

ORDINANCE NO. O-2011-2

AN ORDINANCE PROHIBITING FIREWORKS; DEFINING THE TERM FIREWORKS; PROVIDING FOR EXEMPTIONS FOR SPECIAL EVENTS; DECLARING FIREWORKS TO BE A PUBLIC NUISANCE AND AUTHORIZING THEIR SEIZURE AND DESTRUCTION WHERE FOUND IN VIOLATION OF THIS ORDINANCE; 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 LIMITS OF THE CITY OF STAGECOACH, TEXAS; PROVIDING THAT IT SHALL NOT BE NECESSARY TO NEGATIVE EXCEPTIONS AND PROSECUTIONS UNDER THIS ORDINANCE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE AND DECLARING AN EMERGENCY AND ESTABLISHING THE EFFECTIVE DATES OF THE BAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STAGECOACH, TEXAS, as follows:

SECTION 1. Definitions. The term “fireworks” as used in this ordinance shall mean and include any firecrackers, cannon crackers, skyrockets, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, gerbs or any other substance in whatever combination by any designated name intended for use in obtaining visible or audible pyrotechnic display and shall include all articles or substances within the commonly accepted meaning of fireworks whether herein specially designated and defined or not.

The term “person” shall mean and include any natural person, association of persons, partnership, corporation, agent or officer of a corporation and also includes all warehouse persons, common and private carriers, bailers, trustees, receivers, executors and administrators.

SECTION 2. Fireworks Prohibited. It shall be unlawful for any person to manufacture, assemble, sell, receive, offer, discharge, ignite, detonate, or have in his or her possession with the intent to sell, use, discharge, ignite, or detonate within the municipality, fireworks of any description.

SECTION 3. Exceptions. This Ordinance shall not apply to signal flares, rockets, torpedoes, or other pyrotechnic devices employed, used or transported for military or police use.

SECTION 4. Exemption for Public Displays and Special Events. Nothing in this Ordinance shall be construed to prevent a display of fireworks for a special event if conducted under proper police supervision after application made and permission granted by the City of Stagecoach, Texas, for such demonstration. Said permission shall not be granted unless such demonstration or display shall be of such a character, and so located, discharged or fired, as in the opinion of the City of Stagecoach, shall not be hazardous to property or endanger any person or persons.

Any adult person or any firm, partnership, corporation or association planning to make a public display of fireworks, shall first make written application to the City at least seven (7) days in advance of the date of the proposed display.

Any fireworks display authorized under this section shall be limited to an aerial display. The range of aerial display shall not be more than 200 feet, and the fireworks shall be discharged vertically from tubes.

SECTION 5. Fireworks a Public Nuisance. Fireworks within the jurisdiction of the City of Stagecoach, Texas, during periods of drought are hereby declared to be a public nuisance. The Police Department is authorized to seize and cause to be safely destroyed any fireworks possessed in violation of this Ordinance. Notwithstanding any penal provisions of this section, the City Attorney is authorized to file suit on behalf of the City of Stagecoach, Texas for injunctive relief as may be necessary to prevent unlawful storage, keeping or use of fireworks within the jurisdiction of the City and to aid the police department in the discharge of their duties and to particularly prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.

SECTION 6. Penalties. Any person who shall use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). Any parent or guardian of any minor child below the age of fourteen (14) who permits or allows such minor child to use, discharge, ignite, detonate, fire or otherwise set in action any fireworks shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). During the time that the prohibitions under this Ordinance are in effect, the City shall maintain posted signs along the roadways leading into the City which shall legibly state the following, or language substantially similar to the following: "County Burn Ban in Effect, Fireworks Prohibited."

SECTION 7. Territorial Applicability. This Ordinance shall be applicable and in force throughout the territory of the City of Stagecoach, Texas, within its corporate limits.

SECTION 8. Not Necessary to Negative Exceptions. In any prosecution for any violation of this Ordinance, it shall not be necessary for the prosecution to negative any provision or exception but the same may be raised by the defendant by way of defense.

SECTION 9. Repealing Clause. Any ordinances presently in force, governing the use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set into action any fireworks of any description, within the City of Stagecoach, Texas, is hereby expressly repealed; that the repeal of any such ordinance or ordinances or any sections thereof, shall not abate any pending prosecution for violation which occurred prior to the repeal of said ordinance, ordinances, or sections thereof.

SECTION 10. 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 Stagecoach, Texas, 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 severable.

SECTION 11. The importance of this Ordinance and its intent and purpose being declared to be for the benefit of the citizens and property owners in the City of Stagecoach, Texas, constitutes an emergency, and an imperative public necessity that it be declared to be an emergency measure and that this Ordinance shall take effect immediately from and after its passage and it is so enacted. The prohibitions described in Section 2, above, shall become effective upon the imposition of a county-wide burn ban enacted by the Commissioners Court of Montgomery County, Texas, and shall remain in effect until such burn ban is repealed or otherwise lifted.

ADOPTED this the 21st day of June, 2011.

APPROVED:

Galen Mansee
Mayor, City of Stagecoach

ATTEST:

Brenda Rutt, City Secretary

(SEAL)