

**ORDINANCE NO. 2002-3**

AN ORDINANCE AMENDING SECTION 9-3 OF THE VICTORIA CITY CODE TO ALLOW FIREWORKS POSSESSION IN MOTOR VEHICLES AND PERSONAL RESIDENCES; PROVIDING FOR ENFORCEMENT; REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING A SAVINGS CLAUSE, PROVIDING FOR CODIFICATION, PROVIDING A PENALTY NOT TO EXCEED \$2,000 UPON CONVICTION, PROVIDING FOR PUBLICATION, AND DECLARING AN EFFECTIVE DATE.

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

1.

Sections 9-3 of the Victoria City Code is amended to read as follows:

**Sec. 9-3. Same--Amendments.**

The following sections of the Standard Fire Prevention Code are hereby amended, added or deleted as hereinafter indicated:

- (1) *Chapter 6, Fire Protection, Section 603.15, Automatic sprinkler systems*, is hereby amended by adding subsection 603.15.8 as follows:  
  
603.15.8 A fire department valve pit meeting the requirements of the Design Standards for Public Works Construction and N.F.P.A. Standard No. 13 shall be installed at the exterior of every building served by an automatic sprinkler system at a location designated by the fire official near an available fire hydrant of sufficient capacity.
- (2) *Chapter 6, Fire Protection, Section 603.17, Addresses*, is hereby amended to read as follows:  
  
Approved numbers or addresses shall be provided for all new and existing buildings and shall be positioned on the front of the building in such a manner so that the number or address is plainly visible and legible from the street or roadway. All existing buildings shall have six (6) months from the date that this section becomes effective to comply with this subsection.
- (3) *Chapter 6, Fire Protection, Section 603.2, Maintenance*, is hereby amended to read as follows:  
  
All extinguishing systems, fire hydrant systems, standpipe systems, fire alarm or detection systems, portable or fixed fire extinguishers and other protection systems or appliances required by 603.1 or otherwise installed shall be so maintained as to be capable of proper operation at all times. They shall be replaced or repaired when found to be defective by management or other authority. Maintenance shall be performed in accordance with applicable NFIPA standards referenced in Chapter 3 or, where no NFIPA standard applies, in accordance with other recognized standards. The fire official shall be notified before disconnection and interruption of any fire protection, tests, repairs, alterations or additions are started, and upon its completion, and shall be advised of the extent of and reason for such work. Protection shall be restored promptly. All fire extinguishers located at or within a business, excluding government agencies, shall be inspected on an annual basis by a person licensed by the State of Texas to perform such services.
- (4) *Chapter 8, Maintenance of Exit Ways, Section 811, Rescue Line Anchors*, is hereby added to read as follows:  
  
811, *Rescue Line Anchors*---Buildings at least 4, and not more than 20 stories in height shall be equipped with rescue line anchors meeting the specifications and installed as prescribed herein.
  - (1) Specifications:
    - (a) Anchors shall be constructed of steel or other metal of equivalent structural strength that forms a ring eye not less than 6 inches in diameter.
    - (b) Anchors shall be constructed to withstand a load of at least 15,000 pounds.
  - (2) Installation:
    - (a) Anchors shall be installed on top of the building in a manner that makes a triangular pattern

of anchors available for use on each side of the building. The exact pattern for installation shall be approved by the fire official.

- (b) Anchors shall be installed to withstand a load of at least 15,000 pounds.
- (c) Anchors shall be installed and maintained in a manner that prevents corrosion.

- (5) *Chapter 20, Fireworks, Section 2002, Manufacture, Sale and Discharge*, is hereby amended by adding subsections 2002.1.5, 2002.1.6 and 2002.1.7 as follows:

*2002.1.5* It shall be unlawful for any person to manufacture, possess, store, transport, offer for sale, expose for sale, sell or use or explode any fireworks within the city or within 5,000 feet of the limits of the city ~~in violation of this chapter.~~

*2002.1.6* The presence of any fireworks within the city or within 5,000 feet of the limits of the city in violation of this chapter is hereby declared to be a nuisance. The fire marshal is hereby directed and required to seize and cause to be destroyed any fireworks found within the jurisdiction in violation of this division and any member of the fire prevention division of the fire department of the city or any police officer of the city or any other 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 marshal can be notified in order that said fireworks may be seized and destroyed in accordance with the terms of this section. Notwithstanding any penal provision of this division, 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 using of fireworks within the jurisdiction of the city and to aid the fire marshal in the discharge of such official's duties and to particularly prevent any person from interfering or attempting to interfere 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 or any member of the fire prevention division of the fire department of the city 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.

In any instance where the fire marshal or any other duly authorized member of the fire department has probable cause to believe that fireworks are being stored in a building they shall promptly enter the building for the purpose of inspection and it shall be the duty of the owner or lessee, or their agents, to open and permit the entry to the building.

~~Fireworks may not be seized from motor vehicles or the interior part of private residences unless the law enforcement officer seizing said fireworks has reasonable suspicion that the person possessing the fireworks has unlawfully used fireworks within the limits of the city or 5,000 feet thereof within one year preceding the date of possession of said fireworks.~~

~~It shall be an affirmative defense to prosecution under this subsection that:~~

~~(a) the person merely possessed fireworks in the interior part of that person's owned motor vehicle or the interior of his own personal residence for the purpose of using said fireworks at a location more than 5,000 feet outside the limits of the city; and~~

~~(b) the person has not been convicted of unlawfully using fireworks within the City limits or 5,000 feet thereof within one year prior to the date on which the person possessed said fireworks.~~

~~For purposes of this subsection, any part of a residence that is not fully enclosed on all sides by walls (such as a porch open on three sides) will not be considered to be the interior part of the residence.~~

*2002.1.7* It shall be lawful for a person to conduct a fireworks display in the city or within 5,000 feet of the limits of the city provided a permit has been obtained for such purposes from the fire marshal. An application for a permit shall be made in writing at least 10 days in advance of the date of display. After such privilege shall be granted, possession and use for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

- (6) *Chapter 20, Fireworks, Section 2003, Bond Required*, is amended by adding subsection 2003.1. as follows:

*2003.1 Requirements for fireworks display.* The following requirements must be met by an applicant in order to obtain approval of the fire marshal for a fireworks display. The applicant shall:

- (1) Furnish a certificate of insurance to the city showing liability insurance coverage in the minimum amount of \$300,000.00 per occurrence for personal injuries \$100,000.00 per occurrence for property damage arising out of the permitted display and arising from any acts of the permittee, or permittee's agents or employees. If the permittee is to conduct the fireworks display on city property, then the insurance certificate shall name the city as an additional insured.
- (2) Furnish written permission from the property owner where the display is to be located.
- (3) Provide a qualified pyrotechnic technician who will be present at all times during the display.
- (4) Employ a sufficient amount of firefighters to properly man a pumper and additional firefighters to enforce the fire codes for public safety during the display.
- (5) Allow only persons who are under the direct supervision of the pyrotechnic technician to discharge the fireworks.
- (6) Employ personnel to man an ambulance during the display.
- (7) *Chapter 31, Assembly Occupancies, Section 3101.7, Seating*, is amended by deleting the third and fourth sentences of subsection 3101.7.3.

3.

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed \$2,000.00 as provided in Section 1-8 of the City Code.

4.

In addition to any other remedy provided by law, the City and its officers shall have the right to enjoin any violation of this Ordinance by injunction issued by a court of competent jurisdiction.

5.

All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

6.

If any provision of this Ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

7.

The Code of the City of Victoria, Texas, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

8.

It is the intention of the City Council that this Ordinance shall become a part of the Code of the City of Victoria, Texas, and it may be renumbered and codified therein accordingly.

9.

The City Secretary shall publish the caption or a descriptive title of this Ordinance one time within 10 days after final passage of the Ordinance in a newspaper of general circulation in the City of Victoria in accordance with Article II, § 10 of the City Charter.

10.

This ordinance shall become effective 10 days after final passage and approval by the City Council of the City of Victoria, Texas; however, applications for carnival permits may be made immediately upon final passage and approval.

~~FAILED~~ PASSED FIRST READING, this the 15th day of January, 2002.

AYES: 2

NAYS: 5

ABSTENTIONS: 0

PASSED SECOND READING, this the \_\_\_\_\_ day of \_\_\_\_\_, 2002.

AYES:

NAYS:

ABSTENTIONS:

PASSED THIRD READING, this the \_\_\_\_ day of \_\_\_\_\_, 2002.

AYES:

NAYS:

ABSTENTIONS:

APPROVED AND ADOPTED, this the \_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
GARY MIDDLETON, Mayor of the  
City of Victoria, Texas

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
SCARLET SWOBODA, City Secretary

\_\_\_\_\_  
DAVID ATMAR SMITH, City Attorney

Distribution:    Legal Department  
                  Department of Inspections & Maintenance Services  
                  Police Department  
                  Fire Department  
                  The Victoria Advocate

Copies Sent: \_\_\_\_\_