

**ORDINANCE NO. O-2022-038\_**

**AN ORDINANCE OF THE CITY OF FATE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FATE, CHAPTER 16 – FIRE PREVENTION AND PROTECTION, ARTICLE III, “FIRE PREVENTION REGULATIONS,” DIVISION 3, “FIREWORKS,” BY AMENDING SECTION 16-92 “SALE, POSSESSION, USE AND DISCHARGE OF FIREWORKS UNLAWFUL,” BY ADDING AN AFFIRMATIVE DEFENSE TO PROSECUTION; PROVIDING A REPEALING AND SEVERABILITY CLAUSES; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Fate, Texas (the “City”) is a home rule municipality incorporated and operating under the laws of the State of Texas; and

**WHEREAS**, the City Council of the City of Fate (“City Council”) finds and determines that it is in the best interests of the health, safety and welfare of its citizens to amend Chapter 16 “Fire Prevention and Protection,” amending Section 16-92 “Sale, Possession, Use and Discharge of Fireworks Unlawful,” by adding an affirmative defense to prosecution.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FATE, TEXAS, THAT:**

**Section 1.** All of the above premises are found to be true and correct factual and legislative determinations of the City of Fate and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Section 2.** From and after the effective date of this Ordinance, Chapter 16 “Fire Prevention and Protection,” of the City of Fate Code of Ordinances is hereby amended by amending Section 16-92, “Sale, possession, use and discharge of fireworks unlawful,” to read in its entirety as follows:

**Sec. 16-92. – Sale, possession, use and discharge of fireworks unlawful.**

It shall be unlawful for any individual, firm, partnership, corporation or association to sell, possess for sale, sell or offer for sale, possess, or use, fire, discharge or explode any fireworks within the corporate limits of the city, except as may be permitted by state law.

It shall be a defense to prosecution that the individual is in the possession of fireworks after having purchased them within the past ten (10) days from a retailer authorized, licensed or otherwise permitted to sell fireworks in the corporate limits of the city.

**Section 3.** All rights and remedies of the City of Fate, Texas, are expressly saved as to any and all violations of the provisions of the Ordinance or any other ordinance 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 4.** 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 of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section 5.** Any provision of any prior ordinance of the City, whether codified or uncoded, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncoded, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section 6.** Any person, firm or corporation violating any provisions or terms of this ordinance shall be subject to a penalty as provided by section 1-14 of the code of ordinances of the City of Fate.

**Section 7.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

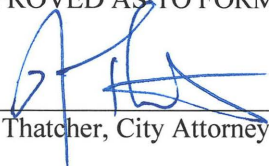
**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Fate, Texas, on this the 19<sup>th</sup> day of September, 2022.

  
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David Billings, Mayor

ATTEST:

  
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Victoria Raduechel, TRMC, City Secretary

APPROVED AS TO FORM AND LEGALITY:

  
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Jon Thatcher, City Attorney

