

**AN ORDINANCE OF THE CITY OF DEVERS, TEXAS , PROHIBITING
THE SALE AND DISCHARGE OF FIREWORKS AND THE DISCHARGE
OF FIREARMS WITHIN THE CITY OF DEVERS, TEXAS: DEFINITIONS:
AND PENALTIES FOR VIOLATORS THEREOF.**

WHEREAS, the City Council of the City of Devers, Texas, because of the general welfare of the citizens of the City of Devers, Texas, finds that it shall be unlawful for any person to discharge firearms, explode explosive devices, including firecrackers and other similar explosives, or launch, propel or otherwise cause a projectile, including rockets, pellets and BB's shot from guns, firecracker type rockets and projectiles, to be fired or projected, within the corporate limits of the city.

NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEVERS, TEXAS:.

SECTION I: Discharge of firearms, explosives or missiles.

(a) **Prohibited.** No person shall discharge firearms, explode explosive devices, including firecrackers and other similar explosives, or launch, propel or otherwise cause a projectile, including rockets, pellets and BB's shot from guns, firecracker type rockets and projectiles, to be fired or projected, within the corporate limits of the city.

(b) **Exceptions.** Exceptions to the prohibition in subsection (a) are:

(1) The use of firearms by duly constituted law enforcement officers in the discharge of their duties and while acting within the scope of their authority, including training with firearms at a duly designated practice range facility within the city limits.

(2) The use of firearms by any person acting in the lawful defense of his or any other person's life or property.

(3) The use of firearms for a gun salute at military funerals by duly recognized military groups.

(4) The use of firearms for gun safety demonstrations, theatrical presentations, and historical re-enactments.

(c) **Prohibited.** The presence of any fireworks within the city and the territorial jurisdiction of the city is hereby declared to be a nuisance.

(1) The fire official shall seize and cause to be destroyed any fireworks found within such territorial jurisdiction in violation of the provisions of this section.

(2) Any member of the fire department, any police officer, or any other peace officer is empowered to detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally, until the fire department can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section.

(3) Notwithstanding any penal provisions of this section, 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 jurisdiction of the city, and to prevent any person

from interfering with the seizure and destruction of such fireworks; provided, however, that it shall not be necessary to obtain such injunctive relief as a prerequisite to such seizure and destruction.

(4) In any instance where the fire official or any of his duly authorized assistants has probable cause to believe that fireworks and/or other combustible devices constituting a fire hazard are being unlawfully stored in a building, they shall promptly enter the building for the purpose of inspection.

(5) It shall be the duty of the owner, lessee or person otherwise in charge of such building, or his agents or employees, to open and permit entry into the building by person charged with the enforcement of this section.

(d) Exceptions.

(1) This article shall not apply to 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 such 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 flares or rockets are 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.

(2) Fireworks as provided in this article may be used and displayed in open fields, public parks, private parks, or on rivers, lakes or ponds, or as a part of the conduct of a play, circus or similar entertainment, by public authorities or by private persons or organizations that have been granted a permit for such display by the city secretary. Each application for such a permit shall be referred to the fire marshal, who shall inspect the location. If the fire marshal shall report that the location is unobjectionable from the standpoint of fire hazards and safety, the city secretary may issue a permit upon the receipt of a permit fee in accordance with the fee schedule adopted by the council. Such permit may be granted for a period not to exceed six days, and shall specify the name and address of the applicant or applicants, or their principal officers if a corporation or association; the location where the fireworks are to be used and the nature of the occasion; and a list of the fireworks to be used. A copy of each permit shall be filed in the office of the city secretary.

Section II: Territorial applicability. The provisions of this section shall be applicable within the corporate limits of the city.

Section III: 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.

(1) Fireworks means and includes any firecrackers, cannon crackers, sky rockets, 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 a visible or audible pyrotechnic display and shall include all articles or substances within the commonly accepted meaning of fireworks whether specially designated and defined or not.

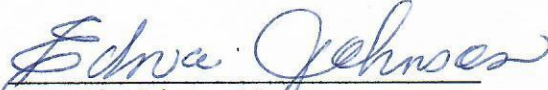
Section IV: Penalties.

(a) Any person, firm, corporation, company or association who shall violate any of the provisions of this ordinance, or suffer or allow the same to be violated shall be deemed guilty of a class C misdemeanor, and upon conviction thereof be subject to a fine of not more than One Hundred (\$100.00) dollars.

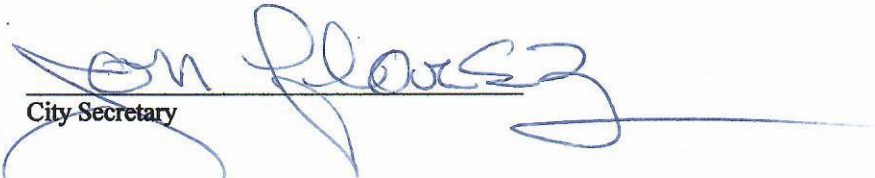
Section V: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

State law references: Authority to prohibit use of fireworks and firearms, V.T.C.A., Local Government Code 342.003(8)

PASSED AND APPROVED, this the 12 day of July, 2005.


Edna Johnson, Mayor

ATTEST:


City Secretary