

CITY OF HAWK COVE

ORDINANCE NO. 02-103

**AN ORDINANCE OF THE CITY OF HAWK COVE, TEXAS,
REGULATING FIREWORKS; PROVIDING FOR AN OFFENSE
AND PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND
PROVIDING AN EFFECTIVE DATE.**

**WHEREAS, the City Council of the City of Hawk Cove finds that the
use of fireworks in the city limits of Hawk Cove shall be prohibited.**

**WHEREAS, the City Council has determined that it is in the best
interest of the health, safety, and general welfare of the public to abolish
the use of fireworks: and**

**WHEREAS, the City Council recognizes that the regulation of the
use of fireworks is within the police power of the City of Hawk Cove.**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF
HAWK COVE, TEXAS, THAT:**

SECTION 1. DEFINITIONS

- A. The term "fireworks" as used in this section shall mean and include any firecrackers, cannon crackers, skyrockets, torpedoes, roman candles, sparklers, star shells, gerbs or any other substance in whatever combination or an 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.**
- B. The term "person" shall mean and include any natural person, association of persons, partnerships, corporations, agent or officer of corporation, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors and administrators.**

- C. **Offense and Penalty:** A person commits an offense if the person fails to comply with a provision of this ordinance. An offense under this section is punishable by a fine not to exceed \$200.00. Each and every day this ordinance is violated shall constitute a separate Offense.

SECTION 2. FIREWORKS PROHIBITED

It shall be unlawful for any person to manufacture, assemble, store, transport, receive, keep, sell, give away, offer or have in his possession with intent to sell, give away, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.

SECTION 3. EXCEPTIONS

This section shall not apply to the following:

- (1) Signal flares of the type and kind commonly used by boaters in distress nor shall this section apply to signal flares or rockets for military or police use.
- (2) Public fireworks displays for special occasions under the control of a licensed pyrotechnic technician and with the approval of the Volunteer Fire Department.

SECTION 4. FIREWORKS A PUBLIC NUISANCE

The presence of any fireworks within the jurisdiction of the City of Hawk Cove in violation of this section is hereby declared to be a common and public nuisance. The chief of police & Marshal are directed and required to seize and cause to be safely destroyed any fireworks found within the jurisdiction in violation of this section and any police officer of the City of Hawk Cove or any other duly constituted peace officer is empowered to stop transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the chief of police or marshal can be notified in order that the said fireworks may be seized and destroyed in accordance with the terms of this section. Notwithstanding any penal provisions of this section, the city attorney is authorized to file suit on behalf of the City of Hawk Cove or the chief of police or marshal or all for injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the jurisdiction of the city and to aid the chief of police or marshal in the discharge of his 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. The chief of police or any peace officer of the City of Hawk Cove is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks.

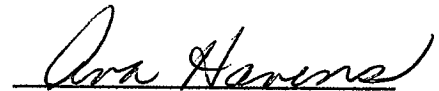
SECTION 5

If any section, article, paragraph, sentence, clause, phrase or word in this ordinance or application thereto any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

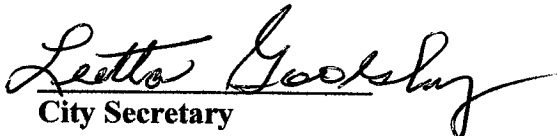
SECTION 6

This ordinance shall become effective from and after the date of its passage, approval and adoption.

PASSED, APPROVED AND ADOPTED THIS 23 DAY OF MAY, 2002


Ava Havens, Mayor

ATTEST:


City Secretary

