



AMERICAN FIREWORKS

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December 9, 2011

Mr. Kenneth Williams
City Manager, City of Buda
P.O. Box 1218
Buda, Tx. 78610

Dear City Manager Williams:

My company, American Fireworks, owns and operates a retail fireworks business on the southwest corner of FM1626 and FM967. It is my understanding that the City of Buda is in the process of annexing this property. As you know, the City of Buda does not allow the sale of fireworks within the city limits. Therefore, an annexation of this property would effectively put me out of business.

As a resident of Buda for more than 20 years, I understand and appreciate the need for us to grow and prosper. I think that given the totality of the circumstances, it is appropriate to allow us to continue to operate. In the interest of fairness, we should be given some time to recoup our investment in this location. Additionally, the City of Buda would be receiving sales tax revenue from our business and provide increased regulatory control. Also, this location which has driveway access on two roads and provides plenty of parking, is a very safe place for people to purchase their fireworks. Closing this particular location would increase the traffic congestion at the location on 1626 near the Hays City. That would create an even more dangerous situation than already exists at that location.

In an effort to address these concerns, I would like to offer a couple of alternatives that would allow us to stay in business, allow the City to continue to grow and provide additional revenue to the City. First, I would suggest an ordinance change that would provide a "Grandfather Clause" allowing us to continue to operate. I have included a copy of the Cuero, Texas Ordinance that creates the "Grandfather Clause." Alternatively, I would ask that the City provide a variance that would allow us to continue to operate within the city limits for a period of 5 years.

In any case, it is and will continue to be my goal of finding a solution that works for both the City of Buda and American Fireworks. I am open to all discussion and dialogue that works for the benefit of all. I appreciate your consideration in this matter.

Thank you,


Chester J. Davis

American Fireworks

CC: Kenneth Williams, City

www.BuyAmericanFireworks.com

ORDINANCE NO. _____

AN ORDINANCE TO PROHIBIT THE SALE, DISTRIBUTION AND STORAGE OF FIREWORKS WITHIN THE CITY LIMITS AND TO ALLOW FOR THE EXISTENCE AND OPERATION OF FIREWORK BUSINESSES EXISTING AT THE TIME OF INCORPORATION OF THE CITY OF CUERO; BANNING THE SALE OR DISCHARGE OF FIREWORKS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR A PENALTY FOR VIOLATION; SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Cuero seeks to promote the health, safety and general welfare of the community by preventing death, injuries and property damage within the city limits; and

WHEREAS, the City of Cuero finds that the business locations involving the sale of fireworks existing and operating in full compliance with all applicable state law and other applicable rules at regulations at the time the citizens voted to approve the newly incorporated City of Cuero would be unfairly jeopardized and harmed by the imposition of certain fire prevention prohibitions immediately following incorporation; and

WHEREAS, the City Council of Cuero finds that to allow the continued operation of fireworks businesses existing and operating in full compliance with all applicable state law and other applicable rules at regulations at the time the citizens voted to approve the newly incorporated City of Cuero would not constitute a public nuisance that poses a significant and immediate threat to the health, safety, and welfare of citizens and their property; and

WHEREAS, the City of Cuero finds that in order to protect the health, safety and general welfare of the community, it will honor any regulations or restrictions on the sale or discharge of fireworks adopted by De Witt County Judge and/or Commissioner's Court; and

WHEREAS, pursuant to Texas Local Government Code Chapter 51 the Cuero City Council has the general authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality and is necessary or proper for the carrying out of a power granted by law to the municipality.

NOW, THEREFORE BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF CUERO TEXAS, THAT:

SECTION 1. EXISTING FIREWORKS STANDS ALLOWED TO CONTINUE

All fireworks locations, including but not limited to permanent buildings and temporary stands, that were in existence at the time city council approved the annexation of certain parcels of land by the City of Cuero on October 25, 2011 within the area incorporated by the City shall be allowed to remain and operate at the current property location in accordance with applicable state

law. The existence and operation of such business shall not be treated as violative of any provisions the City of Cuero may adopt regarding the prohibiting the sale, possession, transport and/or storage of fireworks within the corporate city limits of the City of Cuero.

SECTION 2. PROHIBITION OF NEW FIREWORK STANDS INSIDE THE CORPORATE CITY LIMITS

From and after the effective date of this Ordinance, it shall be unlawful for any person, firm or corporation to store, keep in possession, manufacture, sell or re-sale any form of fireworks within the corporate City Limits of the City of Cuero, Texas, unless they fall under the exception identified in Section 1 of this Ordinance.

SECTION 3. PROHIBITION THE SALE OF DISCHARGE OF FIREWORKS

No person may sell, use or discharge fireworks within the City limits if De Witt County Commissioners' Court or De Witt County Judge has declared a ban for the use or sale of fireworks in De Witt County.

SECTION 4. SEVERABILITY. If any section, subsection, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distance than independent provision and such holdings shall not affect the validity of the remaining portions thereof.

SECTION 5. ENFORCEMENT. Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$500.00. An offense under this Ordinance is a Class C Misdemeanor.

SECTION 6. EFFECTIVE DATE. The Ordinance shall be effective immediately following its publication in the local newspaper as required by Section 52.011 of the Texas Local Government Code. Thereafter, the traffic regulations contained therein will apply within the City of Cuero.

PASSED AND APPROVED THIS ____ DAY OF _____, 2011

Sara Post Meyer
Mayor

ATTEST:

Lisa Moravitz Ley
City Secretary