

ORDINANCE NO. 09112008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALVORD, TEXAS DECLARING FIREWORKS WITHIN THE CITY LIMITS TO BE A PUBLIC NUISANCE; ESTABLISHING DEFINITIONS; ESTABLISHING PROHIBITIONS; PROCEDURES FOR THE ISSUANCE OF PERMITS; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; ESTABLISHING A FINE FOR VIOLATIONS OF THIS ORDINANCE IN AN AMOUNT NOT TO EXCEED \$500.00; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, the City of Alvord, Texas, is a Type A general law municipality in the State of Texas;
and

WHEREAS, Texas Local Government Code § 342.003 allows the City to prohibit or otherwise regulate the use of fireworks inside the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF ALVORD, TEXAS:**

SECTION 1. The recitals contained in the preamble of this ordinance are determined to be true and correct and are hereby adopted as a part of this ordinance.

SECTION 2. Definitions. In this ordinance the following terms shall have the meanings associated therewith:

Fireworks means and includes any firecrackers, cannon crackers, skyrocketes, 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 includes all articles or substances within the commonly accepted meaning of fireworks, whether specifically designated and defined in this ordinance or not or any device that can be used to produce or is intended to produce a striking display such as light, noise, or smoke, or a combination of those by the combustion of explosive or flammable composition.

SECTION 3. Fireworks Declared Nuisance. The use, discharge, ignition, denotation, or firing of fireworks or any act that sets fireworks in action within the city limits are hereby declared to be a public nuisance.

SECTION 4. Fireworks Prohibited.

- (A) It is unlawful for any person to use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.
- (B) It is a defense to prosecution under paragraph (A) of the Section that the explosives or fireworks were authorized by special written permit pursuant to Section 5.
- (C) Nothing in this ordinance shall be construed to apply to the sale, storage or use of railroad track torpedoes, or other signaling devices used by railroads, nor to the sale, use, or storage of flashlight composition by photographers or dealers in photographer's supplies.

SECTION 5. Fireworks/Explosives Permit; Contents; Offense. The City Secretary, with the approval of the City Council, may issue a special written permit for a fireworks display within the city limits.

The special written permit shall set forth the conditions under which the fireworks display may be conducted.

A person commits an offense, without regard to his mental state, if he receives a special written permit and fails to comply with the conditions set forth in the permit.

SECTION 6. Aiding A Minor Prohibited. A person commits an offense, without regard to his mental state, if he encourages or in any way aids a person under eighteen (18) years of age in possessing or discharging fireworks within the city limits.

SECTION 7. Severability. It is hereby declared that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and section of this ordinance, because the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 8. Penalty. Any person violating any portion or provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction therefore, shall be punishable by a fine not to exceed \$500.00. If the fireworks are separately wrapped or packaged, doing any act prohibited by, or omitting to do any act required by this ordinance shall be a separate offense as to each such separately wrapped or separately packaged fireworks. Each day a violation occurs or continues shall be deemed a separate offense.

SECTION 9. Publication. The City Council hereby directs the City Secretary to publish this ordinance in accordance with the Texas Local Government Code.

SECTION 10. All ordinances and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith.

SECTION 11. Effective Date. This ordinance shall take effect immediately from and after its adoption and it is accordingly so ordained.

APPROVED this 11th day of September, 2008.



Mayor

ATTEST:



TAMMY EDWARDS, City Secretary