

ORDINANCE NO. 86-5-7

AN ORDINANCE PROHIBITING FIREWORKS; DEFINITIONS; FIREWORKS PROHIBITED; EXCEPTIONS; FIREWORKS A PUBLIC NUISANCE; PENALTY, ANY PERSON, FIRM OR CORPORATION VIOLATING ANY PROVISION OF THIS ORDINANCE SHALL BE GUILTY OF A MISDEMEANOR, AND UPON CONVICTION, SHALL BE FINED NOT LESS THAN TWENTY-FIVE DOLLARS (\$25.00) NOR MORE THAN TWO HUNDRED DOLLARS (\$200.00); AND EACH VIOLATION, OR FAILURE TO COMPLY, SHALL CONSTITUTE A SEPARATE AND DISTINCT OFFENSE; REPEALING CLAUSE; SEVERABILITY.

SECTION 1. DEFINITIONS. The term "Fireworks" as used in this ordinance shall mean and include any firecrackers, cannon crackers, skyrockets, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, gerbs or any other substance in whatever combination by any designated name intended for use in obtaining visible or audible pyrotechnic display and shall include all articles or substances within the commonly accepted meaning of fireworks whether herein specifically designated and defined or not.

The term "person" shall mean and include any natural person association of persons, partnerships, corporations, agent or officer of corporation and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors and administrators.

SECTION 2. FIREWORKS PROHIBITED. It shall be unlawful for any person to manufacture, assemble, store, transport, receive, keep, sell, offer to have in his possession with intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.

SECTION 3. EXCEPTIONS. This ordinance shall not apply to signal flares and torpedoes of the type and kind commonly used by any railroad and which signal flares and torpedoes are received by and stored or transported by any such railroad for use in railroad operation; nor shall this ordinance apply to signal flares or rockets for military or police use. Any public fireworks display authorized or permitted by prior approval of the City Council shall be permitted under this ordinance.

SECTION 4. FIREWORKS A PUBLIC NUISANCE. The presence of any fireworks within the jurisdiction of the City of Garrett in violation of this ordinance is hereby declared to be a common and public nuisance. The Mayor is directed and required to seize and cause to be

such expense within thirty (30) days after the first day of the month following the one in which the work was done, the City shall file with the County Clerk of Ellis County, Texas, a statement of the expenses incurred in correcting the condition on the property. When such statement is filed, the City shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent per annum from the date the City incurs the expense. For any such expenditures and interest, suit may be instituted and recover and foreclosure had by the City. The statement of expenses filed with the County Clerk, or a certified copy thereof, shall be prima facie proof of the amount expended in such work, improvement, or correction of the property, all as more particularly specified in Art. 4436, Vernon's Annotated Texas Civil Statutes, which is hereby adopted.

SECTION 6. Penalty. Any violation of the terms of this ordinance is declared to be a misdemeanor, and any person found to be guilty thereof shall be punishable by a fine not to exceed \$200.00. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. This section shall be in addition to and cumulative of the provisions for abatement of the said nuisance and charging the cost of same against the owner of the premises by the City.

SECTION 7. Severability Clause. If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 8. Declaring an Emergency. The importance of this ordinance creates an emergency and an imperative public necessity, and the ordinance shall take effect and be in force from and after its adoption.

SECTION 3. Obstructing or Altering Drainage Facilities Prohibited. No person, firm, or corporation shall obstruct or in any way alter drainage ditches, culverts, or other drainage facilities in the City of Garrett without first obtaining approval from the City Council, or its designated representative. Property owners are required to furnish, at their own expense, proper culverts or other drainage facilities for driveways and walkways, which must be of a size, type and design acceptable to, or approved by, the City Council or its representative.

SECTION 4. Notice of Failure to Comply; Abatement of Nuisance. In the event that any person, firm or corporation owning, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City of Garrett, fails to comply with the provisions of this ordinance, it shall be the duty of the Mayor to give ten (10) days' notice in writing to such person, firm or corporation violating the terms of this ordinance. Said notice shall be in writing and may be served on said person, firm or corporation by handing it to said person or to the agent of said firm or corporation, or by letter sent Certified Mail addressed to such person, firm or corporation at its post office address, or if personal service may not be had or the owner's address is unknown, by publication two (2) times within ten (10) consecutive days in the City's official newspaper. If such person, firm or corporation fails or refuses to comply with the provisions of this ordinance within ten (10) days after date of notification in writing or by certified letter or the date of the second publication of notice in the City's official newspaper, the City may go upon such property and do or cause to be done the work necessary to obtain compliance with this ordinance.

SECTION 5. Expenses of Abatement to be Charged to Owner of Property; Obtaining Lien upon Nonpayment; Suit for Recovery and Foreclosure. The expenses of abatement of said nuisance incurred pursuant to Section 4 above and the cost of publishing notice in the newspaper shall be paid by the City and charged to the owner of such property. In the event the owner fails or refuses to pay

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safely destroyed any fireworks found within the jurisdiction in violation of this ordinance and any member of the City of Garrett or any Police Officer of the City of Garrett or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the Mayor can be notified in order that the said fireworks may be seized and destroyed in accordance with the terms of this section. Notwithstanding any penal provision of this article, the City Attorney is authorized to file suit on behalf of the City of Garrett or the Mayor or both for injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the jurisdiction of the City and to aid the Mayor in the discharge of his duties and to particularly prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction. The Mayor or any member of the City of Garrett is hereby authorized to enter any buildings where unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks.

SECTION 5. PENALTY. Any person, firm or corporation violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than TWENTY-FIVE DOLLARS (\$25.00) nor more than TWO HUNDRED DOLLARS (\$200.00); and each violation, or failure to comply, shall constitute a separate and distinct offense.

SECTION 6. REPEALING CLAUSE. The repeal of any Ordinance or parts of Ordinances effectuated by enactment of this Ordinance shall not be construed as abating any action now pending under or by virtue of such ordinance, or as discontinuing abating, modifying any liability of any person, firm or corporation or as waiving any right of the municipality under any section or provisions of any ordinance existing at the time of passage of this Ordinance.

SECTION 7. SEVERABILITY. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered separable; and the invalidity of any section, clause or

PASSED AND APPROVED this 5th. day of MAY, 1986.

J.R. Starnes  
MAYOR

ATTEST:

Sandra Bucak  
CITY SECRETARY

This is to certify that this is a true and correct copy of the original Ordinance that appears in the Minutes of the City of Garrett dated May 5, 1986.

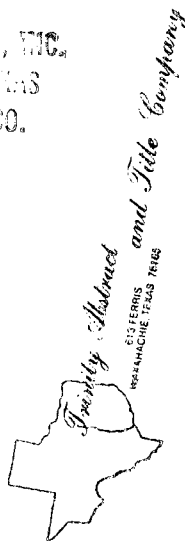
Sandra Bucak  
city secretary

TITLE USA COMPANY OF WAXAHACHIE  
800 FERRIS AVENUE SUITE 325  
WAXAHACHIE, TEXAS 75165

ELLIS COUNTY CLERK'S OFFICE, INC.  
402 W. 10TH ST., SUITE 101, WAXAHACHIE, TEXAS  
75165 STEWARTVILLE COMMUNITY CO.

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Mail To  
City of Waxahatchie  
P.O. Box 113  
Waxahatchie, TX 75165



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FILMED 1986  
FAYE M. WASHINGTON  
CO. CLERK, ELLIS CO.

MICROFILMED FOR  
**TITLE RESOURCES CO.**  
**(214) 923-0220**

THE STATE OF TEXAS }  
COUNTY OF ELLIS } I HEREBY CERTIFY THAT THE INSTRUMENT  
WAS FILED ON THE DATE AND TIME STAMPED HEREON BY ME  
AND WAS DULY RECORDED IN VOL. 746 P. 147 OF THE  
 deed  RECORDS OF ELLIS COUNTY, TEXAS, ON 6-5-86

FAYE M. WASHINGTON, COUNTY CLERK  
ELLIS COUNTY, TEXAS

BY: Maury Jones