



**CITY OF LAMARQUE
CITY COUNCIL
SPECIAL AGENDA
of
MAY 17, 2022**

Notice is hereby given that the City Council of the City of La Marque, Texas will conduct a **Special Meeting** on **May 17, 2022**, beginning at 4:30 PM in the **Council Chambers** at **1109-B Bayou Road La Marque, Texas as well as via videoconference hosted through (ZOOM)**. In accordance with Section 551.127(b) of the Texas Government Code the presiding officer and a quorum of the La Marque City Council intend to be and will be physically present at 1109-B Bayou Road, La Marque, Texas. This location will be open to the public and the meeting will be broadcast at this location and via YouTube.

The Council will meet for the purposes of the following agenda:

1. CALL MEETING TO ORDER
2. ROLL CALL
3. INVOCATION AND PLEDGE OF ALLEGIANCE
4. CITIZENS PARTICIPATION
LIMITED TO THREE MINUTES PER PERSON

Comments from the public will be heard at this time. Any person with city-related business who has signed up to speak may speak to Council. Citizens should give the Mayor their name, address, and the item they wish to speak about. In compliance with Texas Open Meetings Act, the City may not deliberate on comments. Personal attacks will not be allowed, and personnel matters should be addressed to the City Manager during normal business hours. Press *6 to mute or unmute if you are participating by telephone, press the unmute button if attending via zoom or smartphone, table , or computer, or stand and approach the podium if attending in person, and the Mayor will call on you in turn.

5. PUBLIC HEARINGS

Conduct Public Hearing to hear public input on adopting the following:

- 5.I. Ordinance No. O-2021-0018
amending Section 8.8 of the City Code to allow for the keeping of hens; making various findings and providing for an effective date. THIS IS THE SECOND AND FINAL READING

Documents:

[ORDINANCE NO. O-2021-0018 CHICKEN ORDINANCE.PDF](#)

- 5.II. Ordinance No. O-2022-0004
amending Chapter 29 of the City's Code of Ordinances; issuing a ban on fireworks;

providing an effective date; providing a penalty; and making other findings and provisions related to the subject THIS IS THE SECOND AND FINAL READING

Documents:

[ORDINANCE NO. O-2022-0004 FIREWORKS.PDF](#)

6. ORDINANCES

Discussion/ Possible action regarding approving:

6.I. Ordinance No. O-2021-0018

amending Section 8.8 of the City Code to allow for the keeping of hens; making various findings and providing for an effective date. THIS IS THE SECOND AND FINAL READING

Documents:

[ORDINANCE NO. O-2021-0018 CHICKEN ORDINANCE.PDF](#)

6.II. Ordinance No. O-2022-0004

amending Chapter 29 of the City's Code of Ordinances; issuing a ban on fireworks; providing an effective date; providing a penalty; and making other findings and provisions related to the subject THIS IS THE SECOND AND FINAL READING

Documents:

[ORDINANCE NO. O-2022-0004 FIREWORKS.PDF](#)

7. RESOLUTIONS- CONSENT

The following items shall be considered for action as a whole unless one or more Councilmembers objects. Unless otherwise specified the City Manager is authorized to execute all necessary documents upon final approval by the City Attorney.

7.I. Resolution No. R-2022-0028

Declaring the results of the Special Election held for and by Galveston County Elections Division on May 7, 2022, the canvass of the votes pursuant to the Texas Election Code

Documents:

[ELECTION RESOLUTION.PDF](#)

8. NEW BUSINESS

Items presented to the Council for discussion and for Council to provide direction.

8.I. Redistricting

Discussion relating to using results of 2020 Census to assist with Redistricting and proposing new Council District Maps

9. EXECUTIVE SESSION

The City Council for the City of La Marque, Texas reserves the right to adjourn into executive session at any time during this meeting to discuss any of the matters listed above, as authorized

the Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.086 (Economic Development)

10. ADJOURNMENT

CERTIFICATION:

I hereby certify that the above notice of meeting was posted at 1109-B Bayou Road, La Marque, Texas on or before May 13, 2022, before 4:00 PM.

ORDINANCE NO. O-2021-0018

AN ORDINANCE OF THE CITY OF LA MARQUE, TEXAS AMENDING SECTION 8-8 OF THE CITY CODE ALLOWING FOR THE KEEPING OF HENS; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Section 8-8 of the City Code prohibits the keeping of any animal or fowl within 100 feet of any occupied building and

WHEREAS, the City Council desires to amend Section 8-8 of the City Code to allow for the keeping of Hens.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS THAT:

Section 1. The findings and recitals set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

Section 2. Section 8.8 of the Code of Ordinances, City of La Marque, Texas is deleted and amended to read as follows:

Sec. 8-8 Keeping of Hens

(a) Definitions:

Hen means a female chicken.

Fowl means chicken.

Rooster means a male chicken.

Coop means an enclosure having four sides at least four feet in height and covered at the top with a roof to prevent the Hens from escaping and protect them from the elements. The enclosure shall have a minimum of 3 square feet of space per Hen.

Chicken Run means a fenced outdoor area where the Hens have at least 10 square feet per Hen. The fence shall be at least four feet in height and prevent the Hens from escaping. For purposes of calculating a Chicken Run square footage a person may include the area within the Coop, if the Coop is connected to the Chicken Run.

(b) Keeping of Hens near residences.

It shall be unlawful for any person to keep, harbor, or maintain hens within twenty five feet of any occupied building or business, but excluding the owner's occupied building or business, within the City. The number of Hens shall be limited to a maximum twenty five (25) per lot.

(c) Keeping of Roosters.

It shall be unlawful for any person to keep, harbor, permit, or maintain Roosters within the City.

(d) Condition of the Premises where Hens are kept.

A person who keeps, harbors, permits, or maintains Hens in the City shall house the Hens in a Coop and a Chicken Run in accordance with this Section. Hens shall not be permitted to roam free in the City. The Coop and Chicken Run shall be kept in a clean and sanitary condition. The floor of Coop and Chicken Run shall be maintained such that no offensive odors are emitted therefrom. The floor of the roosting spaces shall be kept covered with deep dry litter. The Hens kept in the Coop and Chicken Run shall always have access to clean water.

(e) Food storage requirements.

Food for the Hens shall be kept in non-permeable storage bins. These bins shall be lockable to prevent pests and predators from accessing the food.

(f) Permit requirements.

(1) Every person who keeps Hens in the City shall apply for a permit from the City. Said permit shall be valid for one year after its issuance. A person who keeps Hens must apply for an annual renewal of the permit. There shall be a fee of \$30.00 for an initial permit under this Section. Annual renewals of fees under this Section shall be \$15.00.

(2) Prior to the issuance of a permit under this section Code Compliance shall inspect the Coop to ensure compliance with this section. Prior to the issuance of any permit renewal under this section Code Compliance may inspect the Coop to ensure compliance with this section.

(g) Enforcement

- (1) The provisions of this section shall be enforced by the Code Compliance Department. The Code Compliance Supervisor and its deputies shall have full authority to enforce this section and in doing so are empowered to enter upon any private property to ascertain whether Fowl are being kept in accordance with this section.

- (2) A person who violates this section shall for each violation or noncompliance be deemed guilty of a misdemeanor, and upon conviction, shall be fined as provided in Section 1-7 of the City Code. Upon the third conviction, within two years, of a person for violation of this Section such person may have its Permit to keep Hens under this section revoked by the Supervisor of Code Compliance. A person whose permit is revoked under this Section shall be ineligible for a permit for Five years after the third conviction of a violation of this Section.

Section 3. Repeal. This ordinance is intended to be cumulative and shall not repeal any provision of a previous ordinance or City Code provision, except to the extent that a provision is inconsistent and cannot be reconciled with this ordinance.

Section 4. Severability. In the event any clause, phrase, provision sentence, or part of this Ordinance or the application of the same to any person or circumstance for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the City Council of the City of La Marque, 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, whether there be one or more parts.

Section 5. Effect on HOA Requirements. Nothing in this Ordinance or the application of it will affect any applicable deed restrictions or rules of homeowners' associations.

Section 6. Purpose. The purpose of passing this Ordinance is to control noise, safety, sanitary, and odor conditions.

Section 7. Publication and Effective Date. This Ordinance shall be effective August 1, 2022.

PASSED, AND APPROVED by the City Council of the City of La Marque on First Reading this **11th** day of **April, 2022**; and

PASSED, APPROVED AND ADOPTED by the City Council of the City of La Marque on Second and Final Reading this _____ day of _____, **2022**; and

CITY OF LA MARQUE, TEXAS

Keith Bell, Mayor

ATTEST:

Kierra K. Nance, TRMC, City Clerk

APPROVED AS TO FORM:

Gus Knebel
City Attorney

ORDINANCE NO. O-2022-0004

AN ORDINANCE OF THE CITY OF LA MARQUE, TEXAS AMENDING CHAPTER 29 OF THE CITY'S CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE; PROVIDING A PENALTY; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Chapter 29 of the City of La Marque, Texas's Code of Ordinances was amended on or about December 14, 2020 to adopt the 2018 Fire Code;

WHEREAS, Section 29-3 of the City of La Marque, Texas's Code of Ordinances of the previously banned fireworks in the city limits of the City of La Marque, Texas;

WHEREAS, the prohibition on fireworks was mistakenly not included in the amended Chapter 29 of the City of La Marque, Texas's Code of Ordinances;

WHEREAS, the City Council of La Marque Texas on or about December 13, 2021 passed an emergency ordinance banning fireworks in the City.

WHEREAS, the City Council desires to ban fireworks in the City of La Marque, Texas in order to protect public health, safety, and welfare.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS THAT:

Section 1. That the facts and matters set forth in the preamble of this Ordinance are found to be true and correct.

Section 2. Section 29.6 of the City of La Marque, Texas's Code of Ordinances is amended to read as follows:

Sec. 29-6. - Illegal fireworks declared nuisance; seizure and destruction.

- a. Definitions. The following words, terms, and phrases, when used in this Section 29.6, shall have the meanings ascribed to them in this Section, except when the context indicates a different meaning:
 1. Distributor means a person who sells fireworks to retailers or to jobbers, for resale to others.
 2. Fireworks means any composition or device designed to produce a visible or audible effect by combustion, explosion, deflagration, or detonation,

such as firecrackers, cannon crackers, skyrocketers, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, gerbs, or any other substance in whatever combination by any designated name intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the commonly accepted meaning of fireworks, whether specifically designated and defined in this section or not.

3. Illegal Fireworks means a Fireworks device manufactured, distributed, or sold in violation of this article.
 4. Importer means a person who imports fireworks from a foreign country for sale to distributors, jobbers, or retailers within the state.
 5. Person means and includes any natural person, association of persons, partnership, company, limited liability company, corporation, agent, or officer of a corporation, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, and administrators.
 6. Public display means the igniting and discharging of fireworks for public amusement.
- b. General Prohibition. It shall be unlawful for any person to manufacture, store, possess, sell, offer for sale, use, or transport, any Fireworks within the City except as provided in Section 29.6(e).
- c. Illegal Fireworks Declared a Nuisance
1. The presence of any Fireworks within the City in violation of this Section, is hereby declared to be a common and public nuisance. The Fire Marshal or any other law enforcement officer is directed and required to seize any Fireworks found in violation of this Section, and any authorized deputy of the Fire Marshal, or any police officer of the city, or any other duly-constituted state peace officer 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 in order that such fireworks may be seized in accordance with the terms of this Section.
 2. Notwithstanding any penal provision of this Section, the city attorney is authorized to file suit on behalf of the city, the Fire Marshal, or both, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping, or use of Fireworks within the city or within the area described in Section 29.6(c)(1). It shall not be necessary to obtain injunctive relief as a prerequisite to the seizure of fireworks.
 3. If any Fireworks or combustibles are deemed by the Fire Marshal to be in such a state or condition as to constitute a hazard to life or property,

the Fire Marshal may dispose of such Fireworks or combustibles without further process of law. The Fire Marshal is authorized to dispose of any abandoned Fireworks or combustibles that are deemed to be hazardous to life or property.

d. Exceptions. The general prohibitions as set forth in Section 29.6(b) shall not apply to the following:

1. (i) 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 constructed that the hand cannot come in contact with the cap when in place for exploding, and (ii) toy paper pistol caps which contain less than 0.0025 grains of explosive compounds, the sale and use of which shall be permitted at all times.
2. It shall not be unlawful, upon a permit issued by the city Fire Marshal, for any person engaged in any organized play, legitimate theatrical performance, circus, or other show designed for the amusement and edification of the general public to use, discharge, or cause to be discharged and ignited fireworks as a part of an act, performance, play, or circus, so long as such person does not also engage in the retailing, wholesaling, selling, or distribution of any of such fireworks. The Fire Marshal shall cause to be made an investigation of each application made under this article 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; and he shall, in the exercise of reasonable discretion, grant or deny the application for such permit.
3. signal flares and torpedoes of the type and kind commonly used by any railroads, which signal flares and torpedoes are received by and stored or transported by any railroad for use in railroad operation; any marine signal flare or rocket which is transported or received or stored for use only as ship's stores; signal flares or rockets for military or police use; signal flares for use by motorists in distress, or signal flares for use by fire department personnel.

e. Public Fireworks Displays Permitted with Required Permit.

1. The provisions of Section 29.6(b) shall not apply to a public display of Fireworks made under the terms and conditions of this subsection, and such display shall be permitted upon compliance with the provisions of City's adopted fire prevention code and of this section, as follows:
 - i. Any adult person planning to make a public display of fireworks shall first make written application for a permit to the Fire Marshal at least 96 hours in advance of the date of the proposed display.

- ii. The Fire Marshal shall make an investigation as to whether the display as proposed by the applicant for a permit under this section shall be of such a character that it may be hazardous to property or dangerous to any person; and he shall, in the exercise of reasonable discretion, grant or deny the application, subject to the conditions prescribed in this section. If the application is approved, a permit shall be issued for the public display by the Fire Marshal. Such permit shall be for a period of time designated on the permit, not to exceed 14 days, and the permit shall not be transferable. If the application is denied by the Fire Marshal, the Fire Marshal shall notify the applicant of the denial in writing.
- iii. The applicant for a display permit under this section shall, at the time of making application, furnish proof that it carries worker's compensation insurance for his employees as provided by the laws of the state; and he shall file with the Fire Marshal a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than \$1,000,000.00, issued by an insurance carrier authorized to transact business in the State of Texas, for the benefit of the person named therein as insured, as evidence of ability to respond to damages in at least the amount of \$1,000,000.00, such policy to be approved by the Fire Marshal. In lieu of insurance, the applicant may file with the Fire Marshal a bond in the amount of \$1,000,000.00, issued by an authorized surety company approved by the Fire Marshal, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks or any negligence on the part of the applicant or his agents, servants, employees, or subcontractors in the presentation of the public display.
- iv. The range of aerial displays shall not be more than 200 feet, and the Fireworks shall be discharged vertically from tubes approved by the Fire Marshal.
- v. The limit of a display authorized by this section shall be not more than 45 minutes per performance, and there shall not be more than two performances in each 24-hour period.
- vi. No public display of Fireworks shall be of such a character and so located, discharged, or fired as to be hazardous or dangerous to persons or property, and this determination shall be within the sound discretion of the Fire Marshal.

- vii. The persons handling the display of fireworks under this Subsection shall be competent, adult persons and experienced pyrotechnic operators approved by the Fire Marshal. No person not approved by the Fire Marshal shall handle fireworks at the public display. The names of the experienced pyrotechnic operators shall be designated on the permit issued.
 - viii. For each public display of Fireworks under this Subsection, the Fire Marshal may require not less than two firefighters and fire fighting equipment of the city be in attendance during the display. The expense of such firefighters and fire fighting equipment at the display shall be borne by the applicant for the permit and shall be paid in advance at the time of the application for the permit.
 - ix. The material to be used for a public display authorized by this Subsection shall not be stored within the city limits but shall be brought in on the day of the public display and then shall be taken immediately to the place of display for further handling and storage.
- f. Penalty. Any person who shall violate this Section 29.6 shall, upon conviction, be punished by a fine as prescribed in Section 1-7 of this Code. If Fireworks are separately wrapped or packaged, the commission or omission of any act prohibited by this section shall be a separate offense as to each such separately wrapped or separately packaged fireworks.

Section 3. Repeal. This ordinance is intended to be cumulative and shall not repeal any provision of a previous ordinance or City Code provision, except to the extent that a provision is inconsistent and cannot be reconciled with this ordinance.

Section 4. Severability. In the event any clause, phrase, provision sentence, or part of this Ordinance or the application of the same to any person or circumstance for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the City Council of the City of La Marque, 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, whether there be one or more parts.

Section 5. Effective Date. This Ordinance shall be effective on May 20, 2022.

PASSED AND APPROVED on First reading this the 11th day of April 2022.

PASSED, APPROVED, AND ADOPTED on the Second and Final reading this the ____ day of _____, 2022.

Keith Bell
Mayor

ATTEST:

Kierra Nance, TRMC
City Clerk

ORDINANCE NO. O-2021-0018

AN ORDINANCE OF THE CITY OF LA MARQUE, TEXAS AMENDING SECTION 8-8 OF THE CITY CODE ALLOWING FOR THE KEEPING OF HENS; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Section 8-8 of the City Code prohibits the keeping of any animal or fowl within 100 feet of any occupied building and

WHEREAS, the City Council desires to amend Section 8-8 of the City Code to allow for the keeping of Hens.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS THAT:

Section 1. The findings and recitals set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

Section 2. Section 8.8 of the Code of Ordinances, City of La Marque, Texas is deleted and amended to read as follows:

Sec. 8-8 Keeping of Hens

(a) Definitions:

Hen means a female chicken.

Fowl means chicken.

Rooster means a male chicken.

Coop means an enclosure having four sides at least four feet in height and covered at the top with a roof to prevent the Hens from escaping and protect them from the elements. The enclosure shall have a minimum of 3 square feet of space per Hen.

Chicken Run means a fenced outdoor area where the Hens have at least 10 square feet per Hen. The fence shall be at least four feet in height and prevent the Hens from escaping. For purposes of calculating a Chicken Run square footage a person may include the area within the Coop, if the Coop is connected to the Chicken Run.

(b) Keeping of Hens near residences.

It shall be unlawful for any person to keep, harbor, or maintain hens within twenty five feet of any occupied building or business, but excluding the owner's occupied building or business, within the City. The number of Hens shall be limited to a maximum twenty five (25) per lot.

(c) Keeping of Roosters.

It shall be unlawful for any person to keep, harbor, permit, or maintain Roosters within the City.

(d) Condition of the Premises where Hens are kept.

A person who keeps, harbors, permits, or maintains Hens in the City shall house the Hens in a Coop and a Chicken Run in accordance with this Section. Hens shall not be permitted to roam free in the City. The Coop and Chicken Run shall be kept in a clean and sanitary condition. The floor of Coop and Chicken Run shall be maintained such that no offensive odors are emitted therefrom. The floor of the roosting spaces shall be kept covered with deep dry litter. The Hens kept in the Coop and Chicken Run shall always have access to clean water.

(e) Food storage requirements.

Food for the Hens shall be kept in non-permeable storage bins. These bins shall be lockable to prevent pests and predators from accessing the food.

(f) Permit requirements.

(1) Every person who keeps Hens in the City shall apply for a permit from the City. Said permit shall be valid for one year after its issuance. A person who keeps Hens must apply for an annual renewal of the permit. There shall be a fee of \$30.00 for an initial permit under this Section. Annual renewals of fees under this Section shall be \$15.00.

(2) Prior to the issuance of a permit under this section Code Compliance shall inspect the Coop to ensure compliance with this section. Prior to the issuance of any permit renewal under this section Code Compliance may inspect the Coop to ensure compliance with this section.

(g) Enforcement

- (1) The provisions of this section shall be enforced by the Code Compliance Department. The Code Compliance Supervisor and its deputies shall have full authority to enforce this section and in doing so are empowered to enter upon any private property to ascertain whether Fowl are being kept in accordance with this section.

- (2) A person who violates this section shall for each violation or noncompliance be deemed guilty of a misdemeanor, and upon conviction, shall be fined as provided in Section 1-7 of the City Code. Upon the third conviction, within two years, of a person for violation of this Section such person may have its Permit to keep Hens under this section revoked by the Supervisor of Code Compliance. A person whose permit is revoked under this Section shall be ineligible for a permit for Five years after the third conviction of a violation of this Section.

Section 3. Repeal. This ordinance is intended to be cumulative and shall not repeal any provision of a previous ordinance or City Code provision, except to the extent that a provision is inconsistent and cannot be reconciled with this ordinance.

Section 4. Severability. In the event any clause, phrase, provision sentence, or part of this Ordinance or the application of the same to any person or circumstance for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the City Council of the City of La Marque, 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, whether there be one or more parts.

Section 5. Effect on HOA Requirements. Nothing in this Ordinance or the application of it will affect any applicable deed restrictions or rules of homeowners' associations.

Section 6. Purpose. The purpose of passing this Ordinance is to control noise, safety, sanitary, and odor conditions.

Section 7. Publication and Effective Date. This Ordinance shall be effective August 1, 2022.

PASSED, AND APPROVED by the City Council of the City of La Marque on First Reading this **11th** day of **April, 2022**; and

PASSED, APPROVED AND ADOPTED by the City Council of the City of La Marque on Second and Final Reading this _____ day of _____, **2022**; and

CITY OF LA MARQUE, TEXAS

Keith Bell, Mayor

ATTEST:

Kierra K. Nance, TRMC, City Clerk

APPROVED AS TO FORM:

Gus Knebel
City Attorney

ORDINANCE NO. O-2022-0004

AN ORDINANCE OF THE CITY OF LA MARQUE, TEXAS AMENDING CHAPTER 29 OF THE CITY'S CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE; PROVIDING A PENALTY; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Chapter 29 of the City of La Marque, Texas's Code of Ordinances was amended on or about December 14, 2020 to adopt the 2018 Fire Code;

WHEREAS, Section 29-3 of the City of La Marque, Texas's Code of Ordinances of the previously banned fireworks in the city limits of the City of La Marque, Texas;

WHEREAS, the prohibition on fireworks was mistakenly not included in the amended Chapter 29 of the City of La Marque, Texas's Code of Ordinances;

WHEREAS, the City Council of La Marque Texas on or about December 13, 2021 passed an emergency ordinance banning fireworks in the City.

WHEREAS, the City Council desires to ban fireworks in the City of La Marque, Texas in order to protect public health, safety, and welfare.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS THAT:

Section 1. That the facts and matters set forth in the preamble of this Ordinance are found to be true and correct.

Section 2. Section 29.6 of the City of La Marque, Texas's Code of Ordinances is amended to read as follows:

Sec. 29-6. - Illegal fireworks declared nuisance; seizure and destruction.

- a. Definitions. The following words, terms, and phrases, when used in this Section 29.6, shall have the meanings ascribed to them in this Section, except when the context indicates a different meaning:
 - 1. Distributor means a person who sells fireworks to retailers or to jobbers, for resale to others.
 - 2. Fireworks means any composition or device designed to produce a visible or audible effect by combustion, explosion, deflagration, or detonation,

such as firecrackers, cannon crackers, skyrocketers, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, gerbs, or any other substance in whatever combination by any designated name intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the commonly accepted meaning of fireworks, whether specifically designated and defined in this section or not.

3. Illegal Fireworks means a Fireworks device manufactured, distributed, or sold in violation of this article.
 4. Importer means a person who imports fireworks from a foreign country for sale to distributors, jobbers, or retailers within the state.
 5. Person means and includes any natural person, association of persons, partnership, company, limited liability company, corporation, agent, or officer of a corporation, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, and administrators.
 6. Public display means the igniting and discharging of fireworks for public amusement.
- b. General Prohibition. It shall be unlawful for any person to manufacture, store, possess, sell, offer for sale, use, or transport, any Fireworks within the City except as provided in Section 29.6(e).
- c. Illegal Fireworks Declared a Nuisance
1. The presence of any Fireworks within the City in violation of this Section, is hereby declared to be a common and public nuisance. The Fire Marshal or any other law enforcement officer is directed and required to seize any Fireworks found in violation of this Section, and any authorized deputy of the Fire Marshal, or any police officer of the city, or any other duly-constituted state peace officer 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 in order that such fireworks may be seized in accordance with the terms of this Section.
 2. Notwithstanding any penal provision of this Section, the city attorney is authorized to file suit on behalf of the city, the Fire Marshal, or both, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping, or use of Fireworks within the city or within the area described in Section 29.6(c)(1). It shall not be necessary to obtain injunctive relief as a prerequisite to the seizure of fireworks.
 3. If any Fireworks or combustibles are deemed by the Fire Marshal to be in such a state or condition as to constitute a hazard to life or property,

the Fire Marshal may dispose of such Fireworks or combustibles without further process of law. The Fire Marshal is authorized to dispose of any abandoned Fireworks or combustibles that are deemed to be hazardous to life or property.

d. Exceptions. The general prohibitions as set forth in Section 29.6(b) shall not apply to the following:

1. (i) 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 constructed that the hand cannot come in contact with the cap when in place for exploding, and (ii) toy paper pistol caps which contain less than 0.0025 grains of explosive compounds, the sale and use of which shall be permitted at all times.
2. It shall not be unlawful, upon a permit issued by the city Fire Marshal, for any person engaged in any organized play, legitimate theatrical performance, circus, or other show designed for the amusement and edification of the general public to use, discharge, or cause to be discharged and ignited fireworks as a part of an act, performance, play, or circus, so long as such person does not also engage in the retailing, wholesaling, selling, or distribution of any of such fireworks. The Fire Marshal shall cause to be made an investigation of each application made under this article 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; and he shall, in the exercise of reasonable discretion, grant or deny the application for such permit.
3. signal flares and torpedoes of the type and kind commonly used by any railroads, which signal flares and torpedoes are received by and stored or transported by any railroad for use in railroad operation; any marine signal flare or rocket which is transported or received or stored for use only as ship's stores; signal flares or rockets for military or police use; signal flares for use by motorists in distress, or signal flares for use by fire department personnel.

e. Public Fireworks Displays Permitted with Required Permit.

1. The provisions of Section 29.6(b) shall not apply to a public display of Fireworks made under the terms and conditions of this subsection, and such display shall be permitted upon compliance with the provisions of City's adopted fire prevention code and of this section, as follows:
 - i. Any adult person planning to make a public display of fireworks shall first make written application for a permit to the Fire Marshal at least 96 hours in advance of the date of the proposed display.

- ii. The Fire Marshal shall make an investigation as to whether the display as proposed by the applicant for a permit under this section shall be of such a character that it may be hazardous to property or dangerous to any person; and he shall, in the exercise of reasonable discretion, grant or deny the application, subject to the conditions prescribed in this section. If the application is approved, a permit shall be issued for the public display by the Fire Marshal. Such permit shall be for a period of time designated on the permit, not to exceed 14 days, and the permit shall not be transferable. If the application is denied by the Fire Marshal, the Fire Marshal shall notify the applicant of the denial in writing.
- iii. The applicant for a display permit under this section shall, at the time of making application, furnish proof that it carries worker's compensation insurance for his employees as provided by the laws of the state; and he shall file with the Fire Marshal a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than \$1,000,000.00, issued by an insurance carrier authorized to transact business in the State of Texas, for the benefit of the person named therein as insured, as evidence of ability to respond to damages in at least the amount of \$1,000,000.00, such policy to be approved by the Fire Marshal. In lieu of insurance, the applicant may file with the Fire Marshal a bond in the amount of \$1,000,000.00, issued by an authorized surety company approved by the Fire Marshal, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks or any negligence on the part of the applicant or his agents, servants, employees, or subcontractors in the presentation of the public display.
- iv. The range of aerial displays shall not be more than 200 feet, and the Fireworks shall be discharged vertically from tubes approved by the Fire Marshal.
- v. The limit of a display authorized by this section shall be not more than 45 minutes per performance, and there shall not be more than two performances in each 24-hour period.
- vi. No public display of Fireworks shall be of such a character and so located, discharged, or fired as to be hazardous or dangerous to persons or property, and this determination shall be within the sound discretion of the Fire Marshal.

- vii. The persons handling the display of fireworks under this Subsection shall be competent, adult persons and experienced pyrotechnic operators approved by the Fire Marshal. No person not approved by the Fire Marshal shall handle fireworks at the public display. The names of the experienced pyrotechnic operators shall be designated on the permit issued.
 - viii. For each public display of Fireworks under this Subsection, the Fire Marshal may require not less than two firefighters and fire fighting equipment of the city be in attendance during the display. The expense of such firefighters and fire fighting equipment at the display shall be borne by the applicant for the permit and shall be paid in advance at the time of the application for the permit.
 - ix. The material to be used for a public display authorized by this Subsection shall not be stored within the city limits but shall be brought in on the day of the public display and then shall be taken immediately to the place of display for further handling and storage.
- f. Penalty. Any person who shall violate this Section 29.6 shall, upon conviction, be punished by a fine as prescribed in Section 1-7 of this Code. If Fireworks are separately wrapped or packaged, the commission or omission of any act prohibited by this section shall be a separate offense as to each such separately wrapped or separately packaged fireworks.

Section 3. Repeal. This ordinance is intended to be cumulative and shall not repeal any provision of a previous ordinance or City Code provision, except to the extent that a provision is inconsistent and cannot be reconciled with this ordinance.

Section 4. Severability. In the event any clause, phrase, provision sentence, or part of this Ordinance or the application of the same to any person or circumstance for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the City Council of the City of La Marque, 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, whether there be one or more parts.

Section 5. Effective Date. This Ordinance shall be effective on May 20, 2022.

PASSED AND APPROVED on First reading this the 11th day of April 2022.

PASSED, APPROVED, AND ADOPTED on the Second and Final reading this the ____ day of _____, 2022.

Keith Bell
Mayor

ATTEST:

Kierra Nance, TRMC
City Clerk

RESOLUTION NO: R-2022-0028

RESOLUTION OF THE CITY OF LA MARQUE DECLARING THE RESULTS OF THE LA MARQUE TAX REFERENDUM ELECTION HELD FOR AND BY THE GALVESTON COUNTY ELECTIONS DIVISION ON MAY 7, 2022, THE CANVASS OF THE VOTES PURSUANT TO THE TEXAS ELECTION CODE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS:

THAT, WHEREAS, the County of Galveston Election Judges for the Special Election held May 7, 2022, in the City of La Marque, Texas, have duly filed the returns of such election, which returns have been verified by the City Clerk;

WHEREAS, it appears that such election was duly called; that notice thereof was given in accordance with the law, and the returns and tabulations should be adopted;

WHEREAS, at such election the following proposition was submitted to the voters:

**SPECIAL ELECTION
MAY 7, 2022
FOR LA MARQUE TAX REFERENDUM**

“Reducing the tax rate in the City of La Marque for the current year from .550764 to .477076”

WHEREAS, such election was held and conducted and the returns thereof were made all as required by the City Charter of La Marque, Texas and the laws of the State of Texas;

WHEREAS, the City Council of La Marque, Texas has reviewed and investigated all matters pertaining to the Special Election, including orders, notices, election officers, holding, and returns thereof, and it is now necessary to declare the official results of the canvass; and

WHEREAS, the City Council of the City of La Marque, Texas, convened on Tuesday, May 17, 2022, to canvass the returns of the Special Election, a time in conformity with the laws of the State of Texas and Article IV of the City Charter of La Marque, Texas

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Resolution are found to be true and correct and they are hereby adopted by the City Council and made apart hereof for all purposes.

SECTION 2. The City Council of La Marque, Texas convened on May 17, 2022 to canvass the returns of the Special Election held on Saturday, May 7, 2022, and after canvassing the returns of said election, officially finds and determines that said election was duly ordered; proper notice of said election was duly given; proper

election officers were duly appointed prior to said election; said election was duly held; the City has complied with the Federal Voting Rights Act and the Texas Election Code; and due returns of the results of said election have been made and delivered, all in accordance with applicable law and the Resolutions calling the election.

SECTION 3. (a) Upon a canvass of the returns of the Special Election for La Marque Tax Referendum it is hereby officially declared that the following positions received the following number of votes listed beside each position, respectively:

<u>As it appeared on the ballot</u>	<u>Total Votes / Percentage</u>	
FOR	960	71.86%
AGAINST	376	28.14%

(b) the “For” proposition received a majority of the votes cast in the Special Election and therefore the “For” proposition is declared the winner and the tax rate of the City of La Marque, Texas, in accordance with and by Texas law, is reduced to \$.477076 on each \$100.00 taxable valuation of property.

SECTION 4. The City Council of the City of La Marque, Texas, upon completion of this canvass, delivers this tabulation, lists, and other records used in this canvass to the City Clerk, the general custodian of the election records, for entry into the election register as required by the Texas Election Code.

SECTION 5. The City Clerk is hereby directed to record in the election register the precinct totals of all of the election returns, which shall be incorporated into this Resolution by reference, in accordance with Texas law.

SECTION 6. This canvass has been conducted in accordance with Article IV of the City Charter of La Marque, Texas, and Texas law.

SECTION 7. It is hereby declared to be the intention of the City Council of La Marque, Texas that the sections, paragraphs, sentences, clauses, and phrases of this Resolution are severable and, if any phrase, clause, sentence, paragraph or section of this Resolution should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Resolution, because the same would have been enacted by the City Council of La Marque, Texas without the incorporation in this Resolution of any such invalid phrase, clause, sentence, paragraph or section.

PASSED, APPROVED AND ADOPTED by the City Council of the City of La Marque on this the 17th day of May 2022.

CITY OF LA MARQUE, TEXAS

Keith Bell, Mayor

ATTEST:

Kierra K. Nance, TRMC
City Clerk

APPROVED AS TO FORM:

Gus Knebel, City Attorney