

CITY OF VON ORMY

ORDINANCE 2009-18

AN ORDINANCE TO PROHIBIT THE SALE, DISTRIBUTION, USE AND STORAGE OF FIREWORKS WITHIN THE CITY LIMITS AND TO ALLOW FOR THE EXISTENCE AND OPERATION OF FIREWORK BUSINESSES EXISTING AT THE TIME OF INCORPORATION OF THE CITY OF VON ORMY; BANNING THE SALE OR USE OF FIREWORKS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR A PENALTY FOR VIOLATION; SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Von Ormy seeks to promote the health, safety, and general welfare of the community by preventing death, injuries and property damage within the city limits; and

WHEREAS, the City of Von Ormy finds that the business locations involving the sale of fireworks needs to be limited based upon the dangerousness of fireworks. Based upon the need to protect the citizens and property the City of Von Ormy is limiting the sale of fireworks to those existing and operating in full compliance with all applicable state law and other applicable rules and regulations at the time the citizens voted to approve the newly incorporated City of Von Ormy.

WHEREAS, the City Council of Von Ormy finds that to allow the continued operation of fireworks businesses existing and operating in full compliance with all applicable state law and other applicable rules and regulations at the time the citizens voted to approve the newly incorporated City of Von Ormy would not constitute a public nuisance that poses a significant and immediate threat to the health, safety, and welfare of citizens and their property at this time; and

WHEREAS, the City of Von Ormy finds that in order to protect the health, safety and general welfare of the community, it will honor any emergency regulations or restrictions on the sale or discharge of fireworks adopted by the Bexar County Judge and/or Commissioner's Court; and

WHEREAS, pursuant to Texas Local Government Code Chapter 51 the Von Ormy City Council has the general authority to adopt and publish an ordinance or police regulation that is for the welfare and good of government, peace or order of the municipality and is necessary or proper for the carrying out of a power granted by law to the municipality.

NOW, THEREFORE BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF VON ORMY TEXAS, THAT:

Section 1: EXISTING FIREWORKS STANDS ALLOWED TO CONTINUE. All fireworks locations that were in existence at the time citizens approved the incorporation of the City of Von Ormy, approved May 10, 2008, within the area incorporated by the City shall be allowed to remain

and operate at the property location in existence as of May 10, 2008 in accordance with applicable state law and with this ordinance. The existence and operation of such business shall not be transferable or assignable and shall not be treated as violative of any provisions the City of Von Ormy may adopt regarding the prohibiting the sale, possession, transport and/or storage of fireworks within the corporate city limits of the City of Von Ormy.

Section 2. PROHIBITION OF NEW FIREWORK STANDS INSIDE THE CORPORATE CITY LIMITS. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm or corporation to store, keep in possession, manufacture, sell or re-sale, any form of fireworks within the corporate City Limits of City of Von Ormy, Texas unless they conform to this Ordinance.

Section 3. PERMIT REQUIRED TO SELL OR DISPLAY FIREWORKS. It is unlawful for any person to engage in the retail sale of or to sell any fireworks or to hold, conduct, or engage in a public display of fireworks within the City without first having obtained a valid permit issued pursuant to the provisions of this Ordinance.

Section 4. PROHIBITED USE OF FIREWORKS. A person may not sell or retail, explode or ignite fireworks within 300 feet of a place where flammable liquids or flammable compressed gasses are stored and dispensed; explode or ignite fireworks within 300 feet of a place where fireworks are stored or sold; place ignited fireworks in, or throw ignited fireworks at, a motor vehicle; and ignite or discharge fireworks in or from a motor vehicle.

Section 5. PERMIT FEES. The annual fee for a "seller's permit" for the sale of fireworks as may be authorized under this Ordinance shall be \$250.00 per year for each seller's permit, payable in advance.

Section 6. ISSUANCE-NONTRANSFERABLE-VOIDING. Each seller's permit issued under this Ordinance shall be for only one designated in this Ordinance. Each seller's permit issued pursuant to this Ordinance shall be valid only for the current year, shall be used only by the designated permitted and shall be nontransferable. Any transfer or unauthorized use of a permit is violation of this Ordinance and shall void the permit granted in addition to all other sanctions provided in this Ordinance.

Section 7. APPLICATION FOR SELLER'S PERMIT-CONDITIONS FOR ISSUANCE. Applications for seller's permits shall be made to the City Clerk annually on or after April 1st of the year for which the permit is issued and the filing period shall close on April 15th of such year unless extended by action of the City Council. Applications shall be signed by the retail seller, if an individual, or by the duly authorized office, if an association or corporation. Seller's permits for the sale of those fireworks allowed pursuant to this Ordinance shall be issued only to applicants meeting the following conditions:

- a. The applicant shall procure and maintain a policy of policies of public liability and property damage insurance issued by a company or companies authorized to do business in the State of Texas in the following minimum amounts: \$500,000.00 for injuries to any one person in one accident or occurrence; \$1,000,000.00 for injuries to

two or more persons in any one accident or occurrence; \$500,000.00 for damage to property in any one accident or occurrence; \$1,000,000.00 combined single limit for any one accident or occurrence.

Section 8. STANDARDS FOR FIREWORK STANDS. The temporary stands for all seller's permit holders shall conform to the following minimum standards and conditions:

- a. Temporary fireworks stands need not comply with all provisions of the building code; provided, however, that all such stands be erected under the supervision of the City Building Inspector, who shall require all stands to be constructed in a safe manner ensuring the safety of attendants and patrons. In the event any temporary stand is wired for electricity, the wiring shall conform to electrical code.
- b. Each temporary fireworks stand must have at least two exits which shall be unobstructed at all times.
- c. Each temporary fireworks stand shall have, in a readily accessible place, at least two, two and one half gallon pressurized water fire extinguishers which are in good working order.
- d. Each temporary fireworks stand shall have, in a readily accessible place, at least two, five pound ABC fire extinguishers which are in good working order.
- e. all weeds, grass, and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area to a distance of not less than 25 feet, measured from the exterior walls of the temporary fireworks stand.
- f. No smoking shall be in or permitted or near a temporary fireworks stand for a distance of not less than 50 feet measured from the exterior walls of the temporary fireworks stand. Signs in 3 inch letters stating:

No smoking within 50 feet

shall be posted on the exterior of each wall of the temporary fireworks stand.

- g. Each temporary fireworks stand shall have person who is 18 years old or older in attendance at all times the stand is stocked. Stock from the stand shall not be removed and stored in any other building during the sales period without the express approval of the City Fire Marshal.
- h. All unsold stock and accompanying litter shall be removed from the temporary fireworks stand by 12:00 noon on the seventh day of July of each year and by January 4th of each year.

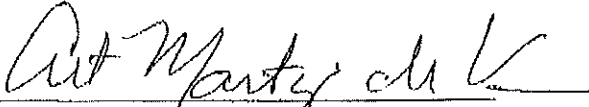
Section 9. PROHIBITION THE SALE OF DISCHARGE OF FIREWORKS. No Person may sell, use, or discharge fireworks within the City limits if City of Von Ormy, Bexar County Commissioners Court or Bexar County Judge has declared an emergency ban for the use or sale of fireworks in Bexar County.

Section 10. SEVERABILITY. If any section, subsection, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distance than independent provision and such holdings shall not affect the validity of the remaining portions thereof.

Section 11. ENFORCEMENT. Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. An offense under this Ordinance is a Class C Misdemeanor.

Section 12. EFFECTIVE DATE. That the City of Von Ormy City Clerk is hereby ordered and directed to cause this ordinance to be published in every issue of the official newspaper for two days; or one issue of the newspaper if the official newspaper is a weekly paper. This ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect when the publication requirement is satisfied.

PASSED, APPROVED AND ADOPTED THIS 1 DAY OF APRIL, 2009.


Art Martinez de Vara, Mayor

ATTEST:


Julia Hernandez, City Clerk