

ORDINANCE NO. 2002-04

**AN ORDINANCE TO AUTHORIZE AND REGULATE THE SALE,  
DISTRIBUTION, POSSESSION AND USE OF FIREWORKS  
WITHIN THE CITY LIMITS OF CLINTON, ARKANSAS;  
AND DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.**

**WHEREAS**, The State of Arkansas has in force statutes that regulate the sale, distribution and use of fireworks within Arkansas which are codified at Arkansas Code Annotated § 20-22-701 et seq; and

**WHEREAS**, A.C.A. § 20-22-704 authorizes municipalities to regulate the sale and use of fireworks; and

**WHEREAS**, the sale and use of fireworks within the City of Clinton is currently prohibited; and

**WHEREAS**, the City of Clinton desires to authorize the sale and use of fireworks within the city limits.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLINTON, ARKANSAS:**

**Section 1. Authority:**

The sale and use of fireworks within the city limits of Clinton, Arkansas is hereby authorized subject to the limitations and requirements set forth herein.

**Section 2. Definitions:**

(a) "Distributor" means any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks either as a jobber or a retailer or both;

(b) "I.C.C. Class C Common fireworks" means all articles of fireworks as defined in A.C.A. § 20-22-708 now or as it may be amended by the General Assembly;

(c) "Importer" means any person who imports, brings in, or causes to be brought in any fireworks from outside the geographical limits of the State of Arkansas into this state;

(d) "Jobber" means any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail. The word "wholesaler" shall have the same meaning as "jobber";

(e) "Manufacturer" means any person engaged in the making or construction of fireworks who ships or causes to be shipped or transports or causes to be transported, any items or fireworks into the State of Arkansas;

(f) "Permit" means the written authority of the Clinton Fire Chief issued under the authority of this ordinance to a distributor, jobber, manufacturer, importer or retailer for a fee as described in this ordinance.;

(g) "Person" means any corporation, association, co-partnership or one (1) or more individuals;

(h) "Retailer" means any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than a distributor or jobber;

(i) "Sale" means barter, exchange, gift or offer therefore, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

(j) "Special Fireworks" means all articles of fireworks 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 fifty (50) milligrams of explosive powder.

**Section 3. Public displays excepted:**

(a) Nothing in this subchapter shall be construed as applying to the shipping, sale, possession and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the Clinton Fire Chief. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the state shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulations of the Interstate Commerce Commission as Class B special fireworks and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes.

- (b)(1) Public displays shall be performed only under the competent supervision and after the persons or organizations making the displays shall have applied for and received a permit for the displays issued by the Clinton Fire Chief.
- (2) Applications for permits for public displays shall be made in writing at least two (2) days in advance of the proposed display and the application shall show that the proposed display is to be so located and supervised that it shall not be hazardous to life, limb or property.
- (c)(1) Permits issued shall be limited to the time specified therein and shall not transferable.
- (2) Only licensed distributors who are licensed importers or who purchase from licensed importers may possess special fireworks for resale to holders of a permit for a public fireworks display.

**Section 4. Violation of Ordinance - Penalties:**

Any person violating any of the provisions of this ordinance except those in Section 5, shall be guilty of a violation and upon conviction shall be punished by a fine of \$200.00 for the first offense, \$300.00 for the second offense and \$500.00 for each subsequent offense within a twelve (12) month period.

**Section 5. License required - Penalty:**

(a) No person shall do any act for which a permit is required by this ordinance unless he holds the proper state and city licenses and permits.

(b) Whoever violates subsection (a) of this section shall be guilty of a violation and upon conviction shall be punished by a fine of \$500.00 for each occurrence or if the violations are continuous in nature so that it is an ongoing offense, the fine shall be \$250.00 per day for each day or part of a day the violation occurs.

**Section 6. License - Application and issuance:**

(a) An applicant, in order to engage in the sale of fireworks as a manufacturer, importer, distributor, jobber or retailer, must submit to the City Clerk, on a form provided by the Clerk, setting forth such facts and information as the Fire Chief may determine to be necessary and proper, considering the requirements of public health, safety and welfare. The license shall

be valid for one (1) year from the date of issuance and may be reviewed each year. Upon approval of the application, but prior to the issuance of the permit, the applicant shall pay to the City Clerk a fee as follows:

Manufacturer	\$500.00
Importer	\$300.00
Distributor	\$250.00
Jobber	\$150.00
Retailer	\$100.00

(b) Any person wishing to obtain a retail permit must provide the City Clerk with a copy of their sales tax number and shall collect all applicable sales taxes on sales made in the city limits.

(c) All funds collected under this ordinance, including fees and penalties, shall be deposited in the City Treasury to be used for the enforcement of this ordinance by the police department or for any equipment or costs expended by the fire department in the extinguishment of firework related fires.

(d) The City Clerk shall assign a license number to each license issued, This number shall be affixed by the person to whom such license is issued to all invoices issued or used by each manufacturer, importer, distributor or jobber.

(e)(1) No permit or license provided for in this subchapter shall be transferable, nor shall a person be permitted to operate under a permit or license issued to any other person.

(2) No permit or license shall be issued to a person under the age of twenty-one (21) years.

(3)(A) Each retailer and holder of a license under the provisions of this subchapter shall keep an accurate record of each shipment received.

(B) Each distributor, importer, jobber or wholesaler shall keep a record of each shipment received and each sale, delivery or outshipment of fireworks.

(C) The records shall be clear, legible and accurate, showing the name and address of the seller or purchaser, item and quantity received or sold.

(D) The records are to be kept at each place of business and shall be subject to examination by the director or his agents who shall have the authority at any

time to require any manufacturer, importer, distributor, wholesaler, jobber or retailer to produce records for the current year and the immediately preceding full license year.

- (E) The City Clerk may refuse to renew a permit if the applicant has been cited for three (3) or more violations of this ordinance in a twelve (12) month period.

**Section 7. Permissible Fireworks:**

(a) The permissible fireworks consist of those defined in Interstate Commerce Commission regulations described as Class C fireworks only and shall include the following:

- (1) Roman Candles, with no handle or spike affixed thereto, not exceeding ten (10) balls spaced uniformly in the tube, total pyrotechnic composition not to exceed twenty grams (20g.) each in weight. The inside tube diameter shall not exceed three-eighths inch ( $3/8''$ );
- (2) Sky rockets, with sticks, total pyrotechnic composition not to exceed twenty grams (20g.) each in weight. The inside tube diameter shall not exceed one-half inch ( $1/2''$ ). The rocket sticks must be securely fastened to the tubes;
- (3) Helicopter-type rockets, total pyrotechnic composition not to exceed twenty grams (20g.) each in weight. The inside tube diameter shall not exceed one-half inch ( $1/2''$ );
- (4) Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five grams (75g.) each in weight. The inside tube diameter shall not exceed three-fourths inch ( $3/4''$ );
- (5) Cone fountains, total pyrotechnic composition not to exceed fifty grams (50g.) each in weight;
- (6) Wheels, total pyrotechnic composition not to exceed sixty grams (60g.) for each driver unit or two hundred forty grams (240g.) for each complete wheel. The inside tube diameter of driver units shall not exceed one-half inch ( $1/2''$ );

- (7) Illuminating torches and colored fire in any form, except items included in subsection (a)(12) of this section, total pyrotechnic composition not to exceed one hundred grams (100g.) each in weight;
- (8) Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred grams (100g.) each in weight. Pyrotechnic composition containing any chlorate or perchlorate shall not to exceed five grams (5g.);
- (9) Mines and shells of which the mortar is an integral part, total pyrotechnic composition not to exceed forty grams (40g.) each in weight;
- (10) Firecrackers and salutes with casings, the external dimensions of which do not exceed one and one-half inches (1½") in length or one-quarter inch (¼") in diameter, and other items designed to produce an audible effect, total pyrotechnic composition not to exceed two grams (2g.) each in weight;
- (11) Novelties consisting of two (2) or more devices enumerated in this paragraph, trick matches and cigarette plugs, when approved by the Federal Bureau of Explosives;
- (12) Railway fuses, truck flares, hand ship distress signals, smoke signals and smoke pots

(b) No component of any device listed in this section which is designed to produce an audible effect shall contain pyrotechnic composition in excess of two grams (2g.) each in weight excluding propelling or expelling charges.

**Section 8. Location, display, sale, etc.:**

(a) The placing, storing, locating and displaying of fireworks in any window where the sun may shine through glass on to the fireworks so displayed or to permit the presence of lighted cigars, cigarettes or pipes within ten feet (10') of where the fireworks are offered for sale is declared unlawful and prohibited.

(b) 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 inches (4") high.

(c) No fireworks are to be sold at retail at any location where paints, oils varnishes shall be kept for use or sale, unless the paints, oils and varnishes are kept in the original unbroken

containers, nor where resin, turpentine, gasoline or other inflammable substance which may generate inflammable vapors is used, stored or sold..

(d) All firework devices that are readily accessible to handling by consumer or purchaser must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety type thread wrapped and coated fuses shall be exempt from this section.

(e) All licensees under this subchapter must have a fire extinguisher of a type approved by the Clinton Fire Chief in an area readily accessible to any point of storage or sale of fireworks. In lieu of such extinguisher, retailers may maintain a common type of water hose, charged and connected to a water system, which is readily available to any area where fireworks are stored or sold.

(f) All retail fireworks stands shall only be permitted in areas which are zoned as commercial.

**Section 9: Times of Permissible sales:**

(a) Permissible items of fireworks may be sold a retail and used within the City of Clinton from June 20 through July 10 and December 10 through January 5 of each year only.

(b) As used in this section, fireworks shall not include toy pistols, toy canes, toy guns or other devices in which paper caps containing twenty-five hundredths (.025) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five hundredths (.025) grains of explosive compounds, cone, bottle, tube or other type serpentine pop-off novelties, nonpoisonous toy snake, smoke sticks without report and sparklers, the sale and use of which shall be permitted at all times.

**Section 10. Sales to certain people prohibited:**

It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of twelve (12) years or to any person known to be intoxicated or irresponsible.

**Section 11. Place of explosion or ignition:**

(a) It shall be unlawful to explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school or within two hundred feet (200') of where fireworks

are stored, sold or offered for sale.

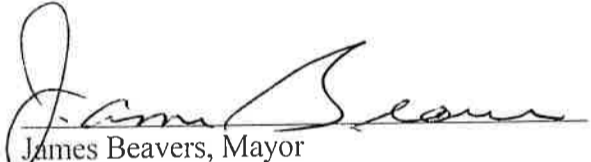
(b) No person shall ignite or discharge any permissible articles of fireworks within, or throw the fireworks from, a motor vehicle while therein, nor shall any person place or throw any ignited article of fireworks into or at a motor vehicle or at or near any person or group of people.

**Section 12. Emergency Clause:**

The efficient operation of the City of Clinton is essential to the public health, safety and welfare. It is important that the provisions of this ordinance go into effect quickly as the next permissible dates for sale and use of fireworks is less than 30 days away. An emergency is therefore declared to exist and this ordinance shall be in full force and effect from and after the date of its adoption.

PASSED: March 14, 2002.

APPROVED:

  
James Beavers, Mayor

ATTEST:

  
Merl Eoff, City Clerk

APPROVED AS TO LEGAL FORM:

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Brad A. Cazort, City Attorney