

AGENDA REQUEST FORM

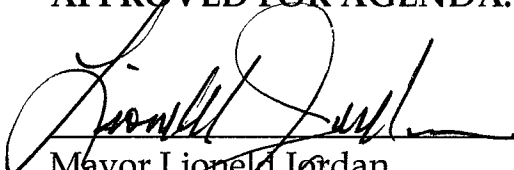
FOR: Council Meeting of October 3, 2017

FROM: Mayor Lioneld Jordan

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

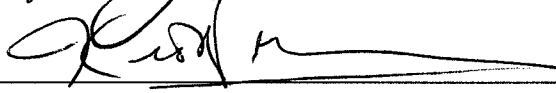
AN ORDINANCE TO AMEND § 94.05 **USE OF FIREWORKS** TO ALLOW THE BOTANICAL GARDEN OF THE OZARKS TO CONDUCT A SMALL FIREWORKS DISPLAY TO CELEBRATE ITS 10TH BIRTHDAY PARTY

APPROVED FOR AGENDA:



Mayor Lioneld Jordan

9-25-17
Date



City Attorney Kit Williams
(as to form)

September 25, 2017
Date

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 94.05 USE OF FIREWORKS TO ALLOW THE BOTANICAL GARDEN OF THE OZARKS TO CONDUCT A SMALL FIREWORKS DISPLAY TO CELEBRATE ITS 10TH BIRTHDAY PARTY

WHEREAS, the Botanical Garden of the Ozarks is one of Fayetteville’s crown jewels and has made substantial improvements and progress during the last decade; and

WHEREAS, the Botanical Garden of the Ozarks wishes to honor “those who made it happen and are making it happen with a celebration on October 8, 2017 at the Botanical Garden”.

NOW, THEREFORE, 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 (G) by adding the following:

“The Botanical Garden Society of the Ozarks may also legally conduct a public fireworks display to celebrate its 10th Birthday Party on or about October 8, 2017 if approved by the Mayor and Fire Chief and in accordance with (B)(1) and (3) and (D).”

PASSED and APPROVED this 3rd day of October, 2017.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Rhonda Lynch
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Connie Edmonston, Parks & Recreation Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read "Kit Williams", with a long horizontal flourish extending to the right.

DATE: **September 25, 2017**

RE: **Fireworks Permit for Botanical Garden of the Ozarks' 10th Birthday Party Celebration**

Mayor Jordan requested that I draft an amendment to § 94.05 **Use of Fireworks** to allow the Botanical Garden Society of the Ozarks to present a small fireworks display on October 8, 2017 to celebrate its 10th Birthday Party. I have drafted an ordinance to do just that and submit it to the City Council for your consideration.



YOU ARE INVITED TO THE

*Botanical Garden
of the Ozarks*

10TH BIRTHDAY PARTY

HONORING THOSE WHO MADE IT HAPPEN
AND ARE MAKING IT HAPPEN!

SUNDAY, OCTOBER 8, 2017

5:00 P.M. – 6:30 P.M.

at the Garden

LIGHT REFRESHMENTS WILL BE SERVED

RSVP BY OCTOBER 2ND TO
SFOLEY@BGOZARKS.ORG OR 479-750-2620

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

- (2) Allowing fire to escape from the control of the person building or having charge of the fire, or to spread to the lands of any person other than the builder of the fire.
 - (3) Burning any brush, stumps, logs, rubbish, fallen timber, grass, stubble, scrap materials, junk or debris of any sort, whether on one's own land or that of another, without taking necessary precaution both before lighting the fire and at all times thereafter to prevent the escape thereof. The escape of such fire to adjoining timber, brush, or grass lands shall be prima facie evidence that necessary precautions were not taken.
 - (4) Building a camp fire upon another person's land without express permission of the owner. If permission is granted by the owner, a person building a campfire must clear the ground immediately around it free from material which will carry fire, and must continuously tend the campfire to prevent it from spreading.
 - (5) Throwing away a lighted cigar, match or cigarette, or, by the use of firearms or in any other manner, starting a fire in forest material not one's own and leaving the same unextinguished.
 - (6) Defacing or destroying fire warning notices.
- (B) When one of the above described offenses is committed by an agent or employee, with the consent or by the command of the employer or principal, such employer or principal shall be liable in the same manner and to the same extent as if the act had been committed by himself.
- (C) Persons starting or being responsible for fires that occasion damage to any other person shall make satisfaction in double damage to the party injured. The conviction for a violation of subsections (A) and (B) of this section shall be prima facie evidence of responsibility in civil action to recover damages or suppression costs.
- (Code 1965, §§9-10, 9-14; Ord. No. 1379, 12-9-63; Code 1991, §94.02)

94.04 Fire On Forest Lands, Grass Lands, Etc.

Any fire on any forest lands, cut-over, brush lands or grass lands burning uncontrolled is declared a public nuisance by reason of its menace to life or property. Any person responsible for either the starting or the existence of such fire is required to control or extinguish 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)

94.05 Use Of Fireworks

- (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 sixteen (16) years is present, an adult (at least twenty-one (21) years of age) must supervise the discharge of all fireworks.
 - (3) No skyrocket or aerial fireworks attached to a stick may be discharged.
 - (4) If the Mayor has issued a Burn Ban Order such that no citizen can legally discharge consumer fireworks during the entire July 1st through July 4th normally permitted period, then the citizens may discharge their consumer fireworks from 10:00 a.m. until 11:00 p.m. on Labor Day.
- (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.
- (C) 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.
- (D) 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 subsection (E).
- (E) 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.
- (F) It shall be lawful for Creative Economy Action Group, Inc. d/b/a Last 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.
- (G) It shall be lawful for the Botanical Garden Society of the Ozarks to conduct an annual public fireworks display if approved by the Mayor and Fire Chief and in accordance with (B) (1) and (3), (C) and (D).
- (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, 10-19-99; Ord. No. 4308, 4-17-01; Code 1991, §94.04; Ord. No. 5096, 12-27-07; Ord. No. 5320, 5-18-10; Ord. No. 5329, 6-1-10; Ord. No. 5463, 12-6-11; Ord. No. 5509, 7-3-12; Ord. No. 5860, §§2, 3, 3-15-16)