benton, Arkansas. The permit fee shall be applied to budget line item #840.47 (The Community Fire Education Program). The annual fee shall be payable at the time of application on or before the 10th of June in 2011 and by the first of June each year thereafter to the City Clerk.

Amended

Has been repealed "the 14th day of June" by Ord 51 of 2015

see above box for text.

- B. Application Process – An application shall be completed. It shall request the following information.

1. Name of company or individual, address and phone number.
2. Location of Stand – The location of each fireworks stand must be situated within a district zoned by the City of Benton as commercial property (either highway commercial or neighborhood commercial). Each stand and the surrounding premises must comply with any applicable state law. A plot plan and a letter or lease giving permission to use the property shall be provided. Final approval for location of any stand or location for the sale of fireworks must be obtained from the Benton City Fire Chief or a representative of the Benton Fire Department specifically designated by the Fire Chief to act in his place for said approval of location, including the Fire Marshall. All stands must be inspected by the Fire Chief or his duly acting representative to insure compliance with all State and City codes.
3. Evidence of Sales Tax Identification Number – All owners, operators, lessors, or agents are responsible for the collection of sale taxes as required by laws of the State of Arkansas.
4. Proof of liability Insurance in the minimum amount of \$500,000

Ord 19 of 2017 replaces

- C. Dates of Operation – The sale of fireworks will only be allowed during the following dates:
Fourth of July Holiday Season: June 25 – July 5th

Section 3. Usage of Fireworks in the City of Benton

- A. Date and Time of Use – The usage of fireworks by members of the public in the City of Benton will be limited to the following dates and times:

Fourth of July Holiday: July 3rd – July 5th from 10:00 am until 10:00 pm each day

- B. Public Displays of Fireworks sponsored by the City – The City of Benton may sponsor a public display of fireworks which may occur on any of the following days during the year:

Fourth of July Holiday: July 3rd – July 5th from 10:00 am until 10:00 pm each day

Labor Day Weekend from Friday until Monday 10:00 am until 10:00 pm each day

Any other day and time authorized by the Parks Committee and by the City Council

- C. Citizens Responsibility –

1. Adult Supervision – No parent, guardian, or custodian of any child under the age of 18 shall knowingly permit or consent to the possession or discharge of fireworks by any child under the age of 18 without adult supervision.
2. Safe and sane manner – During the approved dates and time frames fireworks may be discharged within the city limits only on private property of the owner, or with the owner's permission when such a discharge is in a safe and sane manner. As used in the part, "safe and sane manner" refers to actions which do not endanger life, limb, or property of those in the area of discharge. Fireworks discharged on private property shall be maintained on same private property.
3. Clean-up – Any individual, firm, partnership, corporation, or association discharging fireworks under this ordinance shall, upon such discharge, be responsible for clean-up of the discharge site or other property that the discharged fireworks land on.

4. Prohibited Locations of Use – With the exception of the annual City of Benton Fourth of July public display, a Labor Day Weekend public display and any display authorized by the City Council by resolution, no fireworks may be discharged within the boundaries of or within 300 feet of any public park owned or maintained by the City of Benton or any city owned property. No fireworks may be discharged within 1000 feet of any hospital, nursing, or assisted living facility. No fireworks may be discharged under or upon a motor vehicle, whether moving or not, or within 300 feet of any gas station; gas, oil, or propane storage facility; or other area which is highly flammable by nature. No fireworks may be discharged within 300 feet of any fireworks display stand or other areas where sales of fireworks are taking place.
- D. Fireworks Usage/Ban – When, in the opinion of the Fire Chief, drought or other conditions exist which, when coupled with the discharge of fireworks, would pose a hazard to persons or property, the Fire Chief shall issue a ban on the sale and discharge of all fireworks until such time as the condition causing the ban ceases to exist. When a public display of fireworks, as authorized in Section 3(B) has to be postponed due to a burn ban, the Mayor may reschedule the public display at an appropriate date and time after the burn ban has been lifted.
- E. Public Display – Public display is permitted when performed in accordance with ACA 20-22-702 and this ordinance.
- F. The safe and sane discharge of fireworks in accordance with the provisions of this ordinance shall not be deemed a violation of Ordinance 29 of 2007, otherwise known as the “Noise Ordinance.”
- G. Enforcement- The Police Department, Fire Department, and Code Enforcement shall enforce the rules and regulations of this ordinance.
- H. Violation-Penalty- Any individual, firm, partnership, corporation, or association violating the section of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$100 or more than \$500 for a first offense, a fine of not less than \$200 or more than \$500 for a second offense, and a fine of not less than \$300 or more than \$500 for a third or subsequent offense. Each day of a violation constitutes a separate offense. In the case of a violation by a firm, partnership, corporation, or association, the manager or members of the partnership or responsible officers or agents shall be deemed to be prima facie responsible, individually, and subject to the penalty as provided.

Any damages caused or injuries sustained as a result of any violation of this ordinance shall be ordered paid as restitution as a part of any conviction for any violation.

The court may order the reimbursement of costs of enforcement, investigation, fire suppression services, and overtime related to a violation upon conviction.

Section 4. Conflicts- All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of said conflict. Ordinance 32 of 2004 and Ordinance 33 of 2011 are hereby repealed.

Section 5. Should any word, phrase, or section of this ordinance be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the force and validity of the remaining portion of sections of this ordinance.

Section 6. Emergency clause: This ordinance being necessary for the protection of the public peace, health, and safety, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED AND APPROVED THIS THE 10 DAY OF June, 2013.



MAYOR

ATTEST:



CITY CLERK

Proof of Publication

STATE OF ARKANSAS
County of Saline

I, Michael Bueckel, do

solemnly swear that I am Legal Advertising Clerk for The Saline Courier, a daily newspaper printed in said county, and that I was such at the date of publication hereinafter stated, and that said newspaper had a bona fide circulation in such county at said dates, and has been regularly published in said county since the year 1876 before the date of the first publication of the advertisement hereto annexed, and that said advertisement was published in said newspaper 1 times for 1 issues, the first insertion therein having been made on 6/15/2013, and the last insertion on 6/15/2013.

Billed Account City of Benton

Ad Number 4662

Legal Advertising Clerk Michael Bueckel

Sworn to and subscribed before me on 6-25-13

Notary Public W. Paul

FEE FOR PRINTING

\$ 677.00 Cost of Notice

\$ 3.60 Cost of Proof

\$ 679.60 Total



Legal Notices

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David Mattingly, MAYOR