

**TOWN OF HICKORY CREEEK, TEXAS
ORDINANCE 2020-12-865**

AN ORDINANCE OF THE TOWN COUNCIL OF HICKORY CREEK, TEXAS, AMENDING THE TOWN'S CODE OF ORDINANCES, CHAPTER 8 OFFENSES AND NUISANCES; ARTICLE 8.02 FIREWORKS; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Hickory Creek is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town Council desires to amend its ordinances concerning the use of fireworks within the Town limits to allow certain types of previously prohibited uses; and

WHEREAS, the Town Council deems the amendment necessary for the general health and welfare of the Town and in the best interest of the Town of Hickory Creek, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS:

**SECTION 1
INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2
FINDINGS**

After due deliberations the Town Council has concluded that the adoption of this Ordinance is in the best interests of the Town of Hickory Creek, Texas, and of the public health, safety and welfare.

**SECTION 3
AMENDMENT**

3.01 That the Code of Ordinances of the Town of Hickory Creek, Texas, Chapter 8 Offenses and Nuisances, Article 8.02 Fireworks, Section 8.02.001 Definitions is hereby amended to read as follows:

“In this article the following definitions shall be used:

Discharge. A chemical reaction resulting in fire or combustion.

Distribution. To pass control from one person to another.

Fire marshal. An individual appointed by the town council whose duties shall include enforcement of this article, the fire code, and any other law pertaining to regulation of fireworks in the corporate limits of the town.

Fireworks. Any composition or device designed to produce a visible or audible effect by combustion, explosion, deflagration, or detonation, and that is defined as "special fireworks" by 49 CFR section 173.88(d) (1983), or as "common fireworks" by 49 CFR section 173.100(r) (1983), except those which (1) do not become airborne in use, (2) do not emit sparks or open flames more than two feet from the ground when in use, and (3) do not emit an audible report when in use.

Minor. A person younger than 17 years old.

Offer for sale. Indicates by words or actions that a firework can be obtained for remuneration.

Possession. Having under one's care, custody, or control.

Public display. The igniting of fireworks for public amusement.

Sale. To exchange any fireworks for a remuneration.

Storage. To keep in a place used or adapted for storage.”

3.02 All other articles, chapters, sections, subsections, paragraphs, sentences, phrases and words are not amended but are hereby ratified and affirmed.

SECTION 4 CUMULATIVE REPEALER CLAUSE

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 5
SAVINGS CLAUSE

All rights and remedies of the Town of Hickory Creek, Texas are expressly saved as to any all violations of the provisions the Town’s Code of Ordinances or of any other ordinance affecting park regulations, which have secured 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 buy may be prosecuted until final disposition by the court.

SECTION 6
SEVERABILITY

The provisions of this Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in while in part, the remaining and lawful provisions shall be of full force and effect and the Town shall promptly promulgate new revised provisions in compliance with the authority’s decision or enactment.

SECTION 7
ENGROSSMENT AND ENROLLMENT

The Town Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the Town Council and by filing this Ordinance in the Ordinance records of the Town.

SECTION 8
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage in accordance with law.

AND IT IS SO ORDAINED

PASSED AND APPROVED by the Town Council of the Town of Hickory Creek, Texas, this 28th day of December, 2020.

Lynn C. Clark, Mayor
Town of Hickory Creek, Texas

ATTEST:

Kristi K. Rogers, Town Secretary
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

Dorwin L. Sargent, III, Town Attorney
Town of Hickory Creek, Texas