Ordinance No. 2006-38

AN ORDINANCE TO LIMIT THE SALE AND DISCHARGE OF FIREWORKS WITHIN THE CITY OF BRYANT, AND FOR OTHER PURPOSES.

WHEREAS, it is the desire of the City of Bryant to maintain the safety and peace of the city.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bryant, Arkansas, that:

Section 1: The term "fireworks" means and includes any combustible or explosive 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 then, firecrackers, torpedoes, sparklers, or other fireworks of like construction, any fireworks containing any explosive or flammable compound, or any tablet or other device 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 "hazardous material" under federal regulation.

Section 2: **Regulations**

A. No individual, firm, partnership, corporation, or association shall possess for sale, sell, or offer for sale at retail, or discharge within the city limits, any fireworks, as defined herein, except as specifically provided in this chapter.

B. No parent, guardian, or custodian of any child under the age of majority shall knowingly permit or consent to the possession or discharge of fireworks by any child under the age of majority without proper supervision. Possession or discharge by any child under the age of majority within the city limits shall be *prima facie* evidence of the knowing permission or consent of such parent, guardian, or custodian.

C. No fireworks may be discharged within the boundaries of or within three hundred (300) feet of any public park owned or maintained by the City without a public display permit except as otherwise provided in this chapter. No fireworks may be discharged upon any public street, alley, road, or right-of-way, except as otherwise provided in this chapter. 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.

D. Subject to the limitations contained in this chapter, fireworks, as listed below, may be discharged within the city limits only on private property of the owner, or with the owner's permission when such discharge is in a safe and sane manner, and limited to the 4th of July holiday only:

1. Between 12:00 p.m. and 10:00 p.m. July 3rd;
2. Between 12:00 p.m. and 10:00 p.m. July 4th; and
3. Between 12:00 p.m. and 10:00 p.m. July 5th;

And for the New Year's Day holiday only from 12:00 p.m. and 10:00 p.m. December 31st and 12:00 p.m. and 10:00 p.m. January 1st. As used in this part, "safe and sane manner" refers to actions which do not endanger life, limb or property of those in the area of the discharge. Nothing in allowing the discharge of fireworks within the city limits relieves the individual, firm, partnership, corporation, or association of its responsibility for any injury or damage caused to individuals or property by the discharge of the fireworks. Any discharge, with or without a permit, is at the individual, firm, partnership, corporation or association's own risk, and is not sanctioned by this ordinance.

E. 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 discharge of all fireworks until such time as the condition causing the ban ceases to exist.

F. 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, including disposal of all discharged fireworks, all non-discharged or "dud" fireworks, and the associated debris from the discharged fireworks in a safe manner.

G. The safe and sane discharge of fireworks in accordance with the provisions of this chapter shall not be deemed a violation of Ordinance 2005-05, otherwise known as the 'Noise Ordinance.'

Section 3: **Public Display Permitted When**

A. Public display is permitted when performed in accordance with the Rules and Regulations of the Bryant Planning Commission and the State Fire Marshall. The most recent Rules & Regulations are hereby adopted by reference.

Section 4: The sale or display for sale of fireworks shall be unlawful within the City unless the appropriate firework permit is obtained from the City through the Planning Commission.

Section 5: **Enforcement**

A. The Police Department, Fire Department and Code Enforcement Officers shall enforce the rules and regulations of this chapter.
B. Any code enforcement officer, police officer or firefighter may, in the enforcement of this chapter, seize, impound, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks offered for sale, sold, or in the possession of any individual, firm, partnership, corporation, or association in violation of this chapter. Notice of the seizure and the reasons for the seizure shall be reported to the Police Chief within 48 hours of the seizure.

C. Fireworks seized under this section may be disposed of in a safe and proper manner by the Police Department ten days after seizure.

D. Appeal of any seizure shall be filed with the Police Chief in writing within five working days of the seizure. The decision of the Police Chief on the appeal shall be final.

Section 6: **Violation – Penalty**

Any individual, firm, partnership, corporation, or association violating the provisions of this chapter 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 chapter 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 7: Any previous ordinances in conflict herewith are hereby repealed.

Section 8: This ordinance shall take effect and be in full force from and after its passage.

PASSED AND APPROVED by the Bryant City Council on the day of ~~September~~ 25, 2006.

Paul E. Halley, Mayor

ATTEST:

Acting Mayor for this Meeting

CLERK:

Brenda Cockerham, City Clerk