

## ARTICLE IV. FIREWORKS\*

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**\*Cross references:** Miscellaneous offenses, ch. 8.

**State law references:** Fireworks, V.A.T.S. Insurance Code, art. 5.43-4.

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### Sec. 5-146. Definition.

For the purposes of this article, the word "fireworks" shall mean and include any firecrackers, cannon crackers, skyrockets, torpedoes, Roman candles, sparklers or any other substance in whatever combination by any designated name intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the commonly accepted meaning of fireworks, whether herein specially designated and defined or not.

(Code 1990, § 6-3-1)

**Cross references:** Definitions and rules of construction generally, § 1-2.

### Sec. 5-147. Application of article.

This article shall also be applicable and in force within the area immediately adjacent and contiguous to the city limits and extending for a distance outside of the city limits for a total of 5,000 feet, and it shall be unlawful to do or perform any act in violation of this article within such area of 5,000 feet outside the city limits; provided, that this article shall not apply within any portion of such 5,000-foot area which is contained within the territory of any other municipal corporation.

(Code 1990, § 6-3-7)

### Sec. 5-148. Right of entry.

The fire chief, fire marshal, fire prevention officer or police officer is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks but such authority does not include the right to enter a private dwelling or apartment.

(Code 1990, § 6-3-8)

### Sec. 5-149. Violations.

It is unlawful for any person to manufacture, assemble, store, transport, receive, keep, sell, offer for sale or have in his possession with intent to sell any fireworks in violation of this article. If the fireworks are separately wrapped or packaged, the doing or omitting to do any act prohibited by this article shall be a separate offense as to each separately wrapped or separately packaged fireworks.

(Code 1990, § 6-3-10)

### Sec. 5-150. General prohibition.

Except as otherwise specifically provided in this article, it shall be unlawful for any person to manufacture, assemble, store, transport, receive, keep, sell, offer to 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.

(Code 1990, § 6-3-2)

Sec. 5-151. Permitted transportation.

It shall be lawful to transport I.C.C. Class C common fireworks, as defined in Vernon's Annotated Texas Penal Code, by motor vehicles which meet the Interstate Commerce Commission requirement for transporting I.C.C. Class C common fireworks and equipped with at least one ten-pound fire extinguisher for extinguishing Type B fires, along, and upon state and federally numbered highways within the city. It shall further be lawful for bona fide fireworks dealers to transport I.C.C. Class C common fireworks, as defined in V.A.T.S. Insurance Code, art. 5.43-4 along, and upon state and federally numbered highways within the city.

(Code 1990, § 6-3-3)

Sec. 5-152. Exemptions.

(a) This article shall not apply to signal flares and torpedoes of the type and kind commonly used by any railroads, which signal flares and torpedoes are received by and stored or transported by any railroad for use in railroad operation; nor shall this article apply to any marine signal flare or rocket of the type and kind commonly carried by a vessel at sea for its own use and which signal flare or rocket is transported or received or stored for use only as ship's stores; nor shall this article apply to signal flares or rockets for military or police use, nor shall this article apply to starter's blanks and pistols used at athletic events.

(b) Toy paper pistol caps which contain less than 0.25 grains of explosive compounds shall not be affected by this article and the sale and use is permitted at all times.

(Code 1990, §§ 6-3-4, 6-3-5)

**State law references:** Exemptions, V.A.T.S. Insurance Code, art. 5.43-4, § 4.

Sec. 5-153. Declaration of nuisance; seizure and destruction.

The presence of any fireworks within the jurisdiction of the city in violation of this article is hereby declared to be a common and public nuisance. The fire chief and fire marshal are directed and required to seize and cause to be safely destroyed any fireworks found in violation of this article and any member of the fire prevention division of the community development department, the fire department, 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 fire chief and fire marshal can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section. 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 such 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 in the discharge of his duties 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.

(Code 1990, § 6-3-6)

**Cross references:** Nuisances, ch. 9.

Sec. 5-154. When public displays permitted.

The provisions of this article shall not apply to a public display of fireworks upon receipt of a permit for entertainment provided in section 7-146 et seq.

(Code 1990, § 6-3-9)

Secs. 5-155--5-170. Reserved.