

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF AURORA, TEXAS, PROHIBITING THE SALE OR USE OF FIREWORKS WITHIN CITY LIMITS; PROVIDING DEFINITIONS; PROVIDING EXCEPTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Aurora, Texas is a Type A general-law municipality located in Wise County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council wishes to promote a clean, healthy, safe, and attractive environment for the citizens of the City of Aurora; and

WHEREAS, the City Council has determined that the use or sale of fireworks within the City, except in compliance with this ordinance, constitutes a nuisance and can lead to health and safety hazards;

WHEREAS, the City Council finds that this ordinance is necessary to promote the health and safety of the citizens, and to enhance the city's appearance;

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

**SECTION 1.
DEFINITIONS**

- (a) "Firework" means any combustible or explosive composition, or any substance, combination of substances, or device prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. "Fireworks" include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used; firecrackers, torpedoes, sky-rockets, Roman candles, sparklers, or other devices of like construction; any devices containing an explosive or flammable compound; and any tablet or other device containing an explosive substance.
- (b) "Firework" shall not include signaling devices for current daily use by railroads, vessels, and others requiring them; flashlight compositions used by photographers or dealers in photographic supplies; flares or

rockets used for military or police purposes; auto flares; paper caps containing not more than an average of twenty-five one hundredths (25/100) of a grain of explosive content per cap or less; toy pistols, canes, guns, or other devices that use such paper caps; or model rockets.

SECTION 2. NUISANCE DECLARED

The presence of any fireworks within the city's corporate limits in violation of this article is declared to be a nuisance.

SECTION 3. POSSESSION, USE, MANUFACTURE, ETC.

Except as set forth in Section 4, it shall be an offense for any person to use, manufacture, assemble, sell, or offer for sale, any fireworks of any description within the city's corporate limits.

SECTION 4. EXCEPTIONS

The following exceptions apply to Section 3 of this ordinance:

- (a) It shall not be an offense under this article for the city or professional permitted by the city council to provide a public display of fireworks.
- (b) It shall not be an offense to use, display or fire off fireworks on or within a twenty-four (24) hour period of the following days:
 - (1) Christmas day;
 - (2) New Years day; and
 - (3) the 4th of July.

SECTION 5. CUMULATIVITY

This ordinance shall be cumulative of all provisions of ordinances of the City of Aurora, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**SECTION 6.
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 or decree 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 7.
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 8.
SAVINGS**

All rights and remedies of the City of Aurora are expressly saved as to any other ordinances affecting nuisances 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 9.
PUBLICATION**

The city secretary of the City of Aurora is hereby directed to publish in the official newspaper of the City of Aurora, the caption, penalty clause, publication clause and effective date clause of this ordinance two (2) days as authorized by Section 52.011 of the Local Government Code.

**SECTION 10.
EFFECTIVE DATE**

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

PASSED AND APPROVED ON THIS ____ DAY OF _____, 2005.

MAYOR

ATTEST:

CITY SECRETARY

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY