

ORDINANCE B-756-06

AN ORDINANCE AMENDING CHAPTER 38, FIRE PREVENTION AND PROTECTION, ARTICLE V, UNIFORM FIRE CODE, OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS (2005), TO PROHIBIT THE STORAGE, USE OR HANDLING OF FIREWORKS WITHIN 5,000 FEET OF THE CORPORATE LIMITS OF THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, Chapter 38. Article V, of the Code of Ordinances, City of Burleson, Texas (2005), has adopted the Uniform Fire Code, 1997 Edition, as published by the International Fire Code Institute, with certain amendments thereto set forth in Section 38-192 of the Code of Ordinances; and

WHEREAS, Section 38-192, Paragraph (38) of the Code of Ordinances amends Section 7802.3 of the Uniform Fire Code, 1997 Edition, to prohibit the storage, use or handling of fireworks in the corporate limits of the City of Burleson; and

WHEREAS, pursuant to Section 217.042 of the Local Government Code, the City Council of the City of Burleson desires to further amend the Uniform Fire Code to prohibit the storage, use, possession or sale of fireworks within 5,000 feet of the corporate limits of the City of Burleson.

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

SECTION 1.

That Chapter 38, Article V, of the Code of Ordinances, City of Burleson, Texas (2005) is hereby amended by changing Section 38-192, Paragraph (38) thereof to read as follows:

“(38) [Page 1-159, section 7802.3].

7802. Fireworks.

Change 7802.3 to read as follows:

7802.3 Prohibition.

(a) The storage, use, possession or sale of fireworks are declared to be a nuisance and are prohibited within the corporate limits of the city.

(b) The storage, use, possession or sale of fireworks are declared to be a nuisance and are prohibited within the area immediately adjacent and contiguous to the city limits and extending outside the city limits for a distance of five thousand (5,000) feet unless such area is within the corporate limits of another municipality.

EXCEPTION: The use of fireworks for display is allowed within the corporate limits of the city as set forth in Section 7802.4."

**SECTION 2.
CUMULATIVE**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Burleson, Texas (2005), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

**SECTION 3.
SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 4.
PENALTY**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 5.
SAVINGS PROVISION**

All rights and remedies of the City of Burleson are expressly saved as to any and all violations of the provisions of any ordinances affecting fireworks which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 6.
PUBLICATION**

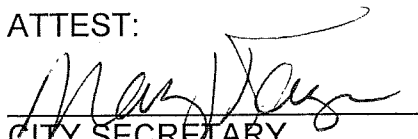
The City Secretary of the City of Burleson is hereby directed to publish in the official newspaper of the City of Burleson, the caption, penalty clause, publication clause and effective date clause of this ordinance at least two (2) times within fourteen (14) days after the passage of this ordinance as required by Section 36 of the Charter of the City of Burleson.

**SECTION 7.
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 24th DAY OF August, 2006.

ATTEST:



CITY SECRETARY



MAYOR