

FILED FOR RECORD

ORDINANCE NO. 142

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**AN ORDINANCE REGULATING THE SALE OF FIREWORKS
WITHIN THE CITY LIMITS OF TONTITOWN, ARKANSAS;
SETTING FEES THEREFOR; DECLARING AN EMERGENCY
AND FOR OTHER PURPOSES.**

WHEREAS, the City Council of Tontitown, Arkansas deems it necessary to insure adequate fire protection, and to insure the protection of the citizens and property from fire, explosion and other hazards incidental to the sale and use of fireworks; and for the purposes of promoting the health, safety, and general welfare of the citizens of Tontitown, Arkansas; and

WHEREAS, the Tontitown City council has prepared an ordinance which provides for the procedure and regulation for the sale of fireworks within the city limits; and in order to identify the location of all fireworks retail outlets, any potential fire hazards or any hazards or illegal conditions that may be associated with the sale of fireworks; and

WHEREAS, this ordinance is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof; which are public safety, health, and general welfare; by providing safeguards to life and property from fire, explosion, and other hazards incidental to the sale of fireworks.

NOW THEREFORE BE IT ORDAINED by the City Council of Tontitown, Arkansas, in regular session assembled, as follows:

SECTION 1. FIREWORKS - DEFINITION

Any combustible or explosive composition, or any substance or combination of substances or device, prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include, but are not limited to, Class C Common fireworks, and any fireworks which must comply with the construction, chemical composition and labeling requirements of the Department of Transportation of the United States.

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SECTION 2. GENERAL CONDITIONS.

Any person, partnership, corporation or other entity authorized by permit to sell fireworks within the corporate limits of the City of Tontitown, Arkansas shall be subject to the following terms and conditions.

- A. Individual fireworks stands shall be placed approximately 300 feet apart from other fireworks stands in all directions.
- B. All fireworks stands shall have a five (5) pound ABC Fire Extinguisher in plain view and accessible.
- C. All workers selling, stocking or handling any fireworks shall be of the age of sixteen (16) and above.
- D. All grass shall be closely trimmed. Trash and any combustible materials shall be removed from the fireworks stand area at all times and the area shall be kept free of loose debris or any unsightly conditions.
- E. All fireworks stands shall be in full compliance with, and subject to the provisions of any federal laws or state statutes regarding the sale of fireworks.
- F. All fireworks stands shall be subject to the provisions of the Standard Fire Prevention Code, 1997 Edition, and all other city codes regarding fireworks or explosive devices.
- G. All fireworks stands shall be no less than 150 feet from any gasoline station, any fuel vents, pumps, filling and fueling areas or fuel depots of any type, including but not limited to propane, butane and LPG.
- H. All fireworks stands are subject to inspection by the Fire Official prior to opening for business. The permit holder shall be responsible for notifying the Fire Official before opening the stand for business.
- I. All fireworks stands shall be subject to the requirements of Section 3 of this ordinance. All applications, fees, and permits shall be in order prior to the setting up of any fireworks stand or opening for business in any way.

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SECTION 3. PERMITS AND FEES

A. Applications for all permits required by this ordinance shall be made in writing to the Recorder/Treasurer. Each application shall state the name, address and telephone number of the applicant, the names of all owners, all names used in business, State and Federal tax identification numbers, address of principal location, addresses of all annexes or any other buildings related to business, the number of individuals employed at each address, the time covered and the fee to be paid. Each application shall also contain any additional information that may be needed for the proper guidance of the city officials in issuing the permit applied for.

B. For each application, the person, firm, corporation or entity seeking said permit shall pay to the City of Tontitown a fee in the amount of Three Hundred Dollars (\$300.00) prior to the issuance of said permit. Said application fee shall be payable for each location intending to sell fireworks. This application process shall apply to each stand set up by a person, firm, corporation or entity when they desire to sell fireworks at two or more distinct physical locations within the corporate limits of the city

SECTION 4. BOND REQUIREMENT

Before a permit is issued, the applicant shall file with the City a bond in the principal sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), or a public liability insurance policy for the same amount, for the purpose of payment of any damages to persons or property which arise from, or are caused by the conduct of any act authorized by the permit upon which any judicial ruling results. The Fire Official may specify a greater amount when in his opinion, conditions at the location of the fireworks stand indicate a greater amount is required.

SECTION 5. PENALTIES AND SEIZURE OF FIREWORKS

A. Any person, partnership, corporation or other entity found in violation of any provision this ordinance, upon conviction, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than Twenty Five Dollars (\$25.00), nor more than Five Hundred Dollars (\$500.00), plus court costs for the first offense. Each day the violation continues shall constitute a separate and distinct offense.

B. The Fire Official shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored or held in violation of the ordinance.

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SECTION 6. CONFLICT WITH STATUTES.

This Ordinance shall not be construed to alter, change or regulate in any unlawful way, any business, trade, occupation, profession or vocation related to the sale of fireworks, regulated or governed by federal laws or the laws of the of the State of Arkansas when such laws are in conflict with the provisions herein.

SECTION 7. SEVERABILITY.

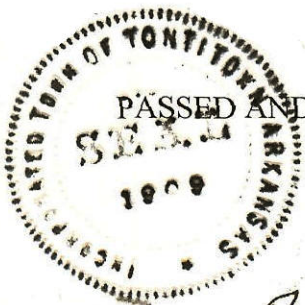
If a court of competent jurisdiction declares any section, paragraph, clause, phrase, or part of this ordinance invalid, such determination of invalidity shall not affect the remaining provisions of this ordinance, and the application of said provisions to any person or circumstances shall not be affected thereby.

SECTION 8. REPEALING CLAUSE

All ordinances or parts of ordinances of the City of Tontitown, Arkansas in conflict herewith are specifically repealed, only to the extent of the conflict.

SECTION 9. EMERGENCY CLAUSE

The City Council hereby determines that this Ordinance is necessary to provide regulation of fireworks stands within the City of Tontitown, Arkansas; and to secure the beneficial interests and purposes thereof, which are public safety, health, and general welfare, by providing safeguards to life and property from fire, explosion and other hazards incidental to the sale of fireworks, and that provision of this Ordinance is essential to protect the health, safety, and welfare of the public; and that the immediate passage of this Ordinance is necessary to adequately accomplish these purposes. Therefore, an emergency is hereby declared to exist and this Ordinance being necessary for the public welfare shall be in full force and effect from and after its passage and approval.



PASSED AND APPROVED THIS 2nd DAY OF May 2000.

ATTEST: Frances Franco
RECORDER/ TREASURER

Daniel R. Watson
MAYOR

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