

**Ordinance No. 850**

**“2023 Amended Fireworks and Burn Ban Ordinance”**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRANITE SHOALS, TEXAS, AMENDING CHAPTER 18 (FIRE PREVENTION), ARTICLE IV (OPEN BURNING), SECTION 18-75 (BURN BAN) AND ARTICLE V (FIREWORKS) OF THE GRANITE SHOALS CODE OF ORDINANCES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the City of Granite Shoals adopted Ordinance 437 on August 9, 2005, which has been subsequently amended, to regulate the sale and discharge of fireworks within the city limits of the City of Granite Shoals; and

**WHEREAS**, section 217.042 of the Texas Local Government Code permits a home-rule municipality to define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the limits; and

**WHEREAS**, the City of Granite Shoals finds that the use or sale of fireworks in the City limits, except as authorized in this ordinance, constitutes a nuisance and can lead to health and safety hazards within the City; and

**WHEREAS**, fireworks displays are traditional and customary as part of the celebration of the United States’ Independence Day on the 4<sup>th</sup> of July and New Year’s Eve on December 31 of each year; and

**WHEREAS**, with appropriate precautions and limitations, the safe use and display of fireworks may be part of the celebration of these holidays; and

**WHEREAS**, after due consideration, the Council finds that the following amendments are in the best interest of the health, safety, and welfare of the citizens of Granite Shoals and of the public generally;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRANITE SHOALS, TEXAS:**

**SECTION I. FINDINGS OF FACT**

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

**SECTION II. AMENDMENT**

Chapter 18 (Fire Prevention), Article V (Fireworks) of the City of Granite Shoals Code of Ordinances is hereby amended as follows:

**“Article IV. Open Burning**

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#### **Sec. 18-75. Burn ban.**

In the event that ~~the fire chief~~ a three-member panel consisting of the City's Fire Chief, Mayor, and City Manager determines that atmospheric conditions or other conditions within the city constitute a fire hazard, then, upon such finding, the fire chief will issue a burn ban and advise the city council that all open fires should be prohibited for a period of time until weather and natural conditions return to favorable conditions as determined by the Texas Forest Service burn ban schedule. The fire chief shall post signage and issue a media release to inform the public of the existence of the burn ban. No burn permits will be issued during a burn ban. Burn permits that were issued pursuant to section 18-71 of this code may be rescinded at the discretion of the fire chief if a burn ban is subsequently issued or if atmospheric conditions or other conditions constituting a fire hazard warrant. The fire chief will rescind the burn ban when the ~~fire chief~~ three-member panel determines that conditions within the city no longer constitute a fire hazard.

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#### **Article V. Fireworks**

##### **Sec. 18-91. Definition.**

~~As used in this article the term "fireworks" shall be interpreted so as to give it the same meaning as it has in common usage, and so as to give this article its most reasonable application. Without limiting the above statement, it shall also mean and include any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, including any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive or flammable compound. Provided, however, that it shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredth of a grain of explosive content per cap, and toy pistols, toy canes, toy guns, or other devices for use of such caps.~~

As used in this article, the term "fireworks" shall be interpreted to mean "Consumer Fireworks," formerly called Class C fireworks, as defined and regulated by the U.S Consumer Product Safety Commission. Consumer Fireworks include: sparklers, firecrackers containing less than 50 milligrams of powder, Roman Candles, rockets, and nonreloadable shells and mortars. Also permitted are novelty items such as snakes, airplanes, ground spinners, helicopters, fountains, and party poppers.

Excluded from "Consumer Fireworks" and not permitted by the City of Granite Shoals are: M-80 salutes, cherry bombs, large reloadable mortar shells and launchers, firecrackers containing more than 2 grains of powder, and aerial bombs.

##### **Sec. 18-92. Regulations.**

~~(a) It shall be unlawful within the corporate limits of the City of Granite Shoals for a person to:~~

~~(1) Possess, store, offer for sale, expose for sale, sell at retail, or use or explode any fireworks; and~~

~~(2) Act in conjunction with, or in any manner instigate or aid a minor in the commission of selling, offering, offering for sale, purchasing, or discharging fireworks.~~

(a) General Prohibition. Except as otherwise specifically provided in this article, it shall be unlawful for any person to manufacture, assemble, sell, offer or have in possession with intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.

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~~(c) — The provisions in subsection (a) of this section which make it unlawful for a person to possess, store, offer for sale, expose for sale, or sell at retail fireworks in the corporate limits of the City of Granite Shoals shall not apply to persons on land which is annexed into the City of Granite Shoals during the month of December of 2006. This subsection 2.3 expires on June 1, 2007. Nothing in this subsection shall be construed to allow: (a) the use or explosion of fireworks in violation of this article; or (b) the sale, exposure for sale, or sale at retail of fireworks in contravention of state law.~~

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### **Sec. 18-95. Exceptions**

The following exceptions apply to section 18-92, section 18-93, and section 18-94 of this code:

(1) It shall not be an offense under this code for the city or a person or entity expressly permitted to do so by the city to provide a public display of fireworks. The city manager requires the demonstration of any applicable licensing and insurance for such persons seeking a permit for the public display of fireworks.

(2) It shall not be an offense under this article V for any person to possess or transport set off or use fireworks, as defined in section 18-91 of this article, at any time of the year, or to set off or use fireworks on private property with the permission of the property owner solely during the following dates and times unless a burn ban has been implemented by the City pursuant to Section 18-75 of the Code of Ordinances:

(A) December 31st beginning at 1:00 p.m. until 1:00 a.m. on January 1st of the next calendar year; and

(B) July 4th beginning at 1:00 p.m. until 11pm ~~1:00 a.m. on July 5th~~ of the same day calendar year.

(C) It shall be an offense under this article V for any person to set off or use fireworks at any other time without the express permission of the city, or to set off or use fireworks during a time in which a burn ban has been implemented by the City pursuant to Section 18-75 of the Code of Ordinances.

### **SECTION III. SAVINGS**

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Ordinance.

**SECTION IV. SEVERABILITY**

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

**SECTION V. REPEALER**

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.


**SECTION VI. EFFECTIVE DATE**

This Ordinance shall take effect immediately from and after its passage and publication as may be required by law.


**SECTION VII. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at that this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this 12<sup>th</sup> day of Dec, 2023.


  
Run Munos  
Mayor

ATTEST:

  
Dawn Wright,  
City Secretary



APPROVED AS TO FORM:

  
Joshua Katz,  
City Attorney