



ORDINANCE NO. 304

AN ORDINANCE OF THE CITY OF UHLAND, TEXAS REPEALING AND REPLACING ORDINANCE 288 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

WHEREAS, the City finds it is necessary to repeal and replace the current ordinance in the best interest of the public health, safety and welfare of its citizens.

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

Section 1. 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 as if fully set forth herein.

Section 2. ORDINANCE

Ordinance 288 is hereby repealed and replaced as follows:

Sec 1.01. SHORT TITLE

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

Sec 1.02. DEFINITIONS

City Jurisdiction. The incorporated City limits of the City of Uhlend, Texas and, when applicable, within 5,000 feet of the City limits into the City's Extraterritorial Jurisdiction.

Fireworks. Any device, other than a novelty, intended to produce visible or audible effect, or both, by combustion, explosion, deflagration, or detonation.

Consumer fireworks. Any fireworks device for use by the public that complies with the construction, performance, composition, and labeling requirements promulgated by the U.S. Consumer Product Safety Commission (CPSC) in Title 16, Code of Federal Regulations, in addition to any limits and other requirements set forth in the latest edition of NFPA 1123, Code for Fireworks Display.

Novelty. A device containing small amounts of pyrotechnic or explosive composition, or both, but not described as consumer fireworks.

Person Any natural person, association of persons, partnerships, corporation or agent, officer, or representative thereof.

Other definitions. Definitions of other terms associated with "fireworks" not specifically defined in this article, shall be as defined in the latest edition of NFPA 1123, Code for Fireworks Display, including all appendices.

Sec 1.03. FIREWORKS PROHIBITED

- 1) Except as provided hereinafter, it shall be unlawful for any person to manufacture, assemble, store, transport, sell, offer or have in possession with intent to sell, use ignite, discharge or

- otherwise set-in action any fireworks in the corporate city limits without a valid permit; or
- 2) store more than one cubic yard of fireworks, or to store fireworks for commercial uses, displays, or sales without a valid permit.

Sec. 1.04. PUBLIC DISPLAYS

- (a) *General.* The fire chief, fire marshal, or the designee of either may adopt rules and regulations for the granting of permits for supervised displays of fireworks by municipalities, associations, and other organizations. Every such display shall be handled by a competent operator licensed and certified by the State of Texas. Such displays shall be of such composition, character, and so located, discharged or fired as in the opinion of the fire chief, fire marshal or the designee of either after proper inspection, shall not be hazardous to property or endanger any person or persons. After such privilege shall have been granted, possession and use of fireworks for such display shall be lawful for that purpose only. No permit granted to any person for such purpose shall be transferable.
- (b) *Application.* Application for permits shall be made in writing to the fire chief, fire marshal, or the designee of either at least ten days prior to the proposed display. The applicant for such display shall at the time of application file a bond issued by an authorized surety company, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks, or a certificate of insurance evidencing the carrying of appropriate public liability insurance. The amount of such surety bond or insurance shall be not less than \$1,000,000.00.
- (c) *Disposal.* Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in safe manner for the particular firework.

Sec. 1.05. EXCEPTIONS.

Nothing in this article shall be construed to prohibit the use, sale, storage, or transportation of the following:

- (a) Novelties, other than "sparklers", as listed in the latest edition of NFPA 1123, Code for Fireworks Display;
- (b) Fireworks or pyrotechnic devices used by a railroad or other transportation agency for signal or illumination purposes; or
- (c) Blank cartridges for use in show or theater, for signal or ceremonial purposes in athletic events, or for use by military organizations.

Sec. 1.06. AUTHORITY TO ABATE WITHOUT NOTICE

The City, by and through its Fire Chief, Police Chief or Fire Marshall's (Fire Marshal'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 any fireworks in conformance with State law.

Sec. 1.07. CRIMINAL PENALTY

Any person which violates any provision of this Ordinance shall be guilty of a misdemeanor, and, upon conviction shall be fined an amount up to 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.

Section 3. CONFLICT

Ordinance 288, and all other Ordinances or parts of ordinances in conflict with the provisions of this Ordinance, is hereby repealed.

Section 4. 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 5. 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 6. EFFECTIVE DATE

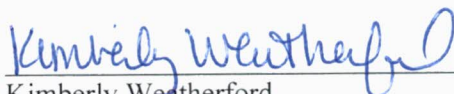
This Ordinance shall be effective upon passage, approval, and publication in accordance with state law.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF UHLAND,
TEXAS ON THIS 11th DAY OF OCTOBER 2023.**



Lacee Duke
Mayor

ATTEST:



Kimberly Weatherford
City Secretary

