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ARTICLE VI. FIREWORKS [\[5\]](#)

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### Sec. 23-149. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Fireworks* means any device that can be used to produce or intended for use in obtaining visible or audible pyrotechnic display or a combination of those by the combustion of explosive or flammable composition and includes any firecrackers, cannon crackers, skyrockets, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells or any other substance in whatever combination by any designated name and includes all articles or substances within the commonly accepted meaning of fireworks, whether specifically designated and defined in this article or not.

(Ord. No. 288, § 1, 6-4-1996; Ord. No. 288-1, § 1, 3-7-2000; Ord. No. 288, § 1, 4-3-2001; Ord. No. 288-2, § 1, 4-17-2001)

### Sec. 23-150. Penalty.

- (a) Any person who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$2,000.00.
- (b) Any person who manufacturers, assembles or stores, or who transports, receives, keeps, sells, offers for sale or has in his possession with intent to sell, any fireworks within the city limits, without a valid permit, shall be fined an amount not less than \$500.00 and not more than \$2,000.00 for each offense. If the fireworks are separately wrapped or packaged, doing any act prohibited by, or omitting to do any act required by this article shall be a separate offense as to each such separately wrapped or separately packaged fireworks. Each day that a violation of this article continues with respect to any package of fireworks constitutes a separate offense.
- (c) Any person who uses, discharges, causes to be discharged, ignites, detonates, fires or otherwise sets in action any fireworks, without a permit as provided herein, in violation of the provisions of this article is guilty of a separate offense for each act prohibited by this article. Upon conviction for the first offense, the offender shall be fined an amount not to exceed \$500.00. For each subsequent conviction, within two years, the offender shall be fined an amount not less than \$500.00 and not

more than \$2,000.00 for each offense.

*(Ord. No. 288, § 6, 6-4-1996; Ord. No. 288-1, § 6, 3-7-2000; Ord. No. 288, § 6, 4-3-2001; Ord. No. 288-2, § 7, 4-17-2001)*

### **Sec. 23-151. Prohibited sale, use or discharge.**

- (a) It shall be unlawful for any person to manufacture, assemble, store, transport, receive, keep, offer to another or to otherwise have in his possession with intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description, except under special permit as authorized herein or in the fire code adopted by the city.
- (b) It shall be unlawful for any parent or guardian of any minor child below the age of 18 years to permit or allow such a minor child to use, discharge, ignite, detonate, fire or otherwise set in action any fireworks.
- (c) It shall be unlawful for any person to knowingly or intentionally encourage or in any way assist a person under 18 years of age in to use, discharge, ignite, detonate, fire or otherwise set in action, transport, keep, possess or otherwise store any fireworks.

*(Ord. No. 288, § 2, 6-4-1996; Ord. No. 288-1, § 2, 3-7-2000; Ord. No. 288, § 2, 4-3-2001; Ord. No. 288-2, § 2, 4-17-2001)*

### **Sec. 23-152. Public nuisance; enforcement.**

The presence of any fireworks within the jurisdiction of the city in violation of this article is declared to be a common and public nuisance and a violation of this article. The fire marshal and any police officer of the city is directed and required to seize and cause to be safely destroyed any fireworks found within the jurisdiction in violation of this article, and the fire marshal or any police officer of the city or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the said fireworks may be seized and destroyed in accordance with the terms of this article. Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city or the fire marshal or both for injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the jurisdiction of the city and to aid the fire marshal and police officers in the discharge of their duties pursuant to this article, and to particularly prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction. The fire marshal is authorized to enter any commercial, retail or manufacturing building or establishment where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks.

*(Ord. No. 288, § 3, 6-4-1996; Ord. No. 288-1, § 3, 3-7-2000; Ord. No. 288, § 3, 4-3-2001; Ord. No. 288-2, § 3, 4-17-2001)*

### **Sec. 23-153. Exceptions.**

This article does not apply to:

- (1) Signal flares and torpedoes of the type and kind commonly used by any railroad and which signal flares and torpedoes are received by and stored or transported by any railroad or trucking company for use in railroad or trucking operations;
- (2) Fireworks being transported through the city by railroad, or on Interstate 35, by a licensed carrier; and
- (3) Fireworks being transported through the city or stored within the city in compliance with a valid permit issued by the city for a fireworks display, provided such transportation and

storage shall only be valid for those permitted to transport and store the fireworks and so long as a valid permit has not expired or been revoked.

*(Ord. No. 288, § 4, 6-4-1996; Ord. No. 288-1, § 4, 3-7-2000; Ord. No. 288, § 4, 4-3-2001; Ord. No. 288-2, § 4, 4-17-2001)*

### **Sec. 23-154. Permitting of displays.**

- (a) Any person, company or other entity desiring to ignite fireworks in a controlled display must file an application with the city secretary at least 30 days prior to the proposed display along with an application fee as provided in appendix A to this Code. The applicant must identify:
- (1) The exact location upon which the display is intended to be held;
  - (2) The date and time the display is proposed to be ignited;
  - (3) The estimated duration of the display;
  - (4) The types of fireworks to be ignited;
  - (5) The proposed trajectory and landing site of all fireworks that will be airborne;
  - (6) The persons to transport the fireworks and the location, including duration, for which the fireworks are to be stored; and
  - (7) A safety plan provided for fire prevention and for the safety of persons and property at or near the display.

The fire marshal shall review the application. With the recommendation of the fire marshal, the city manager may issue a permit for controlled displays of fireworks. The fireworks display permitted may only be ignited as provided in the application and any restrictions added in the permit. At the time of the display, the fire marshal may require that the fire department be on standby at the site. As a requirement of the permit, the permittee may be charged the reasonable costs for the fire department being on standby status for the display.

- (b) The city, its agents, assigns and contractors, may sponsor city fireworks displays with the express authorization of a majority vote of the city council. The fire marshal shall be notified of all city fireworks displays and shall review the proposed ignition site, the proposed trajectory and landing site for all fireworks displays and make recommendations or proposals for any changes. The city sponsored fireworks displays shall be exempt from the permit requirements. The fire marshal shall be notified of the location for storage of fireworks.
- (c) All fireworks displays shall be operated and supervised by a person qualified in pyrotechnic displays. All applications for permits must include the name and qualifications of the person to operate and supervise the fireworks display. Permits that are issued shall name the person to operate and supervise the fireworks display.
- (d) The city reserves the right to deny any application. The city reserves the right, with or without notice, to revoke any fireworks permit. All permits shall expire, and no longer be valid, immediately after the fireworks display permitted was to occur.
- (e) Only those persons issued a valid permit shall be permitted to transport, store and ignite fireworks in compliance with a valid permit.

*(Ord. No. 288-1, § 5, 3-7-2000; Ord. No. 288-2, § 5, 4-17-2001)*

### **Sec. 23-155. Territorial applicability.**

This article is applicable and in force throughout the territory of the city within its corporate limits. This article is also applicable and in force within the area immediately adjacent and contiguous to the city limits and extending for a distance outside the city limits for a total of 5,000 feet, and it is unlawful to do or

perform any act in violation of this article; provided this article does not apply within any portion of such 5,000-foot area which is contained within the territory of any other municipal corporation. The 5,000-foot limitation will be determined by reference to the most recent city map evidencing this boundary limitation. In the event of dispute, the city will accept a professionally sealed ground survey map as evidence of the 5,000-foot limitation. The costs of such survey will be paid by the person alleging the dispute and not by the city.

*(Ord. No. 288, § 5, 6-4-1996; Ord. No. 288, § 5, 4-3-2001; Ord. No. 288-2, § 6, 4-17-2001)*

**Secs. 23-156—23-178. Reserved.**

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**FOOTNOTE(S):**

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*State Law reference— Fireworks, V.T.C.A., Occupations Code § 2154.001 et seq. [\(Back\)](#)*