

ORDINANCE 2022-04

AN ORDINANCE FOR THE PURPOSE OF REGULATING FIREWORKS IN THE PUBLIC INTEREST, HEALTH, SAFETY AND WELFARE; PROVIDING FOR A PENALTY OR FINE OF AT LEAST FIVE HUNDRED DOLLARS (\$500.00) NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE.

WHEREAS, the City of Brazos Country is charged with regulating fireworks in order to protect the health, safety and welfare of its citizens; and,

WHEREAS, in accordance with applicable state laws, including, but not limited to, Local Government Code, Chapters 217 and 342, the City seeks to implement certain regulations in protecting the health, safety, and welfare of its citizens and visitors; and,

WHEREAS, the prohibition process is necessary to allow the City to properly enforce violations of this Ordinance by the imposition of civil, criminal, or administrative penalties; and,

WHEREAS, the permitting process will protect the health, safety, and welfare of its citizens and visitors;

NOW THEREFORE, BE IT ORDAINED

BY THE CITY COUNCIL OF THE CITY OF BRAZOS COUNTRY, TEXAS:

Fireworks.

- (a) Definition. For the purpose of this section, fireworks shall mean any combustible or explosive composition or any substance or combination of substances or any article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, including blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used; the type of balloons which require fire underneath to propel the same; firecrackers, torpedoes, sky rockets, Roman candles, sparklers, or other devices of like construction; and any devices containing any explosive substances. The term fireworks shall not include paper caps containing not in excess of an average twenty-five hundredths (0.25) of a grain of explosive content per cap manufactured in accordance with the interstate commerce commission regulations for packing and shipping as provided therein and such toy pistols, toy canes, toy guns or other devices which use such caps, the sale and use of which shall be

permitted at all times.

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- (b) Applicability. This section shall apply to fireworks as defined in subsection (a) of this section, except as provided in subsection (c) of this section.
 - (c) Exceptions. Nothing in this section shall be construed to prohibit any wholesaler, dealer, or jobber to transport fireworks in accordance with the interstate commerce commission regulations regarding the transportation of explosives and other dangerous articles by motor, rail, and water, provided that the fireworks are to be shipped directly out of the corporate limits of the city, or to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes or elimination, nor to prohibit the possession or use of flares or rockets for the military, police, or emergency purposes by others.
 - (d) Manufacturing prohibited. The manufacture of fireworks is prohibited within the corporate limits of the city.
 - (e) Sale or use. Except as provided in this section, it shall be unlawful for any person to offer for sale, sell at retail, or use or explode any fireworks within the corporate limits and within the area immediately adjacent and contiguous to such corporate limits and extending for a distance outside the city for a total of five thousand (5,000) feet, and it shall be unlawful to do or perform any act in violation of this subsection within such five-thousand-foot area contiguous to the corporate limits and outside the city, provided that this subsection shall not apply within any portion of such five-thousand-foot area which is contained within the territory of any other municipal corporation.
 - (f) Permit for displays. Nothing in this section shall be construed to prohibit the application for a permit to be issued by the mayor for the use of fireworks for public or private display when all of the provisions of NFPA 1123, Public Display of Fireworks, including all subsequent amendments thereto, as published by the National Fire Protection Association are met and after such necessary permits have been issued by the mayor. Every such use or display shall be handled by a competent operator approved by the mayor and shall be of such character and so located, discharged or fired so as not to be hazardous to property or endanger any person.

- (g) Removal of fireworks in violation. The mayor 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, possessed or held in violation of this chapter.

Penalty

Any person violating any of the provisions of this Ordinance shall be charged with a fine of at least FIVE HUNDRED DOLLARS AND NO/CENTS (\$500.00) and not more than TWO THOUSAND DOLLARS AND NO/CENTS (\$2,000.00). Each instance of violation shall constitute a separate offense.

Enforcement.

It shall be the duty of the City Council to enforce its orders of the City Council by filing action in the appropriate court of this state when authorized by the City Council.

Effective Date.

This ordinance shall be effective from and after the date of its passage and shall expire at the expiration of the current Burn Ban.

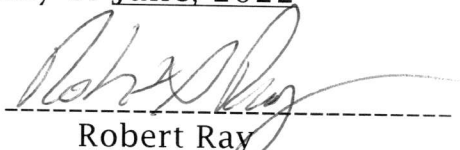
Conflicts.

This Ordinance is cumulative of all other ordinances of the City, and this ordinance shall not operate to repeal or affect any of such other ordinances except as to provisions that are in conflict with the provisions of this ordinance, in which event the conflicting provisions are hereby superseded.

Continuation.

If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

PASSED and **APPROVED** on this, the 17th day of June, 2022



Robert Ray
Mayor Pro Tem City of Brazos Country

ATTEST:
City Secretary

