

**ORDINANCE NO. 228**

**AN ORDINANCE OF THE TOWN OF ANNETTA, TEXAS, PROHIBITING THE USE OR DETONATION OF FIREWORKS DURING A BURN BAN IMPLEMENTED BY THE PARKER COUNTY COMMISSIONER'S COURT; DECLARING THE USE OR DETONATION OF FIREWORKS WITHIN TOWN LIMITS TO BE A NUISANCE PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 217.022; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Annetta, Texas ("Town"), is a Type A general law municipality located in Parker County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, pursuant to Texas Local Government Code, Section 342.003(a)(8), the Town may prohibit the use of fireworks within the Town limits; and

**WHEREAS**, the Town Council has determined that it is in the public's interest to make it unlawful for any discharge, cause to discharge, ignite, detonate, fire, or otherwise set in action any fireworks of any description within the corporate limits of the Town while a burn ban is implemented by the Parker County Commissioner's Court; and

**WHEREAS**, the Town Council finds that the detonation or use of fireworks in violation of the Town's adopted regulations constitutes a nuisance and should be prohibited; and

**WHEREAS**, Section 217.022 of the Local Government Code permits the Town to define and prohibit any nuisance within the limits of the Town; and

**WHEREAS**, the Town Council finds that the use or detonation of fireworks inside the Town limits is dangerous because of the strain on emergency services and first responders that allowing such widespread use or detonation would cause in areas where structures susceptible to burning are located; and

**WHEREAS**, the regulations set out herein are required to protect the public health, safety, and welfare of the Citizens of the Town of Annetta and the public; and

**WHEREAS**, the regulations set out herein, are intended to regulate the use of fireworks as permitted by Texas Local Government Code, Section 342.003(a)(8); and

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ANNETTA, TEXAS, THAT:**

**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.**  
**DEFINITIONS**

**2.1 Definitions.** As used in this Ordinance, the following words and phrases shall have the definition respectively ascribed to them:

- A. **Town** means the Town of Annetta, Parker County, Texas.
- B. **Fireworks** means any firecrackers, cannon crackers, bottle rockets, skyrockets, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, barbs, or any other device or substance in whatever combination designed, named, or intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the meaning of fireworks, whether herein specially designated and defined, including, but not limited to, those meeting the definition of Texas Occupations Code Section 2154.001(5), as amended.
- C. **Person** means any natural person or entity, association of persons, partnership, corporation, agent, or officer of a corporation.

**SECTION 3**  
**PROHIBITIONS**

**3.1** Except as otherwise specifically provided in this Ordinance, it shall be unlawful for any Person to use, discharge, cause to be discharged, ignite, detonate, fire, or otherwise set in action any Fireworks of any description within the town limits of the Town of Annetta during a burn ban implemented by the Parker County Commissioner's Court.

**SECTION 4.**  
**EXCEPTIONS**

**4.1** The prohibition contained in Section 3 of this Ordinance shall not apply to toy pistols, toy canes, toy guns, or similar devices in which paper caps containing 0.0025 grains or less of explosive compounds are used, provided they are so construed that the hand cannot come in contact with the cap when in place for exploding, and the toy paper pistol caps that contain less than 0.0025 grains of explosive compounds, the sale and use of which shall be permitted at all times.

4.2 The prohibition contained in Section 3 of this Ordinance shall not apply to signal flares or rockets for military or police use; nor shall Section 3.1 apply to signal flares for use by motorists in distress.

## **SECTION 5.** **PENALTY CLAUSE**

5.1 Any Person violating any of the provisions of this Ordinance shall be deemed guilty of a Class C misdemeanor upon conviction and shall be fined, except as otherwise provided herein, in a sum not to exceed Two Thousand Dollars (\$2,000.00) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

5.2 If the governing body of the Town of Annetta determines that a violation of this Ordinance creates a threat to the public safety, the Town of Annetta may bring suit in the district court of the county in which the Person who committed the offense resides or has an office to enjoin the Person from engaging in the prohibited activity. The Town is not required to give bond a condition to the issuance of injunctive relief.

5.3 The Town's Fire Marshal, if any, duly sworn Police Officers, if any, or Code Enforcement Officers, may seize illegal fireworks as defined by this Ordinance. Fireworks seized in enforcement of this Ordinance shall be kept in the custody of the seizing agent, the Parker County Fire Marshall, or the sheriff of the county in which the Fireworks were seized. The owner of the seized Fireworks may file an action contesting the seizure in a district court in the county in which the Fireworks were seized. If an action contesting the seizure is not filed by the thirtieth (30<sup>th</sup>) day after the seizure, the seizing agent shall destroy the Fireworks.

## **SECTION 6.**

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Annetta, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the more stringent provision shall apply and the less stringent provision, whether contained within this Ordinance or in any prior Ordinance of the Town, whether codified or un-codified, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the Town, whether codified or un-codified, which are not in conflict with the provisions of the Ordinance, shall remain in full force and effect.

## **SECTION 7.**

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, and paragraph sections, of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court or competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**SECTION 8.**

All rights and remedies of the Town are expressly saved as to any and all violations of the provisions of this Ordinance, or any other ordinances affecting the matters addressed herein, which have accrued 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 but may be prosecuted until final disposition by the courts.

**SECTION 9.**

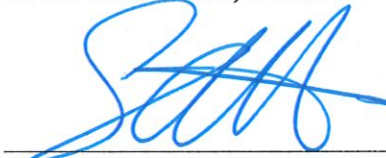
The Town Secretary of the Town of Annetta is hereby directed to publish the caption, penalty clause, publication clause, and effective date clause of this Ordinance.

**SECTION 10.**

This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF ANNETTA, TEXAS, ON THIS THE 17<sup>TH</sup> DAY OF AUGUST, 2023.**

**Town of Annetta, Texas**



**Sandy Roberts, Mayor**

**ATTEST:**

  
**Jamee Long, Town Secretary**

