

ORDINANCE NO. 91-5-1

AN ORDINANCE PROHIBITING FIREWORKS; DEFINING THE TERM FIREWORKS; PROVIDING CERTAIN EXCEPTIONS; DECLARING FIREWORKS TO BE A PUBLIC NUISANCE AND AUTHORIZING THEIR SEIZURE AND DESTRUCTION WHERE FOUND IN VIOLATION OF THIS ORDINANCE; AUTHORIZING THE PROSECUTION OF SUITS FOR INJUNCTIVE RELIEF IN AID OF THIS ORDINANCE; PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING THAT THIS ORDINANCE SHALL BE APPLICABLE AND IN FORCE WITHIN THE CITY; PROVIDING A SEVERABILITY CLAUSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON:

SECTION 1. Definitions - The term "fireworks" as used in this ordinance 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 shall include all articles or substances within the commonly accepted meaning of fireworks whether herein specially designated and defined or not.

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

SECTION 2. Fireworks Prohibited. 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.

SECTION 3. Exceptions. This ordinance shall not apply to signal flares and torpedoes of the type and kind commonly used by any railroad and by any such railroad for use in railroad operation; nor shall this ordinance apply to 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 flares or rockets are transported or received or stored for use only as ship's stores nor shall this ordinance apply to signal flares or rockets for military or police use.

SECTION 4. Fireworks a Public Nuisance. The presence of any fireworks within the jurisdiction of the City of Lavon in violation of this ordinance is hereby declared to be a common and public nuisance. The Chief of Police 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 Police Department of the City of Lavon 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 Chief of Police can be notified in order that the said fireworks may be seized and destroyed in accordance with the terms of this section. Notwithstanding any penal provision of this article, the City Attorney is authorized to file suit on behalf of the City of Lavon or the Chief of Police or both for injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the jurisdiction of the

City and to aid the Chief of Police 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. The Chief of Police or any member of the Police Department of the City of Lavon is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks.

SECTION 5. Penalties. Any person who shall manufacture, assemble, store, transport, receive, keep, sell, offer for sale or have in his possession with intent to sell any fireworks shall be fined Two Hundred Dollars (\$200.00). Any parent or guardian of any minor child below the age of fourteen (14) who permits or allows such minor child to use, discharge, ignite, detonate, fire or otherwise set in action any fireworks shall be fined not less than Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars (\$200.00).

SECTION 6. Territorial Applicability. This ordinance shall be applicable and in force throughout the territory of the City of Lavon within its corporate limits and extending for a distance outside the city limits of Lavon for a total of one-half mile outside the city limits in any direction; provided that this ordinance shall not be in effect within any portion of such one (1/2) mile area which is contained within the territory of any other municipality corporation.

SECTION 7. Severability Clause. If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Lavon in adopting this ordinance, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation, and to this end, all provisions of this ordinance are declared to be severable.

SECTION 8. This ordinance shall be passed finally on the date of its introduction, May 2, 1991 and shall take effect immediately upon its passage and approval by the City Council.

PASSED THIS 02 DAY OF May, 1991.

APPROVED THIS 02 DAY OF May, 1991.

John K. Smith
John K. Smith, Mayor

ATTEST:

Christi Hannon
Christi Hannon, City Secretary