

ORDINANCE NO. _____

CITY OF WOODCREEK, TEXAS

AN ORDINANCE AMENDING THE CITY OF WOODCREEK CODE OF ORDINANCES AT TITLE IX ("GENERAL REGULATIONS"), CHAPTER 94 ("FIREWORKS"); PROVIDING FOR ENACTMENT, REPEALER, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE, AND FINDING PROPER NOTICE AND MEETING.

WHEREAS, the City Council recognizes the importance of fire safety, prevention and protection; and

WHEREAS, the City Council finds that the fire response systems available to the City to be adequate, but limited, and therefore preventative measures are essential; and

WHEREAS, the City Council recognizes the unique qualities of the City of Woodcreek as primarily a residential neighborhood where most residencies are located on one-third of an acre lot or less, and thus can be considered in close proximity to one another throughout a majority of the land located within the municipal boundaries of the City and thus under the jurisdiction of the City of Woodcreek; and so therefore are of a greater risk to spread of fire; and a majority of residencies lack the adequate and proper amount of space for the private use of fireworks as determined by the local regulatory authority; and

WHEREAS, the City Council seeks to prohibit the private, unpermitted use of fireworks inside the municipal boundaries of the City of Woodcreek and feels such prohibition is both reasonable and necessary; and

WHEREAS, the City Council further finds that the City of Woodcreek has a duty and responsibility to uphold regulations as set by the local regulatory authority for fire prevention and safety; and

WHEREAS, the City Council understands that the City of Woodcreek has a duty and responsibility to enforce such regulations as outlined by the local regulatory authority and may add additional limitations under the framework of fire prevention and safety as determined necessary by the governing body; and

WHEREAS, the City Council thus finds it desirable and reasonable to create, update, and maintain a municipal ordinance for the regulation of the use of fireworks within the municipal boundaries to ensure the health and safety of all residents; and

WHEREAS, section 51.012 of the Local Government Code provides a Type A general law municipality, such as the City of Woodcreek, Texas, may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Woodcreek:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Chapter 94 (“Fireworks”) of the Code of Ordinances of the City of Woodcreek is amended so as to read in accordance with Attachments A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby authorized and directed to record and publish the language of Chapter 94 as amended by this Ordinance, in the City's Code of Ordinances.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its passage and the publication of caption of this ordinance as provided by law.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was attended by a quorum of the City Council, was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. 27

PASSED & APPROVED this, the ___ day of October 2023, by a vote of ____ (ayes) to ____ (nays) and ____ (abstentions) of the City Council of Woodcreek, Texas.

Jeff Rasco, Mayor

Suzanne Mac Kenzie, City Secretary

Attachment "A"

City of Woodcreek

CODE OF ORDINANCES

TITLE IX: GENERAL REGULATIONS

CHAPTER 94: FIREWORKS

§ 94.01 TITLE.

This chapter shall be known, cited, and commonly referred to as the "Fireworks Ordinance of the City of Woodcreek".

§ 94.02 PURPOSE.

The purpose is to protect the general welfare and safety of the citizens of the City.

§ 94.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Fireworks. Any firecrackers, Roman candles, sparklers, sky lanterns, or any other substance or device which is intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the commonly accepted meaning of fireworks, whether herein specifically designated and defined or not.

Person. Any natural person, association of persons, partnership, corporation, agent or officer of a corporation.

§ 94.04 RESTRICTIONS AND RULES; AUTHORITY.

Law Enforcement, the Fire Chief, and the Fire Marshal are granted the authority and are responsible to enforce the following provisions of this chapter.

(A) The sale and/or distribution of fireworks within the corporate limits of the City is prohibited

(B) It shall be unlawful for any person to ignite, detonate, discharge or fire any fireworks of any description within the City.

(C) A sworn complaint may be filed in a court with appropriate jurisdiction charging that sale, distribution, igniting, detonating, discharging or firing of fireworks has taken place; specifying the time, date, location and persons charged. This division shall not be construed as requiring such a complaint in order to enforce this chapter.

(D) A public display of fireworks may be authorized by the County Fire Marshal when any adult person, firm, corporation or association has made a written application at least 10 days in advance of the date of the proposed display, it shall be the duty of the

Fire Marshal to make an investigation as to whether the proposed display may be hazardous to property or dangerous to any persons and shall grant or deny the application based upon his or her findings.

§ 94.99 PENALTY.

Any person, firm or corporation who violates any provisions of this chapter, or any order made under authority of this chapter, or who causes or permits any such violation of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed \$2,000.00. Each day any violation of this chapter shall continue shall constitute a separate offense.