



## **ORDINANCE NO. 288**

**AN ORDINANCE OF THE CITY OF UHLAND, TEXAS REGULATING THE MANUFACTURE, ASSEMBLY, STORAGE, IGNITION, DISCHARGE, AND USE OF FIREWORKS WITHIN THE CITY; DECLARING A PUBLIC NUISANCE; DECLARING A FIRE SAFETY HAZARD; PROVIDING FOR PERMITTING; PROVIDING FOR ABATEMENT; PROVIDING FOR A FINE OF UP TO \$2,000.00; AND PROVIDING FOR A CONFLICT CLAUSE, SEVERABILITY CLAUSE, SAVINGS CLAUSE AND AN EFFECTIVE DATE**

**WHEREAS**, the City of Umland, Texas (herein the "City") is authorized to regulate matters that impact public health and safety; and

**WHEREAS**, chapter 342 of the Texas Local Government Code authorizes the City to prohibit or otherwise regulate the use of fireworks; and

**WHEREAS**, chapter 54 of the Texas Local Government Code permits the City to fine violations of City regulations; and

**WHEREAS**, chapter 217 of the Texas Local Government Code permits the City to define and declare what constitutes a nuisance, to authorize and direct the summary abatement of the nuisance, to abate and remove a nuisance, and to punish by fine the person responsible for the nuisance; and

**WHEREAS**, the City finds that the manufacture, assembly, storage, ignition, and discharge of fireworks in the City limits, except as authorized in this ordinance, constitutes a nuisance and can lead to fire safety hazards within the City; and

**WHEREAS**, the City finds that the regulation of fireworks in the City is a necessary fire safety regulation to protect public safety and health; and

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

## ARTICLE I. GENERAL PROVISIONS

### SECTION 1.01. SHORT TITLE

This Ordinance shall be known as the City's "Fireworks Ordinance."

### SECTION 1.02. FINDINGS OF FACT

All of the forgoing recitals are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

### SECTION 1.03. DEFINITIONS

**"City Jurisdiction"** shall mean the incorporated City limits of the City of Umland, Texas and, when applicable, within 5,000 feet of the City limits into the City's Extraterritorial Jurisdiction.

**"Fireworks"** shall be interpreted so as to give it the same meaning as it has in common usage, and so as to give this article its most reasonable application. Without limiting the above statement, it shall also mean and include any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and including any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive or flammable compound. Provided, however, that it shall not include any pyrotechnic signaling flares designed for marine, aviation, auto or emergency use, paper or plastic caps containing not in excess of an average of twenty-five-hundredth of a grain of explosive content per cap, and toy pistols, toy canes, toy guns, or other devices for use of such caps as manufactured in accordance with State and Federal law, novelty and trick noise makers, model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models, blank cartridges used or intended for signal or ceremonial purposes.

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

## ARTICLE II. REGULATIONS

### SECTION 2.01. FIREWORKS PROHIBITED

Except as otherwise specifically provided herein, it shall be unlawful for any person to:

- 1) manufacture, assemble, ignite, or discharge fireworks in the City without a valid permit;
- 2) store more than one cubic yard of fireworks, or to store fireworks for commercial uses, displays, or sales without a valid permit;

- 3) cause the discharge or ignition of fireworks in the City; or
- 4) permit or allow a minor to violate this Ordinance.

## **SECTION 2.02 PERMITS**

Any permit granted by the City for the manufacture, assembly, storage, ignition, discharge and display of fireworks is in addition to and does not replace or override any Federal or State required permit for such.

To apply for a permit hereunder, a person shall submit to the City Administrator's office:

- 1) documentation of an approved license and permit as required by Chapter 2154 of the Texas Occupations Code or other State or Federal law or State law; and
- 2) an application fee and permit fees as required by the City's fee schedule; and
- 3) a written application that specifies the:
  - a) name and signature of the applicant as an affiant to the application and acknowledgment of this Ordinance;
  - b) address, phone number, and email of the applicant;
  - c) location for which the permit is to be issued;
  - d) name and signature of the property owner as an affiant to the application and acknowledgment of this Ordinance;
  - e) address, phone number, and email of the property owner;
  - f) purpose of the permit; and
  - g) requested duration of the permit, except that:
    - (i) Permits for the manufacture, assembly, and storage of fireworks shall not be granted for a period of more than 12 months; and
    - (ii) Permits for the ignition, discharge and display of fireworks, shall be limited to specific dates and times.

The City Administrator, at their sole discretion, may require additional information and documentation to make a determination regarding the safety and applicability of the permit if granted, and may, at their sole discretion, determine whether or not to grant a permit.

## **ARTICLE III. ENFORCEMENT**

The Enforcement provisions of this Ordinance are not exclusive. Furthermore, the City shall have all other rights and remedies to enforce this Ordinance to include, but not limited to, abatement of nuisances, fine and civil remedies pursuant to state law and other City ordinances.

Any actions by the City pursuant to this Ordinance shall not be deemed as a limitation upon the City to enforce this Ordinance.

## **SECTION 3.01 AUTHORITY TO ABATE WITHOUT NOTICE**

The City, by and through its City Police Force or Fire Marshall's Office, may immediately abate, without notice, any nuisance condition occurring in the City jurisdiction that is an immediate danger to the health, life, or safety of any person or property. An immediate abatement may include, but is not limited to, seizure and confiscation of open, unpackaged and used fireworks. Packaged, unopened fireworks shall not be seized.

#### **SECTION 3.02 CIVIL LEGAL ACTION**

The City Attorney shall institute or delegate, when directed by the City Council, appropriate legal action in a court of competent jurisdiction to enforce the provisions of this Ordinance or the standards referred to in this Ordinance with respect to any violation thereof which occurs within the City jurisdiction.

#### **SECTION 3.03 CRIMINAL PENALTY**

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor, and, upon conviction shall be fined an amount not less than five-hundred (\$500.00) and to exceed two-thousand dollars (\$2,000.00). Each day that such a violation continues shall be a separate offense and each individual violation shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy, abatement or relief for violations of this Ordinance.

### **ARTICLE IV. ENACTMENT PROVISIONS**

#### **SECTION 4.01 CONFLICT**

All Ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

#### **SECTION 4.02 SEVERABILITY**

If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications thereof which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

#### **SECTION 4.03 SAVINGS CLAUSE**

This Ordinance shall remain in full force and effect, save and except as amended.

#### **SECTION 4.04 MEETING OPEN TO PUBLIC**

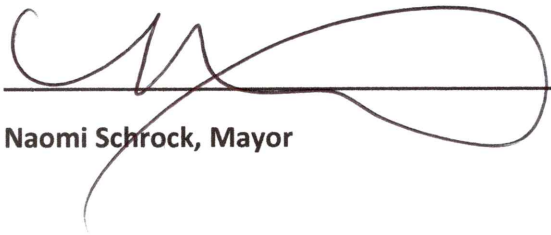
It is hereby found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that the public notice of the time, place and purpose of said meeting was given as required.

**SECTION 4.05 EFFECTIVE DATE**

This Ordinance shall be effective upon passage, approval, and publication in accordance with state law.

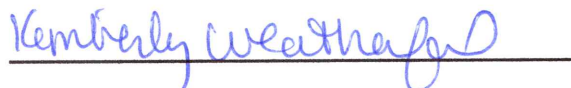
PASSED, APPROVED and ADOPTED ON the 12<sup>th</sup> day of October, 2022.

Ayes 5 Nays 0 Abstain 0



Naomi Schrock, Mayor

ATTEST:



Kimberly Weatherford, City Secretary