

ORDINANCE NO. _____

AN ORDINANCE AMENDING AND RESTATING SECTION 9.7 OF THE *CITY OF TEXARKANA, ARKANSAS, CODE OF ORDINANCES* CONCERNING THE SALE AND DISCHARGE OF FIREWORKS, AND FOR OTHER PURPOSES

WHEREAS, in order to provide for revised provisions in the city ordinances concerning the sale and discharge of fireworks within the City of Texarkana, Arkansas, it is necessary to restate and amend Section 9-7 of the *City of Texarkana, Arkansas, Code of Ordinances*;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Directors of the City of Texarkana, Arkansas, that Section 9-7 of the Code is deleted in its entirety and the following is substituted for the same:

Sec. 9-7. - Sale, discharge of fireworks.

(a) It shall be unlawful for any person to display for retail sale, offer for retail sale, sell at retail or give away any fireworks of any kind or character whatsoever within the limits of this city unless otherwise permitted and in compliance with other applicable ordinance; provided, however, nothing contained in this provision shall be deemed to prohibit the wholesale sale of fireworks to merchants within or without of the city limits

(b) It shall be unlawful for any person or entity to discharge any fireworks of any kind or character whatsoever within the limits of this city; provided that a permit may be obtained for a public display of fireworks as more particularly set out in this section.

(c) The fire marshal (or, in absence of a fire marshal, the fire chief), shall issue a permit for the outdoor display of fireworks, only as follows:

(1) Submission of application by an applicant, containing such detail as may be required by, and in form and substance sufficient in the opinion of the fire marshal (or,

as may be the case, fire chief), to allow the fire marshal (or, as applicable, fire chief) to determine that:

(A) All applicable provisions and requirements of the fire prevention code, state statute, and NFPA 1123 (or the successor thereto) are met;

(B) All other necessary federal, state or County permits have been issued and obtained by the applicant and presented as part of the application (or, if such permits require local permit issuance as a prerequisite, then any permit issued hereunder shall not be final unless and until all other permitting is obtained and evidence of the same provided to the city);

(C) The display will be handled and personally overseen by a person or operator having all licensing that may be otherwise required by state or federal law to discharge the type of fireworks to be included in the display;

(D) The display will occur no earlier than 10:00 a.m.;

(E) The display will conclude no later than 10:00 p.m.;

(F) The display will occur only occur on December 31, July 4, or a Friday or a Saturday;

(G) The duration of the actual display will not exceed thirty (30) minutes;

(H) The fireworks will be launched from real property other than property belonging to the city, and all owners of record (as determined by the records of the Miller County Arkansas Tax Assessor) have consented in writing to the use of said property (or such portion thereof as may be required) by the applicant for such purpose and, further, that said owners, in writing, release, to the extent not otherwise prohibited by applicable law, the city from any liability incurred by the owner or any person or entity claiming by or through the said owners relating to or arising from the permit or the display; and,

(I) The applicant, in writing, releases, to the extent not otherwise prohibited by applicable law, the city from any liability incurred by the applicant or any person claiming by or through the applicant relating to or arising from the permit or the display.

(1) Upon approval of an application, no permit shall issue unless and until the applicant presents written affidavit from the publisher of newspaper of general circulation within

the city limits of Texarkana, Arkansas, of publication, occurring no less than once time per week for two consecutive weeks, of a Public Notice of Fireworks Display to Occur Within the City Limits of Texarkana, Arkansas, containing: the date of the upcoming display; the name mailing address and phone number of the permit applicant; the name, mailing address and phone number of the operator conducting the display (if different than the applicant); the physical address of the display launch location; whether the display is a private display or a display that is open to general public; and, if the public is invited to attend, the location reserved for such viewing by the general public and the cost of admission to the same. The cost of publication shall be the responsibility of the applicant.

(2)Any permit issued pursuant to this section is not transferrable, nor will any permit issued pursuant to this section be subject to rescheduling, for any reason, absent renewed application and issuance of a new permit in accordance with the requirements of this section (including, without limitation, publication requirements).

(3)Notwithstanding the foregoing, any person to whom or entity to which a permit has been issued under this section may, but, absent requirement by the fire marshal (or, as applicable, the fire chief), shall not be required to, conduct a small test firing on the date of the display, but in no event shall such test firing occur prior to 10:00 a.m.

PASSED AND APPROVED this 1st day of February, 2021.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

George Matteson, City Attorney