

ORDINANCE NUMBER 22-2578

AN ORDINANCE TO MODIFY CHAPTER 7, FIRE PREVENTION AND PROTECTION, OF THE MUNICIPAL CODE OF THE CITY OF HOOVER AND TO PROHIBIT THE SALE, POSSESSION, USE, STORAGE, DISTRIBUTION AND MANUFACTURE OF PYROTECHNICS AND FIREWORKS IN THE CITY OF HOOVER, ALABAMA.

WHEREAS, in 1982, the City Council of the City of Hoover, Alabama approved and adopted Ordinance Number 342 adopting the International Fire Code as the code of the city for regulating and governing the safeguarding of life and property from fire and explosion hazards; and

WHEREAS, effective on April 1, 2022, the City Council of the City of Hoover, Alabama adopted the 2021 International Fire Code; and

WHEREAS, the Alabama Legislature enacted Act Number 2021-399 (the "Act") relating to fireworks and pyrotechnics; to amend Sections 8-17-210, 8-17-211, 8-17-216.1, 8-17-217, 8-17-218, 8-17-219, 8-17-220, 8-17-225, 8-17-226, 8-17-237, 8-17-255, 34-33-11, 34-33A-12 and 36-19-29, *Code of Alabama, 1975*; and to add Section 36-19-31 to the *Code of Alabama, 1975*; to redesignate common fireworks as consumer fireworks and to provide for the regulation of consumer fireworks; and

WHEREAS, the Act amended Title 8-17-226, Code of Alabama, 1975, to read as follows:

"§8-17-226.

(a) This article shall in no wise affect the validity of any city ordinance further restricting the sale or use of aerial devices and audible ground devices, including the authority to adopt ordinances related to aerial devices, sparkling devices, and audible ground devices in accordance with Section 11-45-9.1.

(b) A municipality may enact an ordinance further restricting the sale or use of sparkling devices or novelties. The State Fire Marshal shall keep a current listing of those municipalities that have enacted an ordinance further restricting the sale or use of sparkling devices or novelties. This subsection shall not affect any existing ordinance in a Class 1 municipality;" and

WHEREAS, the Act was signed by Governor Kay Ivey on May 13, 2021 and became effective July 12, 2021; and

WHEREAS, the City Council of the City of Hoover, Alabama hereby finds and determines that the enactment of this Ordinance Number __ prohibiting the sale, possession, use, storage, distribution and manufacture of pyrotechnics and fireworks within the City limits of the

City of Hoover, Alabama will promote the health, safety and welfare of the inhabitants of the municipality.

NOW, THEREFORE BE IT HEREBY ORDAINED by the City Council of the City of Hoover, in regular meeting duly assembled, a quorum being present, as follows:

Section 1. International Fire Code, 2021 Edition Adopted and Amended.

A. Chapter 7, Article II, Division I, Section 7-22 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by adding the following sections to subsection (a). The following sections of the 2021 International Fire Code are hereby amended, and where a conflict exists between the provisions of the International Fire Code and the following amendments, the amendments shall prevail, as follows:

Section 5601.1.3 “Fireworks” DELETE in its entirety and REPLACE with the following:

5601.1.3 Fireworks.

(a) It shall be unlawful for any person, firm, partnership, corporation or other legal entity to sell, possess, handle, use or explode, keep, store, distribute or manufacture any pyrotechnics or fireworks within the City of Hoover, Alabama.

(b) “Fireworks” shall mean and include, but is not limited to, the following:

- (1) Pyrotechnics.
- (2) Squib.
- (3) Rocket.
- (4) Firecracker.
- (5) Roman candle.
- (6) Fire balloon.
- (7) Signal light.
- (8) Railway track torpedo.
- (9) Flashlight composition.
- (10) Aerial devices being any type of Department of Transportation (“D.O.T”) Class C Consumer Fireworks as defined in Alabama Legislative Act No. 2021-399 (codified at Title 8-17-210, Code of Alabama, 1975).
- (11) Audible ground devices being any type of D.O.T. Class C Consumer Fireworks as defined by Alabama Legislative Act No. 2021-399 (codified at Title 8-17-210, Code of Alabama, 1975).
- (12) D.O.T. Class C Consumer Fireworks as defined in Alabama Legislative Act No. 2021-399 (codified at Title 8-17-210, Code of Alabama, 1975).

(13) Novelties as defined in Alabama Legislative Act No. 2021-399 (codified at Title 8-17-210, Code of Alabama, 1975), including, but not limited to the following:

- (i) Party poppers.
- (ii) Snappers.
- (iii) Toy smoke devices.
- (iv) Snake or glow worms.
- (v) Wire sparklers or dipped sticks.

(14) Sparkling devices as defined in Alabama Legislative Act No. 2021-399 (codified at Title 8-17-210, Code of Alabama, 1975).

(15) Anything that will detonate or explode.

(16) Other devices or compositions used to obtain visible or audible pyrotechnic display or other result.

(17) Any other type of Consumer Fireworks as defined by D.O.T. in the 2018 APA Standard 87-1A.

(c) **VIOLATIONS AND PENALTIES:** It shall be unlawful to violate any of the terms and provisions of this ordinance. Any person, firm, partnership, corporation, or other legal entity violating any of the said terms and provisions of this ordinance shall, upon conviction, be punished in accordance with Title 11-45-9, Code of Alabama, 1975, for a misdemeanor violation for each such offense. Each day any violation of this ordinance shall continue shall constitute a separate offense.

Section 2. REPEAL. All ordinances, parts of ordinances, and resolutions in conflict herewith are hereby repealed.

Section 3. SEVERABILITY. That if any section, subsection, sentence, clause or phrase of his ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Hoover hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. LEGAL RIGHTS NOT IMPAIRED. That nothing in this ordinance or in the Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS. This Ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law except as set forth herein. The requirements of this Ordinance are in addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes

restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standard for human health or the environment shall control.

Section 6. PUBLICATION OF ORDINANCE. That the City Clerk of the City of Hoover is hereby ordered and directed to cause this ordinance to be published and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

Section 7. EFFECTIVE DATE OF ORDINANCE. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall be in full force and effect upon adoption and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT ORDAINED, that the City Council of the City of Hoover does hereby ordain, resolve, and enact the foregoing Ordinance for the City of Hoover.

Done this the 6th day of September, 2022.



John B. Lyda, Council President

APPROVED BY:



Frank V. Brocato, Mayor

ATTESTED BY:



Wendy Dickerson, City Clerk