

ORDINANCE AMENDMENT OA-2020-01

UNNECESSARY NOISE AND FIREWORKS ORDINANCE

WHEREAS The charter of the City of Dallas, Georgia does allow the Mayor and Council to adopt ordinances and/or to amend existing ordinances:

AND

WHEREAS, The Mayor and Council has the responsibility to provide for the public health, safety and welfare by the control and efficient adoption of Ordinances within the City of Dallas, Georgia which includes the responsibility to provide for noise control and control of fireworks for the health, safety, welfare and protection of the Citizens of the City of Dallas, Georgia;

AND

WHEREAS, The Mayor and Council of the City of Dallas, Georgia desire to adopt the following Ordinance for the control of noise and use or regulation of fireworks within the City of Dallas, Georgia and to provide for the use and control of noise and fireworks including but not limited to the times, location, manner, regulation, sale, igniting, possession, manufacture, transportation, or storage of fireworks

AND

WHEREAS By this Ordinance, the Mayor and Council of the City of Dallas, Georgia hereby amends and restates Sec. 24-1 of Chapter 24 Offenses and Municipal Court, Article I. In General Unnecessary Noise of the Ordinances of the City of Dallas, Georgia;

NOW

THEREFORE, BE IT ORDAINED by the authority of the Mayor and Council of the City of Dallas, Georgia that the Code of Ordinances of the City of Dallas, Georgia Sec. 24-1 of Chapter 24 Offenses and Municipal Court, Article I In General Unnecessary Noise shall be amended, restated and adopted as follows:

A. Definitions:

(a) As used in this Ordinance, the term:

(1) "Consumer fireworks" means any small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion, that comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission as provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the United States Department of Transportation as provided for in Part 172 of Title 49 of the Code of Federal Regulations, and the American Pyrotechnics Association as provided for in the 2001 American Pyrotechnics Association Standard 87-1, and additionally shall mean Roman candles.

(2) "Consumer fireworks retail sales facility" shall have the same meaning as provided for by NFPA 1124; provided, however, that such term shall not include a tent, canopy, or membrane structure.

(3) "Consumer fireworks retail sales stand" shall have the same meaning as provided for by NFPA 1124.

(4) "Distributor" means any person, firm, corporation, association, or partnership which sells consumer fireworks.

(4.1) "Electric plant" shall have the same meaning as provided for in O.C.G.A. 46-3A-1.

(5) "Fireworks" means any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, including blank cartridges, firecrackers, torpedos, skyrockets, bombs, sparklers, and other combustibles and explosives of like construction, as well as articles containing any explosive or flammable compound and tablets and other devices containing an explosive substance.

(6) "NFPA 1124" means the National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition.

(7) "Nonprofit group" means any entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, any entity incorporated under Chapter 3 of Title 14, the "Georgia Nonprofit Corporation Code," or a sponsored organization of a public or private elementary or secondary school in this state.

(8) "Proximate audience" means an audience closer to pyrotechnic devices than permitted by the National Fire Protection Association Standard 1123, Code for Fireworks Display, as adopted by the Safety Fire Commissioner.

(9) "Pyrotechnics" means fireworks.

(10) "Store" shall have the same meaning as provided for by NFPA 1124; provided, however, that such term shall only include such buildings with at least 4,000 square feet of retail display space and wherefrom:

(A) No more than 25 percent of such retail display space is used for consumer fireworks and items or products as provided for under paragraph (2) of subsection (b) of this Code section; and

(B) Other items or products which are not consumer fireworks or items or products as provided for under paragraph (2) of subsection (b) of this Code section are sold;

and provided, further, that such term means a person, firm, corporation, association, or partnership with more than one mercantile location, where all such mercantile locations are collectively known to the public by the same name or share central management.

(11) "Waste-water treatment plant" shall have the same meaning as provided for in O.C.G.A. 43-51-2.

(12) "Water treatment plant" shall have the same meaning as provided for in O.C.G.A. 43-51-2.

(b) As used in this chapter, the term "consumer fireworks" or "fireworks" shall not include:

(1) Model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term "consumer fireworks" or "fireworks" include ammunition consumed by weapons used for sporting and hunting purposes; and

(2) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party poppers, string poppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture.

B. It shall be unlawful for any person to make, continue or cause to be made or continue any excessive or unusually loud noise or any noise which either annoys, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City, except as limited, defined or stated in paragraph C. below.

C. Prohibited fireworks activities; application of noise ordinances:

(a) It shall be unlawful for any person, firm, corporation, association, or partnership to offer for sale at retail or wholesale, to use or ignite or cause to be ignited, or to possess, manufacture, transport, or store any consumer fireworks or fireworks, except as otherwise provided in this chapter.

(b)

(1) Notwithstanding any provision of this chapter to the contrary, it shall be unlawful for any person under age, firm, corporation, association, or partnership to sell consumer fireworks or any of the following items:

- (i) Model rockets and model rocket, engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol, paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper ap; nor shall the term "consumer fireworks" or "fireworks" include ammunition consumed by weapons used for sporting and hunting purposes; and

- (ii) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party poppers, string poppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture

(2) It shall be unlawful to sell consumer fireworks or any items as defined or allowed herein to any person by any means other than an in-person, face-to-face sale. Such person shall provide proper identification to the seller at the time of such purchase. For purposes of this paragraph, the term "proper identification" means any document issued by a governmental agency containing a description of the person or such person's photograph, or both, and giving such person's date of birth and includes without being limited to a passport, military identification card, driver's license, or other identification card issued by any State, Federal, County or Municipal Government.

(3) (A) It shall be unlawful to use fireworks, consumer fireworks, or any items as defined or allowed herein indoors or within the right of way of a public road, street, highway, or railroad of this state.

(B) Except as provided herein, it shall be lawful for any person, firm, corporation, association, or partnership to use or ignite or cause to be ignited any consumer fireworks:

(i) On any day beginning at the time of 10:00 A.M. and up to and including the ending time of 11:59 P.M., unless during such times the noise from such use or ignition is not in compliance with this ordinance, the City of Dallas, Georgia may additionally require the issuance of a special use permit for use or ignition;

(ii) On January 1, the last Saturday and Sunday in May, July 3, July 4, the first Monday in September, and December 31 of each year after the time of 10:00 A.M. and up to and including the time of 11:59 P.M.; and

(iii) On January 1 of each year beginning at the time of 12:00 Midnight and up to and including the ending time of 1:00 A.M.

(C) Unless allowed by the terms and conditions as stated herein, it shall be lawful for any person, firm, corporation, association, or partnership to use or ignite or cause to be ignited any consumer fireworks anywhere in the City of Dallas Georgia.

(i) In any location where such person, firm, corporation, association, or partnership is not lawfully present or is not otherwise lawfully permitted to use or ignite or cause to be ignited any consumer fireworks;

(ii) Within 100 yards of an electric plant; water treatment plant; waste-water treatment plant; a facility engaged in the retail sale of gasoline or other flammable or combustible liquids or gases where the volume stored is in excess of 500 gallons for the purpose of retail sale; a facility engaged in the production, refining, processing, or blending of any flammable or combustible liquids or gases for retail purposes; any public or private electric substation; or a jail or prison;

(iii) Within 100 yards of the boundaries of any public use air facility provided for under Title 6 or any public use landing area or platform marked and designed for landing use by helicopters;

(iv) Within any park, historic site, recreational area, or other property which is owned by or operated by, for, or under the custody and control of a governing authority of the City of Dallas, Georgia, except pursuant to a special use permit as provided for in subparagraph (D) of this paragraph;

(v) Within any park, historic site, recreational area, or other property which is owned by or operated by, for, or under the custody and control of the State of Georgia, except pursuant to any rules and regulations of the agency or department having control of such property which may allow for such use or ignition of consumer fireworks;

(vi) Within 100 yards of a hospital, nursing home, or other health care facility; provided, however, that an owner or operator of such facility may use or ignite or cause to be ignited consumer fireworks on the property of such facility or may grant written permission to any person, firm, corporation, association, or partnership to use or ignite or cause to be ignited consumer fireworks on the property of such facility; or

(vii) While under the influence of alcohol or any drug or any combination of alcohol and any drug to the extent that it is less safe or unlawful for such person to ignite consumer fireworks as allowed by this Ordinance.

(D) Any person, firm, corporation, association, or partnership may use or ignite or cause to be ignited any consumer fireworks as provided for herein, if such person, firm, corporation, association, or partnership is issued a special use permit pursuant to the law of the City of Dallas, Georgia for the use or ignition of consumer fireworks in a location within such county or municipality as provided for herein, provided that such special use permit is required for such use or ignition. Such special use permit shall designate the time or times and location that such person, firm, corporation, association, or partnership may use or ignite or cause to be ignited such consumer fireworks. A fee assessed by the City of Dallas, Georgia for the issuance of a special use permit pursuant to this subparagraph shall not exceed \$100.00. The City of Dallas, Georgia, nor any official thereof, shall bear liability for any decisions made pursuant to this Ordinance.

(E) Whenever the Keetch-Byram Drought Index reaches a level of 700 or above for any geographical area within a county of the State of Georgia, the Governor may, in consultation with the State Forestry Commission and the Department of Natural Resources and for purposes of this Ordinance, issue a declaration of drought for; the City of Dallas, Georgia and enact further regulations and restrictions prohibiting any person, firm, corporation, association, or partnership to ignite or cause to be ignited consumer fireworks within the boundaries of the City of Dallas, Georgia for the duration of such declaration; provided, however, that upon expiration or conclusion of such declaration or the level on the Keetch-Byram Drought Index receding below 700, whichever occurs first, such further regulations or restrictions shall be rescinded by law.

(4) (A) It shall be lawful for any person 18 years of age or older to use or ignite or cause to be ignited or to possess, manufacture, transport, or store consumer fireworks.

(B) To the extent otherwise permitted by law, it shall be lawful for any person who is 16 or 17 years of age to possess or transport consumer fireworks, provided that such person is serving as an assistant to a distributor licensed under a proper entity pursuant to the laws of the State of Georgia, the nonprofit group benefiting from such distributor's application and is not transporting such consumer fireworks on

a highway which constitutes a part of The Dwight D. Eisenhower System of Interstate and Defense Highways.

(5) (A) It shall be lawful for any person 18 years of age or older to sell or to offer for sale at retail or wholesale any consumer fireworks pursuant to the requirements of this chapter.

(B) It shall be lawful for any person who is 16 or 17 years of age to sell or to offer for sale at retail or wholesale any consumer fireworks, provided that such person is serving as an assistant to a distributor licensed under a proper entity pursuant to the laws of the State of Georgia or the nonprofit group benefiting from such distributor's application.

(6) (A) It shall be lawful to sell consumer fireworks from a permanent consumer fireworks retail sales facility or store only if such permanent consumer fireworks retail sales facility or store is:

(i) In compliance with the requirements for such a permanent consumer fireworks retail sales facility or store in the selling of consumer fireworks as provided for in NFPA 1124; and

(ii) Selling consumer fireworks of a distributor licensed pursuant to the requirements of this Ordinance.

(B) It shall be lawful to sell consumer fireworks from a temporary consumer fireworks retail sales stand only if such temporary consumer fireworks retail sales stand is:

(i) In compliance with the requirements for such a temporary consumer fireworks retail sales stand in the selling of consumer fireworks as provided for in NFPA 1124;

(ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political subdivision or a fire department connection of a building affiliated with such consumer fireworks retail sales stand, unless the chief administrative officer of the fire department of a county, municipality, or other political subdivision or chartered fire department legally organized to operate in the State of Georgia and having operational authority over such location of the temporary consumer fireworks retail sales stand provides in writing that such temporary consumer fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant or fire department connection; and

(iii) Selling consumer fireworks of a distributor licensed pursuant to this Ordinance.

(C) It shall be unlawful to sell consumer fireworks from any motor vehicle, from a trailer towed by a motor vehicle, or from a tent, canopy, or membrane structure.

Use of fireworks and consumer fireworks while under the influence; violation

(a) It shall be unlawful for any person to ignite consumer fireworks or fireworks while:

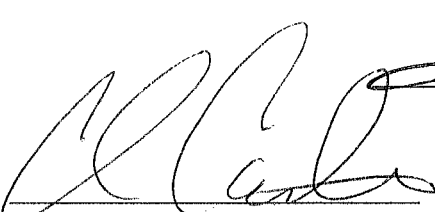
(1) Under the influence of alcohol or any drug or any combination of alcohol and any drug to the extent that it is unsafe for such person to ignite consumer fireworks or fireworks; or

(2) Subject to the provisions of this Ordinance, there is any amount of marijuana or a controlled substance, as defined in O.C.G.A. 16-13-21, present in such person's blood or urine, or both, including the metabolites and derivatives of each or both, without regard to whether or not any alcohol is present in such person's breath or blood.

(b) The fact that any person charged with violating this Code section is or has been legally entitled to use a drug shall not constitute a defense against any charge of violating this Code section; provided, however, that such person shall not be in violation of this Code section unless such person is rendered incapable of igniting consumer fireworks or fireworks safely as a result of using a drug other than alcohol which such person is legally entitled to use.

(c) Any person convicted of violating subsection (a) of this Code section shall be guilty of a misdemeanor.

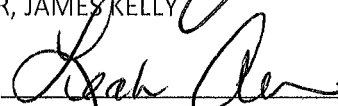
SO SHALL IT BE ADOPTED AND ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DALLAS, GEORGIA, THIS 2nd DAY OF NOVEMBER, 2020.



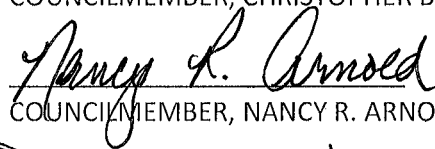
COUNCILMEMBER, CHRISTOPHER B. CARTER



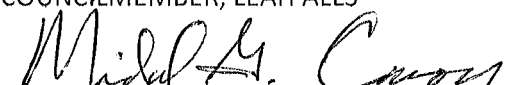
MAYOR, JAMES KELLY



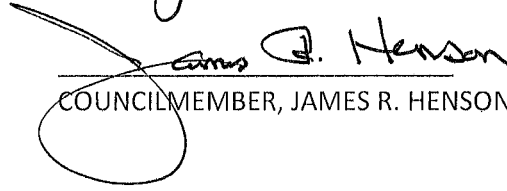
COUNCILMEMBER, LEAH ALLS



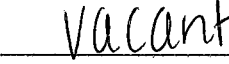
COUNCILMEMBER, NANCY R. ARNOLD



COUNCILMEMBER MICHAEL G. CASON



COUNCILMEMBER, JAMES R. HENSON



COUNCILMEMBER

ATTEST:



CITY CLERK, TINA CLARK

