

ORDINANCE NO. 96-1

AN ORDINANCE OF THE TOWN OF BARDWELL, TEXAS, CONTROLLING FIREWORKS IN THE TOWN OF BARDWELL; DEFINITIONS; TERRITORIAL APPLICABILITY; GENERAL PROHIBITION; DECLARATION OF PUBLIC NUISANCE; EXCEPTIONS; SEPARATE VIOLATIONS; PROVIDING A PENALTY THAT 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 \$500.00; EACH DAY THAT SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE AND SHALL BE PUNISHABLE ACCORDINGLY; SEVERABILITY; AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF BARDWELL, TEXAS:

SECTION 1. Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fireworks 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 specially designated and defined or not.

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

SECTION 2. Territorial Applicability.

(a) This ordinance shall be applicable and in force throughout the territory of the city within its corporate limits.

(B) This ordinance shall also be applicable and in force within the area immediately adjacent and contiguous to the city limits and extending for a distance outside the city limits for a total of five thousand (5,000) feet. It shall be unlawful to do or perform any act in violation of this ordinance within such area of five thousand (5,000) feet outside the city limits; provided, that this ordinance shall not apply within any portion of such five-thousand-foot area which is contained within the territory of any other municipal corporation.

SECTION 3. General Prohibition. It shall be unlawful for any person to manufacture, assemble, store, transport, receive, keep, sell, offer or 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. It shall be unlawful for any parent or guardian of any minor child

below the ages of sixteen (16) to permit or allow such minor child to discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.

SECTION 4. Declaration of Public Nuisance.

(a) The presence of any fireworks within the jurisdiction of the city in violation of this ordinance is hereby declared to be a common and public nuisance. The Fire Marshal is directed and required to seize and cause to be safely destroyed any fireworks found within the jurisdiction in violation of this ordinance, and any member of the city fire department or any city police officer 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 Fire Marshal can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section.

(B) Notwithstanding any penal provision of this ordinance, the city attorney is authorized to file suit on behalf of the city or the Fire Marshal or both for injunctive relief as may be necessary to prevent the unlawful sale, storage, transportation, keeping or use of fireworks within the jurisdiction of the city and to aid the Fire Marshal 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.

SECTION 5. Exceptions. This ordinance shall not apply to:

- (1) 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.
- (2) Any marine signal flare or rocket of the type and kind commonly carried by a vessel at sea for its own use and which signal flare or rockets are transported or received and stored for use only as ship's stores.
- (3) Signal flares or rockets for military or police use.

SECTION 6. Separate Violations. If fireworks are separately wrapped or packaged, the doing of any act prohibited by this ordinance shall be a separate offense as to each such separately wrapped or packaged fireworks.

SECTION 7. 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 punished by a fine not to exceed \$500.00. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.

SECTION 8. Severability. If any provision of this ordinance or the application of any provision to any person or circumstances is held invalid, the invalidity shall not affect other

provisions or applications 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 9. Effective Date. This ordinance shall become effective from and after its passage.

PASSED AND APPROVED this 1st day of April, 1996.

J.D. Lowry Jr
Mayor

ATTEST:

Linda Macauld
City Secretary

