

ORDINANCE NUMBER 3022

AN ORDINANCE TO REPEAL ORDINANCE NUMBERS 56 AND 2279; TO AMEND CHAPTER 6, ARTICLE II, DIVISION I, SECTIONS 16-17, 6-18, 6-19, IN THE VESTAVIA HILLS CODE OF ORDINANCES; AND TO PROHIBIT THE SALE, POSSESSION, USE, STORAGE, DISTRIBUTION AND MANUFACTURE OF PYROTECHNICS AND FIREWORKS IN THE CITY OF VESTAVIA HILLS, ALABAMA; AND TO PRESCRIBE THE PENALTIES FOR VIOLATION OF THIS ORDINANCE.

THIS ORDINANCE NUMBER 3022 is approved and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 12th day of July, 2021.

WITNESSETH THESE RECITALS:

WHEREAS, on December 3, 1958, the City Council of the City of Vestavia Hills, Alabama approved and adopted Ordinance Number 56 prohibiting the sale, possession or use of pyrotechnics in the City of Vestavia Hills, Alabama; and

WHEREAS, on November 23, 2009, the City Council of the City of Vestavia Hills, Alabama approved and adopted Ordinance Number 2279 to prohibit the sale, possession or use of consumer fireworks in the City of Vestavia Hills, Alabama; and

WHEREAS, the Vestavia Hills Code of Ordinances codifies Ordinance Number 56 and Ordinance Number 2279 in Chapter 6, Article II, Division 1, Sections 6-17, 6-18 and 6-19; 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 becomes effective July 12, 2021; and

WHEREAS, the City Council of the City of Vestavia Hills, Alabama hereby finds and determines that the enactment of this Ordinance Number 3022 prohibiting the sale, possession, use, storage, distribution and manufacture of pyrotechnics and fireworks within the City limits of the City of Vestavia Hills, Alabama will promote the health, safety and welfare of the inhabitants of the municipality.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

SECTION 1: DEFINITIONS: For purposes of this Ordinance Number 3022, the term “fireworks” shall mean and include the following:

- A.** Pyrotechnics.
- B.** Squib.
- C.** Rocket.
- D.** Firecracker.
- E.** Roman candle.
- F.** Fire balloon.
- G.** Signal light.
- H.** Railway track torpedo.
- I.** Flashlight composition.
- J.** 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*).
- K.** 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*).
- L.** 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*).
- M.** Novelties as defined in Alabama Legislative Act No. 2021-399 (codified at Title 8-17-210, *Code of Alabama, 1975*), including any and all of the following:

- (i) party poppers.
- (ii) snappers.
- (iii) toy smoke devices.
- (iv) Snake, glow worms.
- (v) wire sparklers, dipped sticks.

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

O. Anything that will detonate or explode.

P. Other devices or compositions used to obtain visible or audible pyrotechnic display or other result.

SECTION 2: UNLAWFUL AND PROHIBITED ACTS: Except as herein provided, it shall be unlawful for any person, firm, partnership, corporation or other legal entity to sell, possess, use, keep, store, distribute or manufacture any pyrotechnics or fireworks within the corporate City limits of the City of Vestavia Hills, Alabama.

SECTION 3: PERMIT FOR SPECIAL EVENT: The Chief of the Vestavia Hills Police Department may, upon due application, grant and issue a permit to a properly qualified person, firm, partnership, corporation or other legal entity for producing, making or giving a pyrotechnic display of fireworks in the public parks or other open places within the City of Vestavia Hills, Alabama.

SECTION 4: VIOLATIONS AND PENALTIES: It shall be unlawful to violate any of the terms and provisions of this ordinance. Any person, firm or corporation 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 5: SEVERABILITY CLAUSE: If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 6: ARTICLE AND SECTION HEADINGS: The article and section headings and captions contained herein are included for convenience only, and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

SECTION 7. REPEALER CLAUSE: Ordinance Number 56 and Ordinance Number 2279, codified in Chapter 6, Article II, Division 1, Sections 6-16, 6-17 and 6-18, are hereby repealed.

SECTION 8: EFFECTIVE DATE: This Ordinance Number 3022 shall become effective immediately upon adoption and publication or posting as required by Alabama law.

DONE, ORDERED, ADOPTED and APPROVED this the 12th day of July, 2021.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance No. 3022 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 12th day of July, 2021, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, and Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the _____ day of _____, 2021.

Rebecca Leavings
City Clerk