

ORDINANCE NO. 2010-06-01

AN ORDINANCE OF THE CITY OF WESTON, TEXAS, REENACTING ORDINANCE 2005-08-01, PROHIBITING THE SALE OR USE OF FIREWORKS WITHIN CITY LIMITS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Weston, Texas is a Type A general-law municipality located in Collin County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council wishes to promote a clean, healthy, safe, and attractive environment for the citizens of the City of Weston; and

WHEREAS, the City Council has determined that the use or sale of fireworks within the City, except in compliance with this ordinance, constitutes a nuisance and can lead to health and safety hazards; and

WHEREAS, the City Council finds that this ordinance is necessary to promote the health, safety and general welfare of the citizens of the City of Weston.

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

SECTION 1. DEFINITIONS

The following definitions shall apply to the provisions of this ordinance: (a) "Firework" shall mean and include any firecrackers, cannon crackers, sky rockets, 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 such term shall include all articles or substances within the commonly accepted meaning of fireworks whether herein specifically designated and defined or not. (b) "Firework" shall not include signaling devices for current daily use by railroads, vessels, and others requiring them; flashlight compositions used by photographers or dealers in photographic supplies; flares or rockets used for military or police purposes; auto flares; paper caps containing not more than an average of twenty-five one hundredths (25/100) of a grain of explosive content per cap or less; toy pistols, canes, guns, or other devices that use such paper caps; or model rockets.

SECTION 2. NUISANCE DECLARED

The presence of any fireworks within the city's corporate limits in violation of this ordinance is declared to be a nuisance.

SECTION 3. POSSESSION, USE, MANUFACTURE, ETC.

Except as set forth in Section 4, it shall be an offense for any person to use, possess, manufacture, assemble, sell, or offer for sale, any fireworks of any description within the city's corporate limits.

SECTION 4. EXCEPTION

It shall not be an offense under this ordinance for the City or professional permitted by the City Council to provide a public display of fireworks.

SECTION 5. PROVISIONS CUMULATIVE

This ordinance shall be cumulative of all provisions of ordinances of the City of Weston, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 6. PROVISIONS SEVERABLE

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

SECTION 7. SAVINGS CLAUSE

All rights and remedies of the City of Weston are expressly saved as to any and all violations of the provisions of ordinances of the City of Weston, Texas relating to nuisances which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 8. PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 9. PUBLICATION IN BOOK OR PAMPHLET FORM

The City Secretary of the City of Weston is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

SECTION 10. PUBLICATION

The City Secretary of the City of Weston is directed to publish the caption, penalty clause, publication clause and effective date of this Ordinance in accordance with the provisions of Section 52.011 of the Local Government Code.

SECTION 11. EFFECTIVE DATE

This ordinance shall be effective from and after its passage and adoption by the City Council.

RESOLVED AND ENTERED this the 8th day of June 2010.

Patti Harrington
Patti Harrington, Mayor

ATTEST:

Leeann Oland
Leeann Oland, City Secretary

