

ORDINANCE NO. 1765

AN ORDINANCE OF AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES OF THE CITY OF TERRELL, TEXAS, BY AMENDING SECTION 8, FIREWORKS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND CODES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

WHEREAS, Chapter 6, Section 8 of the Code of Ordinances of the City of Terrell, Texas, sets forth rules and regulations for Fireworks; and

WHEREAS, the City Council has determined that it would be advisable to amend Section 8 of Chapter 6 of the City of Terrell Code of Ordinances to include in the section additional definitions and regulations regarding possessing and selling of fireworks within the City of Terrell and the extra-territorial jurisdiction of the City of Terrell.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, THAT Section 8, Chapter 6, of the City of Terrell Code of Ordinances be amended to read as follows:

**SECTION 8: FIREWORKS**

A. DEFINITIONS

(1) Fireworks - Fireworks means and includes any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, cannon crackers, skyrockets, torpedoes, Roman candles, Daygo bombs, sparklers, squibs, fire balloons, star shells, gerbs or any other devices of like construction and any devices containing any explosive or flammable compound or any tablet or other device containing an explosive substance intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the meaning of fireworks, whether herein specially designated and defined or not. The term "fireworks" shall not include any auto flares, paper caps containing

also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, and administrators.

B. DISCHARGE OF FIREWORKS PROHIBITED

No person shall cast, throw, fire or discharge any fireworks of any kind within the city limits of the City of Terrell or in the extraterritorial jurisdiction of the City as defined in Section C below.

C. FIREWORKS - POSSESSING, SELLING, ETC., DECLARED TO BE A NUISANCE AND ILLEGAL

The transporting, storing, offering for sale, possession or presence of any fireworks, including types covered by Article 9205, Vernon's Annotated Civil Statutes, within the city or the extraterritorial jurisdiction of the city (being the area immediately adjacent and contiguous to the city limits and extending outside the city limits for a distance of five thousand (5,000) feet in all directions), is hereby declared to be illegal and a public nuisance, and it shall hereafter be unlawful for any person to maintain, manufacture, assemble, store, transport, exhibit, receive, keep, sell, offer or have in his possession with the intent to sell, use, discharge, cause to be discharged, ignite, detonate, or otherwise set in action any fireworks of any description within the city or its extraterritorial jurisdiction; provided, this section shall not prohibit lawful authorized pyrotechnic displays.

D. EXCEPTIONS; DISPLAYS

Nothing in this section shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes of illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports or for use by military organizations or to the sale, storage or use of flashlight composition by photographers or dealers in photographic supplies or prevent any public or private demonstration or display of fireworks of any kind if conducted under the supervision of the fire chief after application is made and written permit is issued by the fire chief for such demonstration or display. Such permit shall not be granted until written application therefore has been filed with the fire chief, nor unless such demonstration or display shall be of such character, and so located, discharged or fired as in the opinion of the fire chief, shall not be hazardous to property or endanger the public safety.

E. FIREWORKS - ABATEMENT OF SAME AS NUISANCE

- (1) The duly appointed and acting chief of the Terrell Fire Department, or his authorized representative, is hereby authorized to seize and cause to be destroyed any fireworks found within the city or its territorial jurisdiction in violation of the provisions of this section.

- (2) Any member of the fire department, any police officer, or

(3) Notwithstanding any penal provision hereof, the city attorney is authorized to file suit on behalf of the city for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or using of fireworks within the City or the extra-territorial jurisdiction of the city, and to prevent any person from interfering with the seizure and destruction of such fireworks, provided, however:

- (a) That it shall not be necessary to obtain such injunctive relief as a prerequisite to such seizure and destruction;
- (b) That the duly appointed and acting chief of the Terrell Police Department, or his authorized representative, 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;
- (c) That in any instance, where the Fire Chief or any of his duly authorized assistants have probable cause to believe that fireworks are being stored in a building, they shall promptly enter the building for the purpose of inspection; and
- (d) That it shall be the duty of the owner, Lessee or person otherwise in charge of such building, or their agents or employees, to open and permit entry into the building by persons charged with the enforcement of the provisions herein.

F. FIREWORKS - PUNISHMENT AS A MISDEMEANOR

Any person, firm, corporation, company or association who shall violate any of the provisions of this section, or suffer or allow the same to be violated, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine not to exceed five hundred dollars (\$500.00), and each day during which such violation shall continue to exist shall constitute a separate and distinct offense.

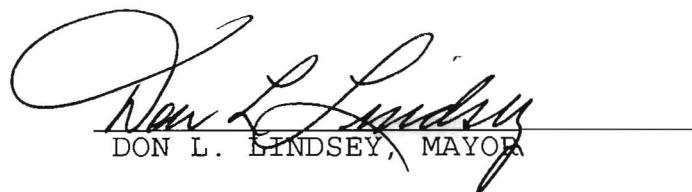
G. FIREWORKS - TRANSPORT

It shall be lawful to transport I.C.C. Class C Common Fireworks, as defined in Article 1727, 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 fire, along and upon state and federally numbered highways within the City of Terrell. It shall further be lawful for bona fide fireworks dealers to transport I.C.C. Class C Common Fireworks, as defined by Article 1727, Vernon's Annotated Texas Penal Code, along and upon state and federally numbered highways within the City of Terrell.

That the terms and provisions of this ordinance are severable and are governed by Section 8 of Chapter 6 of the Terrell City Code, as amended.

PASSED AND APPROVED THIS 6th day of December, 1994.

PASSED AND ADOPTED THIS 15th day of December, 1994.



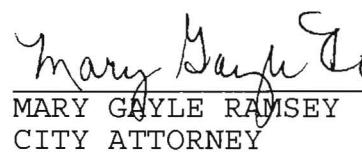
DON L. LINDSEY, MAYOR

ATTEST:



Bobby Bishop  
BOBBY BISHOP, CITY SECRETARY

APPROVED AS TO FORM:



Mary Gayle Ramsey  
MARY GAYLE RAMSEY  
CITY ATTORNEY