

**ORDINANCE NO. 03-2022**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BRINY BREEZES, FLORIDA, AMENDING THE TOWN OF BRINY BREEZES CODE OF ORDINANCES AT CHAPTER 130. GENERAL. BY AMENDING SECTION 130.10. CONCEALED WEAPONS. TO BE REPLACED BY AN ENTIRELY NEW SECTION 130.10. BALLOONS AND SKY LANTERNS. TO PROHIBIT THE RELEASE OF FLOATING BALLOONS OR SKY LANTERNS; AND AMENDING SECTION 130.11. DISCHARGE OF FIREARMS, EXPLOSIVES, FIREWORKS. TO BE REPLACED BY AN ENTIRELY NEW SECTION 130.10. FIREWORKS. TO REGULATE THE MANUFACTURING, STORAGE, SALE, AND USE OF FIREWORKS WITHIN THE TOWN BY PERMIT; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 130. GENERAL. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Town of Briny Breezes is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, *Florida Statutes*; and

**WHEREAS**, over the years sections of the Town Code have been preempted by State Law, and the Town amended those sections to so note; and

**WHEREAS**, those sections no longer serve any purpose for the Town, which state that such regulations have been repealed, abolished, abrogated, cancelled, annulled, recalled, rescinded and null and void; and

**WHEREAS**, the Town seeks to replace these voided sections by enacting lawful regulations in the General Chapter of the Town Code; and

**WHEREAS**, the release into the atmosphere of large numbers of balloons inflated with lighter-than-air gases poses a danger and nuisance to the environment, particularly to wildlife and marine animals; and

**WHEREAS**, the Town possesses the home rule authority to regulate fireworks in a manner that is not otherwise in direct conflict with Florida Law; and

**WHEREAS**, the Town Council of the Town of Briny Breezes has determined that the adoption of this ordinance as set forth herein shall safeguard the health, safety, and welfare of the citizens of the Town of Briny Breezes.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRINY BREEZES, FLORIDA, THAT:**

**SECTION 1:** Chapter 130 General. of the Code of Ordinances of the Town of Briny Breezes, Florida, is hereby amended to replace Section 130.10 Concealed Weapons. in its entirety with a new Section 130.10 Balloons and Sky Lanterns. to prohibit the release of floating balloons or sky lanterns; providing that Section 130.10 shall hereafter read as follows:

**§ 130.10 CONCEALED WEAPONS. BALLOONS AND SKY LANTERNS.**

~~—The jurisdiction and authority for this former section as a municipal ordinance was preempted by the state by F.S. § 790.33. F.S. and HB 45, whereby all terms and provisions thereof are repealed, abolished, abrogated, cancelled, annulled, recalled, rescinded and null and void.~~

**(A) Definitions. For the purpose of this section, the following words, terms, and phrases shall have the meanings ascribed herein except where the context clearly indicates a different meaning:**

**(1) Atmosphere means the troposphere, stratosphere and other layers of air and gas that envelope the Earth.**

**(2) Floating balloon means a balloon of any type inflated with a gas that is lighter than air. Floating balloons do not use flame for any purpose.**

**(3) Sky lantern means a device that requires a flame which produces heated air trapped in a balloon-type covering allowing the device to float in the air. Sky lanterns shall not include hot air balloons used for transporting persons.**

**(B) Prohibition. It is unlawful to intentionally release any floating balloon or any sky lantern into the atmosphere within the jurisdictional limits of the Town of Briny Breezes.**

**(C) Exceptions. The prohibition contained in this section excludes the following activities:**

**(1) Release of floating balloons indoors;**

**(2) Release of sky lanterns indoors; or**

**(3) Release of floating balloons, sky lanterns or other devices by a governmental or scientific agency for meteorological or other bona fide scientific or governmental purposes.**

**SECTION 2:** Chapter 130 General. of the Code of Ordinances of the Town of Briny Breezes, Florida, is hereby amended to replace Section 130.11 Discharge of Firearms, Explosives, Fireworks. in its entirety with a new Section 130.11 Fireworks. to regulate the manufacturing, storage, sale, and use of fireworks within the Town by permit; providing that Section 130.11 shall hereafter read as follows:

§ 130.11 ~~DISCHARGE OF FIREARMS, EXPLOSIVES, FIREWORKS.~~

~~Former ordinance prohibiting discharge of firearms, explosives, fireworks: the jurisdiction and authority for this former article as a municipal ordinance was preempted by the state by F.S. § 790.33 and HB 45, whereby all terms and provision thereof are repealed, abolished, abrogated, cancelled, annulled, recalled, rescinded and null and void.~~

(A) Manufacturing, storage, sale and use unlawful. It shall be unlawful for any person, firm, partnership, corporation or entity to store, manufacture, display, discharge, explode or use any fireworks or pyrotechnic materials within the Town except upon permit granted by the Town in accordance with the provisions of this Code.

(B) Definitions.

Fireworks shall mean and include any combustible or explosive composition or any 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 as defined by F.S. ch. 791.

Pyrotechnic materials shall include, but are not limited to, chemical mixtures used in the entertainment industry to produce visible, audible or thermal effects by combustion, deflagration or detonation; flame effects and/or similar devices not limited to batons or torches fueled by liquid, solid or gaseous fuels; flame projectors which produce heat effects and/or flames; flash powders composed of fuels and oxidizers; flares and similar devices.

(C) Permit required. Any person, firm, partnership, corporation or entity which wishes to display fireworks or use pyrotechnics within the Town may do so only upon application approved by the Town. Applications shall be made at least 30 days in advance of the date of the display requested on an application form provided by the Town. No firework displays shall be permitted in the recreation district. Permits shall be issued for firework displays only between the hours of 6:30 p.m. and 9:30 p.m., except on December 31, January 1 and July 4, when said times may be extended if authorized. Displays of fireworks and the use of pyrotechnics, in order to be permitted, shall comply with all rules and regulations promulgated by the Town from time to time, including, but not limited to, NFPA 1123 for fireworks and NFPA 1126

for pyrotechnics. No fireworks or pyrotechnic displays shall be permitted which are determined to be unsafe in the sole discretion of the Town or the Town's designee.

In addition, before any permit for fireworks or pyrotechnics display shall be issued, the following shall be provided:

(1) A \$1,000.00 non-refundable fee is required at time of application for a permit. Permits shall be non-transferable. (This application fee may be modified by resolution of the Town Council from time to time.)

(2) A performance bond or similar security acceptable to the Town naming the Town as beneficiary in the sum of \$5,000.00 to cover any costs incurred by the Town as a result of the display, which costs are not otherwise reimbursed by applicant. The amount of this bond may be increased at the discretion of the Town or the Town's designee upon a determination that a greater amount is required as a result of the nature and size of the event.

(3) Proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person or any agent or employee of the applicant in such amount, character and form as the Town or the Town's designee determines to be necessary for the protection of the public.

(4) General liability insurance coverage with limits of liability no less than \$5,000,000.00 per occurrence. Said insurance policy shall be issued by a company authorized to do business under the laws of the state. A copy of the certificate of insurance endorsing the Town as additional insured under the general liability policy is required.

(5) A sufficient amount of money to compensate the Town for any and all personnel deemed necessary by the Town or the Town's designee required to standby and oversee the event to insure public safety.

(6) An acknowledgment that the applicant will abide by all rules and regulations promulgated by the Town or the Town's designee relating to the display.

(7) Applications shall include, but not be limited to the following information:

(a) The name, address and telephone number of the organization sponsoring the display, the supplier of the fireworks, the operator (pyrotechnician) and all assistants.

(b) Copy of valid driver's license or other valid photo identification for all operators and assistants. Operators to be at least 21 years of age, assistants to be at least 18 years of age.

(c) Any FAA approvals required to proceed with the event.

(d) References for the three most recent firework displays of the operator.

(e) The date and time of day at which the display is to be held and the duration of time for such display.

(f) The exact location for the display, event or production.

(g) A copy of a location site plan with the dimensions indicating the exact location planned for the display site and all grounds and facilities at which the event will be held.

(h) The size, type and description of displays of fireworks and/or pyrotechnics. The type and number of fireworks to be displayed, including for aerial displays the size and number of each type of burst; and the manner and place of storage of fireworks in the Town prior to the display. Only aerial displays which are ignited electronically will be allowed.

(i) Signature of the sponsoring organization representative, and operator (pyrotechnician).

**SECTION 3:** Each and every other section and subsection of Chapter 130. General. shall remain in full force and effect as previously enacted.

**SECTION 4:** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**SECTION 5:** Should any subsection or provision of this Ordinance, or any portion thereof, be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**SECTION 6:** Specific authority is hereby granted to codify this Ordinance.


**SECTION 7:** This Ordinance shall take effect immediately upon adoption.

FIRST READING this 26<sup>th</sup> day of May 2022.


SECOND AND FINAL READING this 23<sup>rd</sup> day of June 2022.

**TOWN OF BRINY BREEZES**

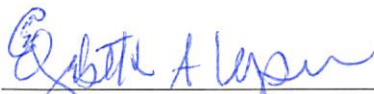
**TOWN COUNCIL OF THE TOWN OF BRINY BREEZES**

  
\_\_\_\_\_  
Samuel Gene Adams, Mayor

  
\_\_\_\_\_  
Susan Thaler, President

  
\_\_\_\_\_  
Christina Adams, Alderman

(SEAL)

  
\_\_\_\_\_  
Elizabeth (Liz) Loper, Alderman

ABSENT  
\_\_\_\_\_  
Bill Birch, Alderman

ABSENT  
\_\_\_\_\_  
Kathleen Gross, Alderman

Attest:

  
\_\_\_\_\_  
Sandi DuBose, Town Clerk

Approved as to Form and Legal Sufficiency:

  
\_\_\_\_\_  
Keith W. Davis, Town Attorney  
**TOWN OF BRINY BREEZES**

