

Chapter 56

EXPLOSIVES AND FIREWORKS

5601.2.4 Financial responsibility. Before a permit is issued, as required by Section 5601.2, the applicant shall file with the jurisdiction a corporate surety bond in *an amount deemed adequate by the fire code official* or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The fire code official is authorized to specify a greater or lesser amount when, in his or her opinion, conditions at the location of use indicate a greater or lesser amount is required. Government entities shall be exempt from this bond requirement.

5608.5 Storage of fireworks at display site. The storage of fireworks at the display site shall comply with the requirements of this section and NFPA 1123 or NFPA 1126 *and shall be approved by the fire code official. At no time shall the amount of explosive compound exceed the amount necessary for one (1) show date consumption.*

SECTION 5610 INDOOR FIREWORKS SPECIAL EFFECTS

5610.1 Indoor permit.

5610.1.1. *No person shall discharge any fireworks inside any building without a permit. Such permit shall describe the explosive compounds to be used and the amount per show.*

5610.1.2 *Prior to the issuance of a permit for indoor fireworks, the operator shall file an application with the fire official, stating the operator's qualifications and other information as deemed necessary by the fire official to certify that the operator for which application has been made is capable of safely discharging such fireworks as described to the satisfaction of the fire official.*

5610.1.3 *No permit once issued may be transferred to another location nor another operator. Any change in the information listed on the permit will require a new permit. Any time the circumstances for which the permit was issued change, the permit is void.*

5610.1.4 No permit shall be issued until the show setup is approved by the fire official or his or her designee prior to the first show.

5610.1.5 No permit shall be issued unless the building listed as the location of the display has had a current fire inspection and is in compliance with this code.

5610.2 Location and amount.

5610.2.1 The location of the fireworks display shall be specified as to street address, building designation and exact area within the building to allow the fire official to determine that the proposed display can safely be discharged as approved.

5610.2.2 At no time shall be amount of explosive compound inside the building listed on the permit exceed the amount necessary for one (1) show date consumption.

5610.2.3 The pyrotechnic operator shall be licensed by the State of Texas as required by the Fireworks rules of the State of Texas.

5610.2.4 A public display permit shall also be obtained as required by the Fireworks Rules of the State of Texas.

**SECTION 5611
CONSUMER FIREWORKS**

5611.1 Restricted Use. *A person commits an offense if the person manufactures, assembles, stores, transports, receives, keeps, sells, offers, or has in his possession with intent to sell, delivery to any person or place, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action or have in his possession or on his person or under his control any fireworks or any description except as herein provided. The fire official shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by a jurisdiction, fair associations, amusement parks, other organizations or for the use of fireworks by artisans in pursuit of their trade. Every such use or display shall be handled by a competent operator approved by the fire official, and shall be of such character and so located, discharged or fired so as not to be hazardous to property or endanger any person.*

Removal and Disposal. *The presence of any consumer fireworks within the city except fireworks for a public display authorized by the Fire Official, is declared to be a common and public nuisance and detrimental to the public health, safety*

and general welfare and constitutes a violation of this Code. The fire official may seize and cause to be safely destroyed any consumer fireworks found within the city or in violation of the other provisions of this fire prevention code. Any member of the fire department of the city or any police officer is empowered to seize any fireworks found within the city in violation of this article and cause the consumer fireworks to be safely destroyed. Unopened packaged fireworks may not be confiscated.

It is an affirmative defense to prosecution for possession of fireworks brought under this section that:

- (1) the defendant was operating or was a passenger in a motor vehicle that was being operated in a public place; and*
- (2) the fireworks were not in the passenger area of the vehicle.*

(c) For purposes of this section, the “passenger area” of a motor vehicle means the area of the vehicle designed for the seating of the operator and the passengers of the vehicle. The term does not include:

- (1) a locked glove compartment or similar locked storage area;*
- (2) the trunk of a vehicle; or*
- (3) the area behind the last upright seat of a vehicle that does not have a trunk.*

5611.3 Definition. *Consumer 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, torpedoes, pop pops (such as: pop tops, pow-wow, fun snaps, or similar explosive devices which can be projected, tossed, thrown, or dropped), skyrocket, roman candles, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive substance that are not fireworks approved for use at an approved fireworks display under Section 3308, except that the term “consumer fireworks” shall not include any auto flares, paper caps which contain twenty-five hundredths (0.25) of a grain of explosive content or less per cap and are used with toy pistols, toy canes, toy guns, model rocket propulsion motors, or other similar devices, the sale and use of which shall be permitted at all times.*

5611.4 Applicability. *The provisions of this section apply to all of the area within the city provided, however, that no change in the city limits occurring after August 4, 1976, shall affect an expansion of the area in which this chapter applies until the 120th day following the effective date of such change in the city limits.*

5611.5 Duties of City Attorney. *Notwithstanding any penal provisions of this article, the City Attorney is authorized to file suit on behalf of the city or the fire marshal or*

both, for injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the city and to aid the fire marshal in the discharge of his duties and to 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 or destruction.

5611.6 Defense in prosecution. *In any prosecution for any violation of this chapter, it shall not be necessary for the prosecution to negate any proviso exception, but the same may be raised by the defendant by way of defense. The possession of a permit from the fire official shall constitute a defense to the persons named in such permit or in place of the persons named in such permit.*

5611.7 Penalty. *A person commits an offense if the person manufactures, assembles, stores, transports receives, keeps, sells, offers, or has in his possession with intent to sell, deliver to any person or place, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action or has in his possession or on his person or under his control any fireworks of any description except as herein provided. Any person, upon conviction of an offense for violation of any provision of this chapter, shall be fined not more than two thousand dollars (\$2,000.00). If any fireworks are separately wrapped or packaged, any act required by this chapter involving each separately wrapped or packaged fireworks constitutes a separate offense. Each day that a violation of this chapter shall continue with respect to any package of fireworks shall constitute a separate offense.*