

**AN ORDINANCE OF THE CITY OF VAN ALSTYNE, TEXAS, AMENDING CHAPTER 18 “FIRE PREVENTION AND PROTECTION,” ARTICLE I “ IN GENERAL” REGARDING FIREWORKS, AND ESTABLISHING NEW REGULATIONS FOR OPEN BURNING AND OUTDOOR FIREPLACES; PROVIDING FOR REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; PROVIDING FOR PENALTIES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the City of Van Alstyne, Texas (“City”) is a Type-A general law municipality under the laws of the State of Texas and is duly incorporated; and

**WHEREAS**, the City Council of the City of Van Alstyne has determined that fire prevention and protection are a necessary part of public safety and in the best interest of the City of Van Alstyne and will promote the safety and welfare of the citizens of the City of Van Alstyne and the general public ; and

**WHEREAS**, the City Council has determined that the approval and adoption of the amendments are in the best interest of the public.

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

**SECTION 1: FINDINGS INCORPORATED.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2: AMENDMENT OF FIRE PREVENTION AND PROTECTION.** Chapter 18, Article 1, “Fire Prevention and Protection,” Section 18-1, entitled “In General,” of the City of Van Alstyne Code of Ordinances is hereby amended to read as follows (with deletions being struck through, additions being underlined, and all other articles, chapters, sections, paragraphs, sentences, phrases, and words not expressly amended hereby ratified and affirmed):

**Sec. 18-1. - Fireworks.**

It is unlawful to sell, discharge or cause to be discharge any firecrackers, fireworks, or pyrotechnics ~~torpedo, skyrocket, Roman candle or similar device~~ any article or thing used as, and regarded as, firecrackers, fireworks, or pyrotechnics, whether specifically named herein or not, within ~~in~~ the city limits of the City of Van Alstyne . ~~Any person violating this section shall, upon conviction, be fined an amount not to exceed \$100.00.~~

**SECTION 3: AMENDMENT OF FIRE PREVENTION AND PROTECTION.** Chapter 18, “Fire Prevention and Protection,” of the City of Van Alstyne Code of Ordinances is hereby amended to add the following new Sections 18-2 “Open burning prohibited,” 18-3 “Approved Fire Containers,” and 18-4 “Operation of Approved Fire Containers”:

**Sec. 18-2. – Open burning prohibited.**

- (a) General. Open burning is prohibited.
- (b) Exception. Fires in approved containers listed in Sec. 18-3 are excepted from the general prohibition on open burning, unless one of the conditions in Section 18-5 is applicable.

**Sec. 18-3. – Approved Fire Containers**

- (a) Portable Firepit. Woodburning portable outdoor firepits for recreational fire purposes shall be used in accordance with the manufacturer's instructions, be equipped with a spark arrestor, and shall not be operated within ten (10) feet of a structure or combustible material. The maximum burn bowl (the interior part of the firepit where wood is placed) diameter is thirty-six (36) inches and maximum height is twenty-four (24) inches.
- (b) Permanent Outdoor Firepit. Permanently installed outdoor firepits for recreational fire purposes shall be equipped with a spark arrestor and shall not be installed within ten (10) feet of a structure or combustible material. The maximum burn bowl (the interior part of the firepit where wood is placed) diameter is thirty-six (36) inches and maximum height is twenty-four (24) inches.
- (c) Permanent outdoor fireplaces. Permanently installed outdoor fireplaces constructed in accordance with the International Building code.
- (d) Chimineas. Chimineas shall be equipped with spark arrestor and shall be used in accordance with the manufacturer's instructions.
- (e) Non-Wood Burning Firepit. Non-wood burning firepits (a "fire feature" that has a gas burner and lava rocks, glass, etc.) shall be used in accordance with the manufacturer's instructions.

**Sec. 18-4. – Operation of Approved Fire Containers**

- (a) The use of outdoor firepits and chimineas shall be constantly attended until the fire is extinguished (or properly shut off for Non-Wood burning firepit).
- (b) A minimum of one portable fire extinguisher or other approved extinguishing equipment, such as water barrel or water hose shall be available for immediate utilization.
- (c) Use the correct fuel. For wood burning firepits and chimineas, only wood in its natural state shall be used. Dry seasoned wood is preferred. Anything that causes excessive smoke is not allowed.
- (d)

**Sec. 18-5. – Conditions When Open Burning in Approved Fire Containers Is Prohibited**

- (a) No open burning is allowed when the County has declared a burn ban, with the exception of a non-wood burning firepit.
- (b) No open burning is permitted when winds in excess of twenty (20) mph are present at the location.
- (c) Open burning may be prohibited by the Fire Marshal, Fire Department personnel, or law enforcement personnel based on the conditions present at the open burning site.

**Secs. 18-6—18-20. - Reserved.**

**SECTION 4: SEVERABILITY.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Van Alstyne hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 5: SAVINGS/REPEALING CLAUSE.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 6: PENALTY.** Any person, firm, corporation or entity violating this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing days' violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Van Alstyne from filing suit to enjoin the violation. Van Alstyne retains all legal rights and remedies available to it pursuant to local, state and federal law.

**SECTION 7: EFFECTIVE DATE.** This Ordinance shall become effective from and after its adoption and publication as required by law.

**SECTION 8: CAPTION PUBLICATION.** The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of Van Alstyne following the City Council's adoption hereof as provided by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VAN ALSTYNE, TEXAS ON THE 12<sup>TH</sup> DAY OF OCTOBER, 2021.**

**CITY OF VAN ALSTYNE, TEXAS**

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Jim Atchison, Mayor

**ATTESTED TO AND  
CORRECTLY RECORDED BY:**

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Jennifer Gould, City Clerk

*DATE OF PUBLICATION:* October 29, 2021, Van Alstyne Leader