

# **ORDINANCE #151-2017 FIREWORKS**

(Amending Ordinance #151-2016)

AN ORDINANCE OF THE CITY OF LONE OAK, TEXAS PROHIBITING FIREWORKS; DEFINING THE TERM FIREWORKS; PROVIDING CERTAIN EXCEPTIONS; DELARING FIREWORKS TO BE A PUBLIC NUISANCE AND AUTHORIZING THEIR SEIZURE AND DESTRUCTION WHERE FOUND IN VIOLATION OF THIS ORDINANCE; AUTHORIZING PUBLIC DISPLAY WITH PERMIT; 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; AND PROVIDING A SEVERABILITY CLAUSE

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONE OAK, TEXAS:**

**Section 1. Definitions.** – Fireworks:

- (1) A composition or device designed for entertainment to produce visible or audible effect by combustion, deflagration, or detonation and defined by 49 C.F. R. section 173.56(j).
  - (a) Fireworks 1.3G. A large fireworks device; and
  - (b) Fireworks 1.4G. A small fireworks device, as defined by 49 C.F.R. part 173 and section 2154.001 of the Occupations Code.
- (2) The term ‘fireworks’ as used in this ordinance shall mean and include any firecrackers, cannon crackers, sky-rockets, bottle-rockets, torpedoes, roman candles, sparklers, squibs, fire balloons, star shells, gerbs, or any other articles or substances within the commonly accepted meaning of fireworks.
- (3) This definition does not include caps containing less than  $\frac{1}{4}$  of a grain of pyrotechnic composition when designed for use in canes or guns; or noisemakers which use no more than 8/1000ths of a gram of explosive compound and do not emit visible light or smoke when detonated.

**Section 2. General Prohibition.** – No person in the city limits or within 500 feet outside the city limits may manufacture, assemble, store, transport, receive, give away, keep, sell, offer to sell 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.** - The following are exceptions to the prohibitions set out in Section 2 above:

- (1) Toy pistols, toy canes, toy guns or similar devices;
- (2) Fireworks, including 1.3G fireworks, possessed for the purpose of use in a public display by a licensed pyrotechnic operator;
- (3) Provided there is no burn ban in effect, 1.4G fireworks may be possessed, set off, ignited, discharged and exploded or burned during the following times:
  - (a) On July 3<sup>rd</sup>, if falls on a Friday or Saturday, between 7:00 p.m. and 10:00 p.m.
  - (b) On July 4<sup>th</sup> between 7:00 p.m. and 10:00 p.m.; and
  - (c) On December 31<sup>st</sup> between 10:00 p.m. and 1:00 a.m. on January 1<sup>st</sup>

**Section 4. Declaration of nuisance; seizure and destruction of illegal Fireworks -**

- (1) The presence of fireworks within the jurisdiction of the City of Lone Oak in violation of this article is declared to be a common and public nuisance. The city police is directed and required to seize and cause to be safely destroyed any fireworks found in violation of this article.
- (2) A member of the fire department or a city police officer is authorized to:
  - (a) Detain any fireworks being illegally transported until the city police can be notified in order that fireworks may be seized ; and
  - (b) Close any building where illegally stored fireworks are located until the city police have been provided with an opportunity to seize and destroy the fireworks in accordance with the provisions of this article.
- (3) Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city to:
  - (a) Prevent unlawful storage, transportation or use of fireworks within the jurisdiction of the city;
  - (b) Aid the city police in the discharge of their duties; or
  - (c) Prevent a person from interfering with the seizure and destruction of illegal fireworks in accordance with this article.
- (4) It is not necessary to obtain injunctive relief as a prerequisite to seizure and destruction of illegal fireworks.

**Section 5. Public Displays and Permits –**

- (1) a person desiring to obtain a permit for public display shall, at least 10 days before using fireworks, file with the city police a completed a special permit application showing:
  - (a) The applicant and applicant business address; and
  - (b) Proof of legal competency; and
  - (c) Record of previous experience with fireworks;
  - (d) Address of the proposed display;
  - (e) Amount, type, and class of fireworks to be used;
  - (f) Address of the company supplying the fireworks;
  - (g) Date of proposed display;
  - (h) Starting and ending times of the proposed display;
  - (i) Diagram of the proposed display grounds, detailing firing points
  - (j) Location of buildings and highways on or adjoining the grounds;
  - (k) Spectator restraining lines;
  - (l) Overhead obstructions
  - (m) Duties of operator; safety requirements
- (2) Provide public liability insurance of at least \$1,000,000.00, issued by an insurance company in good standing with the commissioner of insurance for the display; and

- (3) Obtain the city council's approval of the display for plans for safety, traffic, security and sanitation from the City Chief of Police and a site inspection by the fire marshal to determine whether the display will be hazardous to persons or property;
- (4) The duties and safety requirements of a public fireworks display operator shall:
  - (a) Restrain spectators with barriers placed at least 200 feet from the firing point;
  - (b) Fire projectiles vertically or so that they will impact in a body of water;
- (5) Maintain an unobstructed spatial separation of 600 feet between the ignition point and a school;
- (6) 200 feet between the ignition point and a highway, railroad, or building other than a school;
- (7) 50 feet between the ignition point and an overhead obstruction;
- (8) Discontinue the display if the wind carries fireworks debris to adjoining property;
- (9) Immediately after display will search display site for unfired fireworks or fireworks debris and safely dispose of any unfired fireworks or fireworks debris in a manner prescribed by the city police

**Section 6. Penalties** - Any person violating the provisions of this Ordinance shall be fined \$200.00 for each offense. If the fireworks are separately packaged, the conduct in violation of this article shall constitute a separate offense as to each separately packaged firework. Each day that a violation of this article continues constitutes a separate offense.

**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 Lone Oak 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 servable.

**Section 8. Effective Date** - This Ordinance shall be effective from and after its passage approval, publication or posting as required by law.

PASSED AND AMENDEDED THIS 11 DAY OF July, 2017.

  
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Douglas E. Williams, Mayor

ATTEST:

  
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Kathy Voss, City Secretary