

ORDINANCE NO. 96-3

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF RIO GRANDE CITY, CHAPTER 9, BY THE ADDITION OF ARTICLE I FIREWORKS; PROHIBITING THE USE OR POSSESSION OF FIREWORKS WITHIN THE CITY OF RIO GRANDE CITY; PROHIBITING THE MANUFACTURING OR SALE WITHIN THE CITY OF RIO GRANDE CITY; PERMITTING CERTAIN PUBLIC DISPLAYS OF FIREWORKS; PROVIDING FOR A FINE NOT TO EXCEED \$500.00 FOR ANY VIOLATION HEREOF; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE, AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF.

WHEREAS, the City of Rio Grande City is authorized under state law to provide for the regulation of the sale, display, and use of fireworks within its city limits; and

WHEREAS, the Board of Alderman of the City of Rio Grande City deems it in the best interest of the City to regulate the use, etc. of fireworks within the City of Rio Grande City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNSEL OF THE CITY OF RIO GRANDE CITY, TEXAS:

SECTION I. The Code of Ordinances of the City of Rio Grande City is hereby amended by the addition of Article III Fireworks to Chapter 9 Public Peace and Conduct and Miscellaneous Provisions. Such Article shall read in its entirety as follows:

**CHAPTER 9 PUBLIC PEACE AND CONDUCT AND MISCELLANEOUS PROVISIONS**

**ARTICLE III FIREWORKS**

**Section 9-301 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 and includes any firecrackers, cannon crackers, skyrockets, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, gerbs 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 specifically designated and defined in this section or not.

**Section 9-302**      **General prohibition against manufacture, sale, discharge, transportation, etc.**

Except as otherwise specifically provided in this article, it shall be unlawful for any person to manufacture, assemble, store, receive, keep, sell, offer for sale, use, discharge, cause to be discharged, ignite, detonate, fire or have in their possession any fireworks of any description within the corporate limits of the city as they now exist or as may be adjusted by annexations. It shall be unlawful for any parent having custody and control of a minor of below the age of 14 years to permit or allow such minor to be in violation of this section.

**Section 9-303**      **Discharge in connection with plays, circuses and other shows.**

It shall not be unlawful, upon a permit issued by the fire marshal, for any person engaged in any organized play, legitimate theatrical performance, circus or other show designed for the amusement and edification of the general public to use, discharge or cause to be discharged and ignited fireworks as a part of any act, performance, play or circus, so long as such person does not also engage in the retailing, wholesaling, selling or distributing of any of such fireworks. the fire marshal shall cause to be made an investigation of each application made under this section to determine whether the use of such fireworks as proposed shall be of such

a character that it may be hazardous to property or dangerous to any person, and shall, in the exercise of reasonable discretion, grant or deny the application for such permit.

**Section 9-304**            **Illegal fireworks as nuisance; seizure, destruction, etc.**

The presence of any fireworks within the corporate limits of the city as such limits now exist or as may be adjusted by annexations, in violation of this article, is hereby declared to be a common and public nuisance. the fire marshal is 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 fire department or any police officer of the city or any other duly constituted peace officer is empowered to close any building where any fireworks are found illegally until the 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, keeping or use of fireworks within the corporate limits 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.

**Section 9-305**            **Right of entry.**

The fire marshal or any member of the fire prevention division of the city is hereby authorized to enter any building where the unlawful presence of fireworks is

suspected in order to inspect such building for the presence of such fireworks.

**Section 9-306**            **Penalty for violation of article**

- (a). Any person who shall use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks, manufacture, assemble, sell or offer for sale any fireworks in violation of this article may, upon conviction, be fined as provided in section 1-109.
- (b). Any parent or guardian of any minor child below the age of 14 years or any other person who permits or allows such minor child to possess, use, discharge, ignite, detonate, fire or otherwise set in action any fireworks in violation of this article shall be fined as provided in section 1-109.

**Section 9-307**            **When permitted**

The provisions of division 1 of this article shall not apply to a public display of fireworks made under the terms and conditions of this division, and such a display shall be permitted upon compliance with the provisions of this division.

**Section 9-308**            **Permit - Application**

Any adult person or any firm, copartnership, corporation or association planning to make a public display of fireworks shall first make written application for a permit to the fire marshal at least 30 days in advance of the date of the proposed display.

**Section 9-309**            **Same- Issuance or denial; term; transferability**

It shall be the duty of the fire marshal to make an investigation as to whether the display, as proposed by the applicant for a permit under this division, shall be of such a character that it may be hazardous to property or dangerous to any person,

and he shall, in the exercise of reasonable discretion, grant or deny the application, subject to the conditions prescribed in this division. If the application is approved, a permit shall be issued for the public display by the fire marshal. Such permit shall be for a period of time designated on the permit but shall not exceed seven days, and the permit shall not be transferable. If the application is denied by the fire marshal, he shall notify the applicant of the denial in writing.

**Section 9-310**      **Same - Insurance or bond required**

The applicant for a display permit under this division shall, at the time of making application, furnish proof that the applicant carries compensation insurance for his employees as provided by the laws of the state, and he shall file with the fire marshal a certificate of insurance evidencing the carrying of public liability insurance, including bodily injury liability, in the limits of \$250,000.00 per each person and \$1,000,000.00 for each accident, and property damage liability insurance in the limits of \$500,000.00, issued by an insurance carrier authorized to transact business in the state, for the benefit of the person named therein as insured, as evidence of ability to respond in damages in at least the above amounts, to be approved by the fire marshal.

**Section 9-311**      **Only aerial display permitted; range of display; use of steel tubes required**

Any fireworks display authorized under this division shall be limited to an aerial display. The range of aerial display shall not be more than 200 feet, and the fireworks shall be discharged vertically from steel tubes.

**Section 9-312**      **Time and number of displays**

No display authorized by this division shall be commenced later than 10:00

p.m.; provided, however, fireworks displays may be commenced between the hours of 10:00 p.m. and 11:59 p.m. on December 31 of any year and January 1 of any year if such displays comply with all other requirements of this article. Any display authorized by this division shall be completed within one hour after the time the display is commenced, and no permit shall authorized more than two displays in each 24 hours.

**Section 9-313            Material not to be stored in city**

The material to be used for a public display authorized by this division shall not be stored within the city limits but shall be brought in on the day of the public display and then shall be taken immediately to the place of display for further handling and storage.

**SECTION II:            Penalties.**

Any violation of the provisions herein, shall, upon conviction, be punishable by a fine as provided by these Code or Ordinances.

**SECTION III**            This Ordinance shall be effective on its passage and execution and publication.

**SECTION IV.**            Severability.

If any section, or part of any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional for any reason, such decision shall not affect the remaining portions of this ordinance as all such sections, subsections and sentences are hereby declared to be severable.

**SECTION V**            Publication.

The City Secretary of the City of Rio Grande City is hereby authorized and directed

to cause the contents of Section I hereof to be published, added and/or deleted in the appropriate location in the Code of Ordinances of the City of Rio Grande City.

SECTION VI      Publication in the Newspaper

The City Secretary or City Administrator is hereby authorized to publish a caption of this ordinance in the official newspaper in and for the City of Rio Grande City, Texas, according to law.

PASSED AND APPROVED BY THE BOARD OF ALDERMEN OF THE CITY OF RIO GRANDE CITY, TEXAS, at a regular meeting called and held in on this 1<sup>st</sup> day of February, 1996, held in accordance with the provisions of Chapter 551 of the Texas Government Code.

Signed this the 5<sup>th</sup> day of February, 1996.

CITY OF RIO GRANDE CITY, TEXAS

By: Basilio Villarreal  
BASILIO VILLARREAL, Mayor

ATTEST:

Holly Guerrero  
Holly Guerrero, City Secretary

APPROVED AS TO FORM:

James E. Darling  
James E. Darling, City Attorney