

ZAPATA COUNTY  
Mary Jayne Villarreal-Bonoan  
ZAPATA COUNTY CLERK  
Zapata, Tx 78076

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Recorded On: April 11, 2016

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Parties: ZAPATA COUNTY COMMISSIONERS COURT

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To ZAPATA COUNTY

Number of Pages: 6

9

Comment: FIREWORKS ORDINANCE

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( Parties listed above are for Clerks reference only )

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\*\* THIS IS NOT A BILL \*\*

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ZAPATA COUNTY

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ZAPATA TX 78076



State of Texas |  
County of Zapata

I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Zapata County, Texas.

*Mary Jayne Villarreal Bonoan*  
Mary Jayne Villarreal-Bonoan, County Clerk

**FIREWORKS ORDINANCE**

00173907

Ordinance no. 2007-003

AN ORDINANCE REGULATING PUBLIC DISPLAYS AND SALES OF FIREWORKS IN THE COUNTY OF ZAPATA, TEXAS, PROVIDING FOR THE GRANTING OF PERMITS FOR SUPERVISED PUBLIC DISPLAYS AND SALES OF FIREWORKS, PRESCRIBING SAFEGUARDS CONCERNING SAME, PROHIBITING PUBLIC DISPLAYS OF FIREWORKS AND THE POSSESSION, SALE, USE AND DISTRIBUTION THEREOF AND OF AERIAL FIREWORKS FOR PURPOSES OTHER THAN PUBLIC DISPLAYS WITHOUT OBTAINING A PERMIT THEREFOR AND PRESCRIBING PENALTIES FOR VIOLATIONS

WHEREAS, it has come to the attention of the Commissioners Court of the County of Zapata that the public display, sale, possession or discharge of fireworks within the boundaries of Zapata County, is occurring; and will continue to occur; and

WHEREAS, the potential for fires and disaster concerning the sale, displays, possession and discharge of fireworks is great if said sale, display, possession and discharge are not appropriately regulated; and,

WHEREAS, Local Government Code, Chapter 342.001, Subchapter A, Sections 342.001 and 342.003 authorize a Type A general law municipality to prohibit or regulate the sale of fireworks; and

WHEREAS, Texas Local Government Code, Chapter 217,003(c) authorizes a "Type A" general law municipality to restrain or prohibit the use of fireworks or firecrackers and punish same as disorderly conduct;

WHEREAS, Section 51.012 of the Texas Local Government Code authorizes the adoption by a "Type A" general law municipality of any ordinance or regulation not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality;

WHEREAS, the County of Zapata is authorized to exercise "Type A" general law ordinance making powers pursuant to Section 81.033 of the Texas Local Government Code and by virtue of the approval at an election for that purpose;

WHEREAS, the Commissioners Court finds that it is in the best interests of County of Zapata to enact an ordinance concerning the sale, display, possession and discharge of fireworks;

BE IT ORDAINED by the Commissioners Court of Zapata County, Texas, and it is hereby ordained that:

SECTION 1: Definitions

A. The term "consumer fireworks" shall mean and include:

- (1) Any combustible or explosive composition or any substance or combination of substances, intended to produce visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction,

performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR or any successor regulation and which complies with the provisions for "consumer fireworks" as defined in the American Pyrotechnics Association (APA) Standard 87-1, or any successor standard.

(2) The term does not include devices as "ground and hand-held sparkling devices," "novelties" and "toy caps" in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout the State of Texas. The term "display fireworks" shall be defined as provided in 27 CFR § 555.11 B. "Aerial fireworks" shall mean and include: those items classified under 49 C.F.R. Sec. 173.100(r)(2) (10-1-86 edition), as "skyrockets with sticks" and other pyrotechnic devices that have fins or rudders for the purpose of achieving aerodynamic flight, including devices that would be considered a missile or a rocket. The term can include consumer and display fireworks.

C. "Chief" shall mean and include "County Fire Marshall."

D. "Display" shall mean and include: events that employ the use of large fireworks primarily for public or private amusement, entertainment or exhibition by producing visible or audible effects.

E. "Display fireworks" shall mean large fireworks designed primarily for public or private amusement, entertainment or exhibition by producing visible or audible effects. The term includes, but is not limited to:

(1) Sky rocket. Tubes not exceeding 1/2 inch (12.5 mm) inside diameter that may contain up to 20 grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight.

(2) Missile-type rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability. Firework devices which use a cylindrical bore or rod for launching stability, even though the word "missile" may appear on the label, are not included in this category.

(3) Firecrackers, salutes. Small paper-wrapped or cardboard tube containing not more than 2 grains (130 mg) of explosive composition. Upon ignition, noise and a flash of light is produced.

(4) Chaser. Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed 50 mg.

(5) Display pieces. Fireworks containing more than 2 grains (130 mg) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as "consumer fireworks." Display fireworks are classified as Division 1.3G explosives by the United States Department of Transportation.

(6) Fireworks Stand Operator. Any person who operates a place where consumer fireworks are sold.

SECTION 2: It shall be unlawful for any person, persons, firms or corporations, amusement parks, fair associations or other organizations or groups of individuals, to have or hold public displays of display fireworks, operate a fireworks stand, or sell consumer fireworks within the limits of the County of Zapata, unless a permit is first granted by the County of Zapata Fire Department.

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SECTION 3: It shall be unlawful for any person to sell or discharge consumer fireworks, for any purpose, if by reason of drought conditions, dry vegetation, or high grass, the Chief of the County of Zapata Fire Department determines and issues an Order that said condition or conditions exist within all or part of the county and that discharge, igniting or use of aerial fireworks creates a hazard for fire.

SECTION 4: An order issued under this section may prohibit or restrict the sale and discharge of fireworks within all or part of the county and shall expire upon determination by the Chief that such condition or conditions no longer exist. The Chief of the County of Zapata Fire Department may in the Order designate one or more areas of appropriate size and accessibility in the county as safe areas where the use of restricted consumer (including aerial) fireworks is not prohibited. Upon issuance of an Order under Section 3, a person selling aerial fireworks in the County of Zapata shall, at every location at which the person sells fireworks in the county, provide reasonable notice of the Order to consumers and shall provide reasonable notice of any location designated under this section as a safe area.

SECTION 5: Every display within the limits of the County of Zapata shall be handled by a competent operator, and the display shall be of such character and so located, discharged or fired, after proper inspection and shall not be hazardous to property or endanger any person or persons.

SECTION 6: Permits. Penalties

(a) Application for permits for displays shall be presented in writing to the County of Zapata Fire Department at least thirty (30) days in advance of the date of display, setting forth the proposed location of the display, the character thereof, name and address of the operator, and the name and address of the owner or owners of the grounds on which the display is to be held, with the consent of such owner or owners in writing attached.

(b) Applications for permits to operate a fireworks stand or sell consumer fireworks shall be presented in writing at least forty-eight (48) hours prior to the date of sale of the fireworks.

(c) All applicants shall pay the County Treasurer the sum of fifty (\$150.00) dollars for their permit and provide proof of the required bond before issuance of a Permit.

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(d) In the event, that an Applicant for a permit fails to apply within the time prescribed by this ordinance, a late fee equal to the original fee will be charged.

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SECTION 7: If and after a permit has been granted by the Chief of the County of Zapata Fire Department or his designee, the display, possession, sale, use and distribution of consumer fireworks and display fireworks for such display shall be lawful for that purpose only. No permit granted shall be transferable.

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SECTION 8: The Chief of the County of Zapata Fire Department or his designee shall require the permittee or licensee to obtain a bond in an amount no less than one million (\$1,000,000.00) dollars for the payment of damages caused to any person or persons, and to any property by reason of the licensed display, operation of and arising from any acts of the licensee, or licensee's agents, employees or subcontractors. The Chief of the County of Zapata of the Fire department or his designee shall require the permittee or licensee to obtain a bond in an amount no less than one million (\$1,000,000.00) dollars for the payment of damages caused to any person or persons, and to any property by reason of the licensed sale and arising from any acts of the licensee, or licensee's agents, employees or subcontractors. The bond shall be filed with the County Clerk before any permit for a supervised public display or sale is delivered by the Fire Chief of the County of Zapata or his designee.

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SECTION 9: If by reason of unfavorable weather the display for which a permit has been granted does not take place at the time authorized, the person to whom such permit was issued may apply to the Chief of the Fire Department or his designee within twenty-four (24) hours, setting forth under oath the fact that such display was not made, the reason, and request for a continuance of such permit for a specifically designated day, no later than one week after the day fixed originally in said permit. Upon receiving such application for a continuance the Chief of the Fire Department, if he believes the facts stated therein are true, shall extend the provisions of the permit to the day fixed in the application, no later than one week after the original day designated in the permit. Such extension of time shall be granted without the payment of any additional fee and without requiring any bond other than the one given for the original permit. The provisions of the original bond shall extend to and cover all damages which may be caused by reason of said display taking place at such extended date in the same manner and to the same extent as if such display had taken place at the date originally fixed in the permit.

SECTION 10: Any person, co-partnership, association or corporation violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred (\$500.00) dollars.

SECTION 11: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 12: This Ordinance shall become effective five (5) days after its passage or adoption.

PASSED AND APPROVED THIS THE 11<sup>TH</sup> DAY OF APRIL, 2016, BY THE ZAPATA COUNTY COMMISSIONERS COURT.

*Joe Rathmell*

Joe Rathmell, County Judge

*Jose Emilio Vela*

Jose Emilio Vela, Commissioner Pct. 1

*Olga M. Elizondo*

Olga M. Elizondo, Commissioner Pct. 2

*Eddie Martinez*

Eddie Martinez, Commissioner Pct. 3

*Norberto Garza*

Norberto Garza, Commissioner Pct. 4

Attest:

*Mary Jayne Villarreal-Bonoan*

Mary Jayne Villarreal-Bonoan, County Clerk



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