



## **ORDINANCE 2004-10**

**AN ORDINANCE TO ESTABLISH AND REGULATE THE USE OF FIREWORKS WITHIN THE CITY LIMITS OF THE CITY OF TOM BEAN, TEXAS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A PENALTY AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW THEREFORE; BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOM BEAN TEXAS,**

**Section 1:** Short title of this ordinance to be called the **Fireworks Ordinance**.

**Section 2:** It shall be unlawful for any person to give away, sell, offer, or expose for sale, or have in possession with intent to give away, sell or to use, discharge or cause to be discharged, ignited, fired or otherwise set in action, or to possess with the intent to discharge or cause to be discharged, ignited, fired, or otherwise set in action within the boundaries of the City of Tom Bean, any firecrackers, rockets, bottle rockets, torpedoes, roman candles, fire-balloons, or other fireworks or substances of any combination whatsoever designed or intended for pyrotechnic display except as hereinafter provided.

**Section 3:** The exceptions to this ordinance shall apply to the legal use of sparklers, snakes, caps and fountains, and to the storage or use of colored flares, or railroad track torpedoes or other transportation signaling devices, or to the sale, storage or use of flashlight composition by photographers or dealers in photographic supplies, or to the sale, storage or use of blank cartridges for theatrical purposes or for signal purposes in athletic contests or sports events, for the use of any police organization or federal or state militia.

**Section 4:** Permits for the public or private display of fireworks may be issued by the Chief of Police, provided a person desiring to display fireworks shall apply in writing to the Chief of Police, for a permit at least ten (10) days in advance of the date of the proposed display and shall set forth:

- A. The name of the organization/individual sponsoring the display together with the name of the person who is the responsible party for the event.
- B. The organization/individual must provide at the time of issuance of a permit provide the City with a Certificate of Insurance with a minimum of one million dollars (\$1,000,000) in liability insurance that is in force at the date and time of the fireworks display.
- C. The responsible person listed in this section (A) will be the person held liable for any accidents or damage done to persons, or property.
- D. The date and time of day at which the display is to be held.
- E. The exact location (address) planned for the event.

- F. The kinds of fireworks to be discharged.
- G. The manner and place of storage of such fireworks prior to the display.
- H. A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all building, highways, telegraph, telephone or other overhead obstructions and trees located within one hundred (100) yards from the point at which the fireworks are to be discharged and the lines behind which the audience will be restrained. Such permit shall not be granted unless such display shall be of such a character and so located, discharged or fired as in the opinion of the said Chief of Police, after proper study of the application and proper inspection of the proposed premises, shall not be hazardous to property or endangering to any person.

**Section 5:** The Chief of Police shall have the right to be present at the discharge of any public or private display of fireworks for which a permit has been issued hereunder and shall have the right to cause the same to be stopped unless it is conducted in strict accordance with the statements made in the application for the permit.

**Section 6:** The Mayor in the event of extreme drought conditions shall have the authority to make an emergency proclamation banning the display of any and all fireworks displays within the City limits of Tom Bean. Said emergency proclamation shall have the force of law and punishment as set forth in (**Section 7-PENALTIES**) of this ordinance.

**Section 7: PENALTIES.** Any person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than TWO HUNDRED DOLLARS (\$200.00) for each occurrence.

**Section 8: SEVERABILITY:** This ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this ordinance shall not be affected thereby.

**Section 9:** All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this ordinance as of the effective date of this ordinance, are hereby repealed to the extent of such conflict, except that terms defined herein for purposes of interpretation, administration, and enforcement of this ordinance only, will in no way, manner or form repeal, notify or otherwise change the definition of any such terms as used in other ordinances of the City of Tom Bean.

**Section 10:** That the City Secretary shall publish this ordinance as required by law and that this ordinance will become law upon publication.

**THIS ORDINANCE SHALL BE IN EFFECT UPON ITS READING AND PASSAGE BY THE CITY COUNCIL OF TOM BEAN, TEXAS.**

Duly passed and approved by the City Council of Tom Bean, Texas this 8th day of November, 2004 A.D.

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Attest:

Mayor

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City Secretary