Ordinance No. 2012-017

FIREWORKS ORDINANCE FOR THE CITY OF DIAMONDHEAD, MISSISSIPPI

WHEREAS, the Mayor and City Council of the City of Diamondhead, Mississippi, find that a need exists to create and maintain a safe, secure and stress-free environment for the citizens of Diamondhead;

WHEREAS, loud noises and explosions are not conducive to a relaxed suburban community;

WHEREAS, Diamondhead is a heavily wooded city with numerous lots in natural state where fire hazards exist;

WHEREAS, the community of Diamondhead has a long standing prohibition against the use of any type of fireworks in Diamondhead as established and enforced by the Property Owners' Association;

WHEREAS, the City of Diamondhead has several parades each year and these parades need to be well regulated to minimize the opportunity for injury;

WHEREAS, the Mayor and City Council are authorized to establish said rules, regulations and prohibitions pursuant to Mississippi Code Ann. Section 45-13-13, et seq.;

AND WHEREAS, that authority granted by statute to the Mayor and City Council is for the purpose to secure the general health and welfare of the community,

BE IT, THEREFORE, ORDAINED BY THE MAYOR AND CITY COUNCIL as follows:

Section 1. <u>GENERALLY</u>

(a) *Selling, giving away.* It shall be unlawful for any person to sell, give or permit to be sold, within the city limits, any firecrackers, Roman candles, torpedoes, sky rockets, or any explosive commonly known and referred to as fireworks, which includes the pyrotechnics known as "snap-pops"; except that the term "fireworks" shall not include toy pistols, toy canes, toy guns, or other devices in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipping of toy paper caps are used, or toy pistol paper caps manufactured as provided in this subsection, the sale and use of which shall be permitted.

(b) *Exploding.* It shall be unlawful for any person to explode, use or shoot any fireworks as described in subsection (a) above within the city limits.

(c) *Public displays.* Public displays of fireworks may be had and made under the written authority first obtained from the city manager. In every case where permission for such display is given, the street, avenue, and the particular part thereof, or the vacant lot

or other place where the display is permitted, the time when and also the organization or citizens in charge of the display, must be designated in the written permit, and receive the prior approval of the city manager, and all necessary and reasonable precautions must be taken by the city, as well as by the persons in charge, to prevent fire or other injury from such display.

(d) *Possession, sale or use of smoke bombs, stink bombs, and aerosol spray products during parades.* It shall be unlawful for any person to sell, give or permit to be sold, or to possess, use or explode smoke bombs, stink bombs, and the aerosol spray product commonly known as "spray or silly string", or other matter or substances similar thereto at or near parade routes, prior to, during, or after parades permitted and held within the City of Diamondhead.

(e) *Violations and penalties.* Any person found guilty of violating the provisions of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000.00), or by imprisonment not to exceed ninety (90) days, or both such fine and imprisonment.

Section 2. <u>SEVERABILITY</u>.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 3. <u>EFFECTIVE DATE</u>

Because the City of Diamondhead is a newly-incorporated municipality in urgent need of a fireworks ordinance, immediate passage and effect of this Ordinance is needed for the immediate and temporary preservation of the public peace and safety in accordance with Miss. Code Ann. § 21-13-11 (Rev. 2007). Thus, this Ordinance moved for adoption by Councilmember Holcomb and seconded by Councilmember Ackerman is adopted by unanimous vote of all members of the City Council of the City of Diamondhead and is effective from and after its passage by a unanimous vote of all members of the City Council. In accordance with Miss. Code Ann. § 21-13-11 (Rev. 2007), this Ordinance shall become effective immediately upon the adoption thereof, and prior to being recorded and published in the ordinance book in the same manner as required by state law of other ordinances.

	Aye	Nay
Mayor Ingraham	✓	
Councilmember Ackerman	✓	
Councilmember Holcomb	✓	
Councilmember Knobloch	✓	
Councilmember Rech	✓	
Councilmember Roberson	✓	

APPROVED: _____
MAYOR

ATTEST _____
CITY CLERK

SEAL

THIS IS TO CERTIFY that the aforementioned Ordinance was adopted at the regular meeting of the Mayor and City Council of the City of Diamondhead, Mississippi, held on October 1, 2012, and duly recorded in Minute Book_____Page_____ thereof.

_____
CITY CLERK

Signed_____