

ORDINANCE NO. 111B

AN ORDINANCE OF THE CITY OF ROMAN FOREST, TEXAS, PROHIBITING THE MANUFACTURE, POSSESSION, SALE, DISCHARGE, AND DISTRIBUTION OF FIREWORKS WITHIN THE CITY; CONTAINING DEFINITIONS; CONTAINING EXCEPTIONS; PROVIDING FOR THE SEIZURE OF ILLEGAL FIREWORKS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); REPEALING ORDINANCE NO. 111-A ADOPTED SEPTEMBER 17, 1984, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR SEVERABILITY.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROMAN FOREST, TEXAS:

Section 1. Definitions.

1.1 Fireworks shall mean and include any combustible or explosive composition, or any substance or combination of substances, or any device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, bombs, sparklers, or other devices of like construction and any device containing an explosive or flammable compound, or any tablet or other device containing an explosive substance; except that the term "fireworks" shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns, or other devices for the use

of such caps, the sale and use of which shall be permitted at all times.

1.2 Person shall mean and include any natural person, association of persons, partnership, corporation, agent, or officer of a corporation, and shall also include all warehousemen, common and private carriers, and bailees.

Section 2. Exceptions. Nothing in the Ordinance shall be construed to prohibit the use of fireworks by a peace officer, fireman, a railroad employee, or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations while performing official duties.

Section 3. Manufacture, Possession, Sale, Discharge of Fireworks, and Permits.

3.1 The manufacture of fireworks within the City is prohibited.

3.2 Except as hereinafter provided, it shall be unlawful for any person to assemble, store, transport, receive, keep, sell, offer, have in his possession, or have in his possession with intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire, or otherwise set in action any fireworks of any description.

3.3 The discharge of fireworks in connection with public displays, plays, circuses, and other shows shall not be unlawful upon obtaining a permit issued by the City Council, for any person engaged in any organized public

display, play, legitimate theatrical performance, circus, or other show designed for the amusement and benefit of the general public, to use, discharge, or cause to be discharged and ignited fireworks as a part of any act, performance, play, or circus, so long as such person does not also engage in the retailing, wholesaling, selling, or distribution of any such fireworks. The City Council shall cause to be made an investigation of each application made hereunder to determine whether the use of such fireworks as proposed shall be of such a character that it may be hazardous to property or dangerous to any person. Any such permit issued by the City Council shall specifically identify the type and manner of the discharge of the fireworks, the exact location, may require insurance or a bond, may limit the type or hours, may impose other requirements, and shall require it be conducted under proper police or fire department supervision. Any such fireworks discharge or display shall be conducted in conformity with the permit.

Section 4. Illegal Fireworks as Nuisance; Seizure and Destruction, etc. The presence of any fireworks within the City in violation of this Ordinance is hereby declared to be a common and public nuisance. Any authorized member of the fire department or any police officer of the City or any other duly constituted peace officer is authorized to seize and safely destroy any fireworks found in violation of this Ordinance and is empowered to stop the transportation of and detain any fireworks being transported illegally or to close any building where any

fireworks are found stored illegally until such fireworks may be seized and destroyed in accordance with the terms of this Ordinance. Notwithstanding any penal provision of this Ordinance, the City Council may authorize the filing of a suit on behalf of the City, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within this City or to prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.

Section 5. Enforcement. In addition to the authorization of seizure of fireworks set out in Section 4 hereof, it shall be the duty of the City Police Department, together with any other persons authorized by the City Council from time to time, to enforce the provisions of this Ordinance.

Section 6. Penalty. Any person who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed Two Thousand Dollars (\$2,000.00). Each violation shall constitute a separate offense.

Section 7. Repealer. City of Roman Forest Ordinance No. 111-A, adopted September 17, 1984, is hereby repealed, and all other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 8. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or

part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Roman Forest, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED, APPROVED, and ADOPTED, this _____ day of _____, 1990.

_____, Mayor

ATTEST:

Earline Maxey, City Secretary