

**CITY OF LAVON, TEXAS**  
**ORDINANCE NO. 2022-06-05**

Amending Sections 6.04.002 and 6.04.004 and Adding Section 6.04.007 and 6.04.008 of the Code of Ordinances – Fireworks Permits and Defenses

**AN ORDINANCE OF THE CITY OF LAVON, TEXAS, AMENDING CHAPTER 6 “FIRE PREVENTION AND PROTECTION” BY AMENDING SECTION 6.04.002 “PENALTY; VIOLATIONS BY MINOR” AND 6.04.004 “PROHIBITION” TO RECOGNIZE PERMITS AND ADDING SECTION 6.04.007 “PERMITS” AND SECTION 6.04.008 “DEFENSES”; PROVIDING REQUIREMENTS AND REGULATIONS FOR ADMINISTRATION OF PERMITS; PROVIDING A PENALTY; PROVIDING SAVINGS AND SEVERABILITY CLAUSES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Lavon (“City”) has authority pursuant to Texas Local Government Code, Section 51.001, to adopt an ordinance that is for the good government, peace, or order of the City; and

**WHEREAS**, Section 2154.004 of the Texas Occupations Code allows a municipality to enact an ordinance further regulating fireworks than provided therein; and

**WHEREAS**, it is in the interest of the public health, safety, and welfare of the citizens of the City to regulate the permitted use and storage of fireworks within the City and its extraterritorial jurisdiction; and

**WHEREAS**, the City is committed to ensuring that permitted use or storage of fireworks in the community is safe and in accordance with public health, safety, and property maintenance standards as adopted in the City’s Code of Ordinances; and

**WHEREAS**, the City Council of the City (the “City Council”) has investigated and determined it is in the best interest of the citizens of the City to amend Chapter 6 “Fire Prevention and Protection” of the City’s Code of Ordinances to regulate the permitted use, storage, or other possession of fireworks in the City; and

**WHEREAS**, the City Council finds that the adoption of this Ordinance will promote and provide for the health, safety, and welfare of the City.

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

**SECTION 1. Recitals**

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

**SECTION 2. Amendments to Chapter 6.**

- I. Chapter 6 "Fire Prevention and Protection", Article 6.04 "Fireworks", Sections 6.04.002 and 6.04.004 of the City's Code of Ordinances are hereby amended as follows, with additions indicated by underline:

"Section 6.04.002 Penalty; violations by minor

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 in accordance with the general penalty provided in section 1.01.009 of this code, unless otherwise permitted in this article. 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 in accordance with the general penalty provided in section 1.01.009 of this code."

"Section 6.04.004 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, unless otherwise permitted in this article."

- II. Chapter 6 "Fire Prevention and Protection", Article 6.04 "Fireworks" of the City's Code of Ordinances is hereby amended to add Section 6.04.007 "Permits" and 6.04.008 "Defenses" to read entirely as follows:

"Section 6.04.007. Permits.

- (a) *Generally*. Fireworks may be used, shot, ignited, stored, displayed, or otherwise possessed, as part of a special event when holding an event for a paying customer, or by public authorities, private persons, or organizations, that have been granted a permit for such action by the city fire marshal. Each application for such a permit shall be referred to the fire marshal, who shall inspect the location. If the fire marshal shall report that the location is unobjectionable relative to fire hazards and safety, they may issue said permit upon the receipt of a permit fee as established by the city council. Such permit may be granted for a period not to exceed six (6) days, and shall specify:
- (i) the name and address of the applicant, or the principal officers thereof if a corporation or association;
  - (ii) details regarding the location where the fireworks are to be stored, used, or otherwise possessed;
  - (iii) the exact time when such fireworks are to be used and the duration;
  - (iv) the nature of the occasion; and
  - (v) a list of the fireworks to be used.
- (b) *State licensure and permits*. The applicant for any fireworks permit shall provide with the permit application a copy of any license or permit required by the state of Texas to engage in any actions applied for on a city fireworks permit, including but not limited to use, storage, or public display. A copy of each permit shall be filed in the office of the city secretary.

Section 6.04.008. Defenses.

It shall be an affirmative defense of 3002 HOP, LTD., owner of Boyd Farm, to a violation of this article if 3002 HOP, LTD., without a permit from the City, stores fireworks for use or uses fireworks, if 3002 HOP, LTD:

- (a) is storing or using such fireworks for a paying customer's event at Boyd Farm;

- (b) consults with and has approved by the City's Fire Marshal such storage or use;
- (c) provides a courtesy notice to the City not later than three (3) days prior to the firework display providing the date, approximate time, and duration of the display; and
- (d) is in compliance with state licensure and/or permit requirements for such activities as provided under Section 6.04.007(b) herein."

### **SECTION 3. Penalty**

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum in accordance with the general penalty provided in section 1.01.009 of the City's Code of Ordinances. Each time that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this division is a misdemeanor. The penalty provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies to it pursuant to local, state and federal law.

### **SECTION 4. Savings**

This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of such ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance; whether such ordinances are codified or uncodified, and all other provisions of the ordinances of the City, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect. Any repeal occurring due to this provision shall not abate any pending prosecution or lawsuit and/or prevent any prosecution or lawsuit from being commenced for any violation occurring before the effective date of this Ordinance.

### **SECTION 5. Severability**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be 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 or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

### **SECTION 6. Open Meeting**

That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Section 551.042, Texas Government Code.

### **SECTION 7. Effective Date**

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

**PASSED AND APPROVED** by the City Council of the City of Lavon, Texas this 21<sup>st</sup> day of June 2022.

  
Vicki Sanson, Mayor

ATTEST:

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Rae Norton, City Secretary