

ORDINANCE NO. 6-18-1

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWLEY AMENDING
ORDINANCE NO. 06-18 REGULATING NUISANCES WITHIN 5000 FEET OF THE
CITY LIMITS OF THE CITY OF HAWLEY, TEXAS; PROVIDING A SEVERABILITY
CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING A SAVINGS CLAUSE;
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, on June 12, 2018, the City Council of the City of Hawley, Texas passed and approved Ordinance 06-18 prohibiting:

- Nuisances within 5000 feet of city limits
- Duty of persons to abate nuisance
- Abatement of nuisance by city.

within the city limits of the City of Hawley, Texas.

WHEREAS, the City Council finds that it is appropriate and necessary within the City's authority to regulate health and safety to amend this ordinance as set forth herein;

NOW THEREFORE. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAWLEY, TEXAS:

PURPOSE.

This ordinance is adopted so that the City Council may promote the public health, safety, morals, and general welfare within the city. Whenever any nuisance as herein later specified exists within 5000 feet of the perimeter of the corporate limits of the city, the City Council or their representatives shall order the nuisance to be abated, corrected, or removed by the person or parties causing or creating the nuisance. The person or parties shall be subject to jurisdiction of the municipal court of the city and a fine or penalties may be subjected against the person or parties. Provided that the person or parties causing or creating such nuisance shall fail or refuse to abate, correct or remove such nuisance, the City Council or their assigns shall oversee that such nuisance is abated, corrected or removed and all cost accruing therein shall be charged against the person or parties causing or creating such nuisance and collected by the municipal court as other costs along with such fines or penalties as may be levied for the violation:

JURISDICTION.

The provisions of this amendment shall apply within the municipal boundaries of the city.

DEFINITIONS.

For the purpose of this ordinance, the following terms, words, and the derivations thereof shall have the meanings given herein:

COUNCIL. The City Council (such as the governing body) of this city.

PERSON. An individual, corporation, organization, Government agency, business, trust, partnership, association, or any other legal entity.

PUBLIC PLACE. Any place to which the public or a substantial group of the public has access, including, but not limited to, parks, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

PUBLIC RIGHT-OF-WAYS. The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest.

FIREWORKS. Any combustible or explosive composition, or substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation for example but not limited to firecrackers, torpedoes, skyrockets, Roman Candles, sparklers, or other devices of like construction, and any devices containing any explosive substance.

WHEREAS, SUCH NUISANCES AREAS HEREIN SET FORTH:

- A. Dumping or placing of trash, waste or refuse on any public right-of-way or in another's trash receptacle (without owner or renter's permission) shall be unlawful by any person within the city limits of the City of Hawley, Texas.
- B. It shall be unlawful for any person to pollute any stream, drain, or tributary
- C. Sale of any fireworks is permitted 10 days prior to the dates listed in this section for a fee of \$75 only by special permit from the City Council. The discharge of fireworks will be permitted only in the absence of a burn ban and limited to no later than 1:00 A.M. the following morning after New Year's Eve Day (January 1st) and no later than 1:00 A.M. the following morning after the Fourth of July Day (July 5th).
- D. Storage or dumping of any hazardous chemical, gas, powder or other substance as listed on the EPA hazardous chemical list
- E. The open discharge of sewerage or discharge of untreated sewerage from a septic tank drain field.
- F. Prohibited Acts include, except as otherwise provided above, it shall be unlawful for any person to manufacture, store, offer for sale, expose for sale, sell at retail or use or explode any fireworks within the city. Excessively loud noise, for example from radios, vehicle acceleration, equipment used for construction, farming, oiling, ranching, etc. shall be limited but avoided after 10:00 P.M. and before 7:00 A.M.

PENALTY.

- A. General. Any person who violates any provision of his ordinance for which no other penalty is provided shall, upon conviction, be subject to penalties as set forth in this section.
- B. When the City Council shall legally declare anything, act, or commission to be a nuisance and instructed the party guilty of maintaining or creating such nuisance to abate or remove the same immediately, if possible, but within a reasonable time if not. When notice of such action shall have been served upon the party to be so

charges and the party of causing a nuisance fails to obey the same with immediacy, he/she shall be deemed guilty of a Class C Misdemeanor.

C. Whereas, whenever any nuisance has been declared to exist within the city by the City Council and such nuisance has been ordered to be abated, corrected, or removed, and the person causing or creating such nuisance shall fail or refuse to obey such order, the City Council shall direct the Chief of Police to abate the same, who shall proceed at once to carry out such order, calling such assistance as he deems necessary. All costs accruing therein shall be charged against the person causing or creating such nuisance and collected as other costs with the boundaries of this Class C Misdemeanor offense.

A. SAVINGS CLAUSE.


1. It is hereby declared to be the intention of the City Council that the phrases, sentences, paragraphs, and sections of this ordinance are severable. If any part of this ordinance is for any reason found by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such finding shall not affect any of the remaining phrases, clauses, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of the part found to be invalid, illegal, or unenforceable.

B. EFFECTIVE DATE.

1. This ordinance shall be effective upon the publication of its caption and penalty as required by law TWX. GOV'T CODE §52.011 and the City Secretary is hereby directed to implement such publication.

READ, PASSED, AND ADOPTED this 9 day of October, 2018

CITY OF HAWLEY



Billy Richardson, Mayor

ATTEST:

City Secretary