

preparation of food in outside barbecue pits, provided that these fires are well-supervised and safe.

(b) Penalty. Any person, firm or corporation violating any provisions of this section or failing to observe any provision hereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not more than two hundred dollars (\$200.00).

(Ordinance 85-2 adopted 4/22/1985; 1989 Code, secs. 9.211, 9.212)

## ARTICLE 6.05 FIREWORKS\*

### Sec. 6.05.001 Definitions

(a) General rules of construction. Words and phrases used in this article shall have the meanings set forth in this section. Words and phrases which are not defined in this article but are defined in other ordinances of the city shall be given the meanings set forth in those ordinances. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this article.

(b) Specific definitions.

City means the City of Bartlett, a duly incorporated municipality lying within Bell and Williamson Counties, Texas, and all officials, agents and employees who are authorized to act on behalf of the city.

City boundaries means the municipal boundaries (i.e., "city limits") of the city. The term does not include the extraterritorial jurisdiction.

Code official means the person or persons officially designated by the city to assist the city in implementing the provisions of this article. Such person or persons may include, but are not limited to, the fire prevention officer, a city code compliance officer, or a city police officer, and such assistance includes, but is not limited to, conducting investigations for possible violations of this article.

Council means the council of the City of Bartlett, the governing body of the municipality.

Fire prevention officer means the person designated as such by the council of the city. Such persons may include but are not limited to the chief of a fire department, a fire marshal, a county fire marshal, a sheriff, a constable, another local enforcement officer, or if there is no local fire authority, the state fire marshal.

Fireworks means any combustible or explosive composition, or any substance or combination of substances, or article or device, prepared for the purpose of producing a visible or an audible

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\* **State law references**—Authority of municipality to regulate use of fireworks, V.T.C.A., Local Government Code, sec. 342.003; fireworks and fireworks displays, V.T.C.A., Occupations Code, ch. 2154; authority of city to prohibit or further regulate fireworks, V.T.C.A., Occupations Code, sec. 2154.004.

effect by combustion, explosion, deflagration, or detonation. The term includes “firecrackers” and “pyrotechnics.”

Licensed operator means the person who is properly licensed by the state and shall coordinate, oversee, and be the principal conductor for the entirety of the fireworks display.

Person means an individual, corporation, organization, government agency, business, trust, partnership, association, or any other legal or illegal entity.

Possess means actual care, custody, control, or management.

State fire marshal means the chief law enforcement officer of the state charged with the responsibility of fire prevention.

(Ordinance 20160815-01, sec. II (7.301), adopted 8/15/2016)

#### **Sec. 6.05.002 Enforcement; penalties**

(a) Enforcement. The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance.

(b) Criminal prosecution. Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding \$2000.00. Each day and each discharge that a provision of this article is violated shall constitute a separate offense. An offense under this article is a misdemeanor.

(c) Civil remedies. Nothing in this article shall be construed as a waiver of the city’s right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including but not limited to the following:

- (1) Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article; and
- (2) A civil penalty up to \$1000.00 a day when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article; and
- (3) Other available relief.

(Ordinance 20160815-01, sec. II (7.305), adopted 8/15/2016)

#### **Sec. 6.05.003 Sale, discharge or possession prohibited**

(a) No person may sell fireworks within the city boundaries.

(b) No person may use or discharge fireworks within the city boundaries. The city expressly adopts a “zero tolerance” policy for any violation of this article.

(c) No person may possess fireworks with the intent to discharge such fireworks within the city boundaries.

(Ordinance 20160815-01, sec. II (7.302), adopted 8/15/2016)

**Sec. 6.05.004 Exemptions; display permits**

(a) City approved events. The restrictions in this article on the use or discharge of fireworks do not apply if such use, possession, or discharge occurs as part of a city approved and supervised event that complies with the provisions of a Bell or Williamson County burning ban and applicable drought status and further provided that:

- (1) All persons who assemble, conduct, or supervise a public or private fireworks display shall have the appropriate license issued by the state.
- (2) All persons who conduct a public or private fireworks display shall comply with the regulations as set forth in Texas Occupations Code chapter 2154 (regulation of fireworks), National Fire Protection 1123 and 1124, and any other standards set forth by federal and state regulations.

(b) Exemptions under state law. The restrictions on the use, possession, or discharge of fireworks in this article do not apply to any exemption provided under Texas Occupations Code section 2154.002, as amended.

(c) Display permits.

- (1) No person may conduct a public or private fireworks display without a display permit having been issued by the city;
- (2) An application for a display permit to conduct a public or private fireworks display within the city boundaries must be submitted by an authorized person on a form provided by the city and shall have the signature of the licensed operator applying for the permit. The application shall be filed with the city no less than sixty (60) calendar days prior to the regular meeting of the council immediately preceding the event. Within thirty (30) calendar days after receipt of the application, the city shall approve the permit, with or without conditions, or deny the permit. If the permit is denied, the reasons shall be so stated on the notice of denial. The denial of a permit may be appealed to the council if submitted in writing no less than twenty-five (25) calendar days prior to the regular meeting of the council immediately preceding the fireworks display event;
- (3) A nonrefundable application fee in the amount set forth in the fee schedule in appendix A of this code shall be included with the application;
- (4) Proof of liability insurance, in an amount of no less \$1,000,000.00, shall be included with the application;
- (5) A copy of the licensed operator's license as issued by the state;

- (6) A plan listing all licensed operators and technicians, detailing the site, listing all pyrotechnics to be on-site and annotating those that will be discharged, and an itinerary of the event shall be included with the application;
- (7) A memorandum of agreement, contract, or similar instrument demonstrating that fire suppression and emergency medical services [will be provided] as required by the city fire department or the city's designated fire service shall be submitted within ten (10) calendar days of the submission of the application; and
- (8) If issued, such a display permit shall be valid only for stated conditions and the date and time period set forth in the permit. The permit holder shall indemnify and hold harmless the city, who shall not be responsible nor liable for any injury, loss of life, or damage to property that may occur during the course of the fireworks display. The permit holder and all participants shall be solely responsible and liable for, indemnify and hold harmless the city for any injury, death, or damage to any property during the course of the fireworks display, to include, but not limited to, any preparations, display or discharge of any pyrotechnics, and post-event duties.

(Ordinance 20160815-01, sec. II (7.303), adopted 8/15/2016; Ordinance adopting 2020 Code)

#### **Sec. 6.05.005 Filing of complaint about violation**

Any city resident or property owner may file a complaint alleging a violation of this article. The complaint:

- (1) May be made orally or in writing;
- (2) Must provide sufficient details about the violation; and
- (3) Must be made to the code official, the city mayor, the city administrator, the city secretary, or a city police officer or other law enforcement agency.

(Ordinance 20160815-01, sec. II (7.304), adopted 8/15/2016)