

Chapter 24 OFFENSES--MISCELLANEOUS*

*Cross reference(s)--Miscellaneous offenses, Ch. 46; smoking in public places, Ch. 48.

ARTICLE I. IN GENERAL

Sec. 24-1. Arson--Reward by city for information as to offenders.

The city offers a reward of up to two thousand dollars (\$2,000.00) for information leading to the prosecution of any person for the crime of arson committed within the city. This reward is a standing offer and shall be paid out of the general fund of the city.

A placard, at least eight (8) inches by twelve (12) inches in size, shall be displayed in public buildings in the city on which the following words are printed:

"ARSON REWARD

UP TO \$2,000.00

The City of Irving will pay a reward of up to \$2,000.00 for information which leads to the prosecution of any person for the crime of arson committed within the City Limits of the City of Irving, Texas."

(Ord. No. 1346, §§ 1--3; Ord. No. 7551, § 1, 10-7-99)

Sec. 24-2. Firearms--Discharge prohibited; exceptions.

*For state law as to discharge of firearms in cities, see Penal Code, art. 480.

It shall be unlawful for any person to fire off or discharge any gun, pistol, shotgun, rifle or other firearm of any description within the city.

The provision of this section shall not apply to the discharge of firearms when permitted or authorized by the laws of the state or of the United States, or to the discharging of firearms in a shooting gallery or range, or gun smith establishment, when such shooting gallery or range or gun smith establishment is set up and used in accordance with this Code or other ordinances of the city governing the operation of any such establishment.

(Ord. No. 1213, §§ 31-50, 31-51)

Sec. 24-3. Gravel pits--Zoning regulations; filling and reclaiming land.

*As to zoning generally, see ch. 42 of this Code.

Gravel pits located within the city are hereby classified as a business and may operate only in areas zoned for similar use under the zoning regulations of the city.

All open pits left by excavation of gravel shall be filled and the land reclaimed within ninety days after the excavating operations have ceased.

(Ord. No. 278, §§ 1, 2)

Sec. 24-4. Loitering.

No person shall be found loitering about the property or upon the premises of another without being able to give a good account of himself.

(Ord. No. 192)

Sec. 24-5. Obstructing entrances.

It shall be unlawful for any person, grouping or assemblage of persons whose standing, remaining or congregating upon any entrance, alcove or steps leading from a public street or sidewalk to the entrance or exit of any public or private building or structure in the city shall obstruct, prevent or interfere with the free or unobstructed use of the entrance or exit, or of the street or sidewalk adjacent thereto, by other persons, to fail or refuse to move on or to disperse upon being ordered to do so by any police officer of the city or other peace officer of the state.

(Ord. No. 1085, § 31-41)

Sec. 24-6. Obstructing rooms or hallways within building.

It shall be unlawful for any person or for any grouping or assemblage of persons whose standing, remaining or congregating within any public or private building or structure in the city, or within any room or hallway thereof, shall obstruct, prevent or interfere with the free or unobstructed use of such building or structure, or room or hallway thereof, by the owner or person in charge of the building, structure, room or hallway or by other persons, to fail or refuse to move on or to disperse upon being ordered to do so by any police officer of the city or other peace officer of the state.

(Ord. No. 1085, § 31-42)

Sec. 24-7. Obstructing streets or sidewalks.

*As to streets and sidewalks generally, see ch. 34 of this Code.

It shall be unlawful for any person or for any grouping or assemblage of persons whose standing, remaining or congregating upon any public street or sidewalk in the city shall obstruct, prevent or interfere with the free or unobstructed use of the street or sidewalk by other persons, to fail or refuse to move on or to disperse upon being ordered to do so by any police officer of the city or other peace officer of the state.

(Ord. No. 1085, § 31-40)

Sec. 24-8. Reserved.

Editor's note--Ordinance No. 7079, § 3, adopted July 17, 1997, repealed § 24-8. Formerly, such section pertained to posters,

signs, etc.--Placing on utility pole and derived from Ord. No. 238, § 1; Ord. No. 2938, § 1, 2-24-77.

Sec. 24-8.1. Same--Placing on tree or fence post in public right-of-way.

It is hereby declared unlawful for any person to place, or cause to be placed, any poster or sign on any tree or fence post located within the public right-of-way in the city.

(Ord. No. 2938, § 2, 2-24-77)

Editor's note--Ord. No. 2938, § 2, adopted Feb. 24, 1977, amended the Code by adding provisions designated as § 24-8a. In order to preserve code format, § 24-8a was redesignated § 24-8.1.

Sec. 24-8.2. Painting curbs, sidewalks and streets prohibited.

(a) It shall be unlawful for any person to paint or apply other markings to either the street, the curb or the sidewalk.

(b) Any of the following shall be affirmative defenses:

(1) That the person was employed by or under contract with a governmental agency having responsibility for the maintenance and/or marking of said street and that the person was painting or marking the street, sidewalk or curb as part of their official employment or contract.

(2) That the person was painting the address number on the curb in front of the premises corresponding to such number, and:

a. Was the owner or occupant of said premises, or

b. Had obtained written permission from the owner or occupant of said premises prior to painting the address number.

(3) The street, sidewalk or curb was not along a public street or within a public right-of-way.

(Ord. No. 4570, § 1, 12-6-84)

Sec. 24-9. Presence on premises of another under suspicious circumstances; peeping toms.

No person shall be found upon the premises of another in the nighttime, or daytime, under suspicious circumstances, or shall enter upon the premises of another and peer into the windows of any dwelling house thereon, or shall, without legal cause or good excuse, enter into the dwelling house or on the premises of another.

(Ord. No. 193)

Sec. 24-10. Refrigerators, etc.--Abandonment.

(a) It is hereby unlawful for any person to possess or have in his possession an ice box, refrigerator or freezer which has been discarded without removing the hinges or locking devices on the door or doors. This shall include all ice boxes, refrigerators or freezers which are stored in the open regardless of whether they have been discarded or not.

(b) If the owner or responsible party for the ice box, refrigerator or freezer cannot be located or refuses to respond to a notice, the health department official shall have the authority to immediately dismantle door locks or hinges.

(Ord. No. 224, § 1; Ord. No. 5518, § 1, 10-20-88)

State law reference(s)--Abandoned refrigerators and airtight containers, etc., Penal Code, art. 1721A.

Sec. 24-11. Unlawful entry.

No person shall enter into the dwelling house, place of business or upon the premises of another for any unlawful purpose.

(Ord. No. 191)

Sec. 24-12. Wells; covering or filling.

It is hereby unlawful for any person to have a well either in use or abandoned which is not properly covered on the top so as to prevent a person from falling into the well. All abandoned wells not properly covered shall be filled.

(Ord. No. 224, § 2)

Sec. 24-12.1. Bookmaking records.

(a) Possession of bookmaking records. Whosoever shall possess, except for evidence purposes, any document, file, list, slip or record of any kind or character whatever which is designed for the use of or used for recording or documenting any making, placing, or taking of any bet or wager of money or anything of value on a horse race, dog race, automobile race, motorcycle race, or any other race of any kind whatsoever, a football game, baseball game, basketball game, hockey game, soccer game, athletic contest or sports event of whatever kind or character, shall be guilty of a misdemeanor. A person in possession of bookmaking records is presumed to know the nature, character, and past and prospective use of same.

(b) Definitions.

(1) "Bookmaking" as used in section 24-12.1(a) shall have the meaning as ascribed and given by Article 652a of the Penal Code of the State of Texas.

(2) "Bookmaking records" shall mean any written, printed, typed or otherwise produced or reproduced lists of persons' names, telephone or communication media numbers, events upon which wagers may be placed, times, places or locations of such events, slips, oddsmakers' lists or information letters, telegrams, or any other item, object or thing used for bookmaking record keeping, whether such records be in code or uncoded, and in whatever language. It is not the intention of this section to prohibit the possession of commercially produced newspapers, schedules or lists which have not been altered from original form for use as bookmaking records by the addition thereto of wagering information, names, locations, odds, addresses, telephone numbers, or other gambling or bookmaking notations.

(3) "Possession" shall mean having any such records on or about the person or in any vehicle or premises, house or structure under the control of or occupied by such person, whether such person is the owner thereof or not.

(c) Penalty for violation. Any person or persons violating any provision of section 24-12.1 shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 2089, § 1, 3-18-71)

Editor's note--Ord. No. 2089, § 1, amended this Code by adding provisions designated as §§ 24-24--24-26. The editors redesignated such provisions as § 24-12.1 for classification purposes.

Sec. 24-12.2. Deposit of certain items; substances in or on easements, storm sewers or sanitary sewers prohibited.

(a) It shall be unlawful for any person to throw or deposit in or on any easement of any nature in the City of Irving or any public utility company any glass bottles, glass, nails, tacks, hooks, wire, cans, box, bale, bundle, sack, paper, pasteboard box, cloth, grass or weed items, brush, petroleum product, paint product, or any other kind of rubbish or trash.

(b) It shall be unlawful for any person to throw or deposit in any storm sewer or sanitary sewer of any nature in the City of Irving any glass bottles, glass, nails, tacks, hooks, wire, cans, box, bale, bundle, sack, paper, pasteboard box, cloth, grass or weed items, brush, petroleum product, paint product, or any other kind of rubbish or trash.

(c) Any person violating or failing to comply with any provision of this section shall be fined upon conviction not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00).

(Ord. No. 2212, §§ 1, 2, 4, 11-24-71; Ord. No. 5853, § 19, 9-6-90) Editor's note--Ord. No. 2212 did not expressly amend this Code, hence inclusion of §§ 1, 2 and 4 herein as § 24-12.2 was at the discretion of the editors.

Cross reference(s)--Public utilities, Ch. 31; streets and sidewalks, Ch. 34; water and sewer systems, Ch. 41.

Sec. 24-12.3. Throwing by spectators at a sporting event or other event.

(a) It shall be unlawful for any person to throw any cushion or any other substance or liquid or anything else into the air or upon any persons assembled in any grandstand or at any other gathering of persons for pleasure or otherwise. This section does not apply to the participants of a sporting event nor to the participants of any other lawful event which creates an assemblage of spectators.

(b) Any person violating or failing to comply with any provision of this section shall be fined upon conviction not less than one dollar (\$1.00) nor more than two hundred dollars (\$200.00).

(Ord. No. 2359, §§ 1, 3, 8-24-72)

Editor's note--Section 24-12.3 is derived from Ord. No. 2359, §§ 1, 3. Said ordinance did not amend this Code.

Sec. 24-12.4. Unlawful to operate motor vehicles in City of Irving drainage channel easements.

(a) It shall be unlawful for any person to operate any motorized vehicle in any drainage channel easement, however, it shall be an affirmative defense to prosecution under this section if the operator of the vehicle is an on-duty employee of the City of Irving, employee of a contractor building or maintaining said channel, or an on-duty employee of any utility franchised by the City of Irving, or if the drainage channel easement was not owned by a governmental entity.

(b) The owner of any property, burdened by a drainage easement may post signs stating "No Trespassing" or "No Motor Vehicles" so long as such signs do not interfere with the drainage capabilities of the easement.

(c) The City of Irving may post signs in any drainage easement owned by the City of Irving stating "No Motor Vehicles."
(Ord. No. 4636, § 1, 3-21-85)

Sec. 24-12.5. Dialing 9-1-1 when no emergency exists.

(a) A person commits an offense if he or she knowingly dials a 9-1-1 emergency telephone number when no emergency exists.

(b) A person is presumed to have dialed a 9-1-1 emergency telephone number if the telephone from which the number is dialed is listed in his or her name with the local telephone company.

(Ord. No. 5413, § 1, 4-14-88)

Editor's note--Ord. No. 5413, § 1, adopted April 14, 1988, amended the Code by adding a new § 24-68. In order to maintain the classification system of the Code, the aforesaid has been redesignated as § 24-12.5

Sec. 24-12.6. Penalty; continuing violations.

(a) As sections 24-1, 24-3, 24-5 and 24-6 govern fire safety, zoning, public health, or sanitation, a violation of any of these provisions shall be punishable by a fine not to exceed two thousand dollars (\$2,000.00).

(b) A violation of any of the provisions of this article not set out in section 24-12.6(a) shall be punishable by a fine not to exceed five hundred dollars (\$500.00).

(c) Each day any violation of any provision of this article continues shall constitute a separate offense.

(Ord. No. 5853, § 20, 9-6-90)

Sec. 24-12.7. Stink bombs.

(a) For purposes of section 24-12.7, "stink bomb" shall mean any device, container, ampule, vial or glass ball capable of being concealed on the person and containing substances which, upon release to the air, create an unreasonable and noxious odor. Stink bombs shall include but not be limited to:

(1) Items and novelties labeled, sold as or intended to be sold as stink bombs; or

(2) Items commercially produced or individually crafted whose primary purpose is the production of a noxious odor.

(b) It shall be unlawful for any person to sell a stink bomb of any description to a person who was not at least eighteen (18) years of age.

(c) It shall be an affirmative defense to prosecution brought under subsection (b) hereof that:

(1) The substance or substances within the container were edible foodstuffs; or

(2) The substance in the container was tear gas, CS, or ground pepper, and such substance was sold or used for purposes of law enforcement or legitimate self-defense concerns.

(Ord. No. 6109, § 1, 4-2-92)

ARTICLE II. AIR GUNS

Sec. 24-13. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Air gun. Any gun, rifle or pistol, by whatever name known, which is designed to expel a projectile by the action of compressed air or gas, or by the action of a spring or elastic, but does not mean a firearm.

Dealer. any person engaged in the business of selling at retail or renting any of the articles designated in this section.

(Ord. No. 225, § 1)

Sec. 24-13.1. Penalty; continuing violations.

A violation of any of the provisions of this article shall be punishable by a fine not to exceed five hundred dollars (\$500.00). Each day any violation of any provision of this article continues shall constitute a separate offense.

(Ord. No. 58-53, § 21, 9-6-90)

Sec. 24-14. Sale, transfer, etc., to persons under eighteen prohibited; exceptions.

(a) It shall be unlawful for any dealer to sell, lend, rent, give or otherwise transfer any air gun to any person under the age of eighteen (18) years where the dealer knows or has reasonable cause to believe the person to be under eighteen (18) years of age or where such dealer has failed to make reasonable inquiry relative to the age of such person and such person is under eighteen (18) years of age.

(b) It shall be unlawful for any person to give, lend or otherwise transfer any air gun to any person under eighteen (18) years of age, except where the relationship of parent and child, guardian and ward or adult instructor and pupil exists between such person and the person under eighteen (18) years of age.

(Ord. No. 225, § 2)

Sec. 24-15. Exemption from article.

It shall be lawful for any person under eighteen (18) years of age to have in his possession any of the articles in section 24-13 if the article is:

(a) Kept within his domicile.

(b) Used by the person under eighteen (18) years of age and he is a duly enrolled member of any club, team or society organized for educational purposes and maintaining as part of its facilities or having written permission to use an indoor or outdoor rifle range, to possess, load and fire at such rifle range under the supervision, guidance and instruction of a responsible adult.

(c) Used in or on any private grounds or residence under circumstances when such an article can be fired, discharged or operated in such a manner as not to endanger persons or property and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such grounds or residence.

(Ord. No. 225, § 3)

Sec. 24-16. Carrying on public land, road, etc., by person under eighteen prohibited, exception; discharge from or across street, sidewalk, etc., prohibited.

(a) It shall be unlawful for any person under eighteen (18) years of age to carry any air gun on the streets, alleys, public roads or public lands within the city unless accompanied by an adult; provided that such person under eighteen (18) years of age may carry such air gun, unloaded in a suitable case or securely wrapped.

(b) It shall be unlawful for any person to discharge any air gun from or across any street, sidewalk, alley or public land, or any public place, except on a properly constructed target range.

(Ord. No. 225, § 4)

State law reference(s)--Discharging air guns, Penal Code, art. 480.

ARTICLE III. MODEL GLUE AND TOXIC VAPORS

Sec. 24-17. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Kit: Any collection of materials used and sold for the purpose of construction of model airplanes, model boats, model automobiles, model trains or other similar assemblage of construction materials.

Minor: Any person under the age of eighteen (18) years.

Model glue: Any glue or cement of the type commonly used in the building of model airplanes, boats and automobiles, or any similar substance which contains one or more of the following volatile solvents:

- (1) Acetone.
- (2) Amylacetate.
- (3) Benzol or benzene.
- (4) Butyl acetate.
- (5) Butyl alcohol.
- (6) Carbon tetrachloride.
- (7) Chloroform.
- (8) Cyclohexanone.
- (9) Ethanol or ethyl alcohol.
- (10) Ethyl acetate.
- (11) Hexane.
- (12) Isopropanol or isopropyl alcohol.
- (13) Isopropyl acetate.
- (14) Methyl cellosolve acetate.
- (15) Methyl ethyl ketone.
- (16) Methyl isobutyl ketone.
- (17) Toluol or toluene.
- (18) Trichloroethylene.
- (19) Tricresyl phosphate.
- (20) Xylol or xylene.

(21) Any other solvent, material, substance, chemical or any combination thereof, having the property of releasing toxic vapors.

Toxic vapor: The vapors of any substance which contains one or more of the following volatile solvents:

- (1) Acetone.
 - (2) Amylacetate.
 - (3) Benzol or benzene.
 - (4) Butyl acetate.
 - (5) Butyl alcohol.
 - (6) Carbon tetrachloride.
 - (7) Chloroform.
 - (8) Cyclohexanone.
 - (9) Ethanol or ethyl alcohol.
 - (10) Ethyl acetate.
 - (11) Hexane.
 - (12) Isopropanol or isopropyl alcohol.
 - (13) Isopropyl acetate.
 - (14) Methyl cellosolve acetate.
 - (15) Methyl ethyl ketone.
 - (16) Methyl isobutyl ketone.
 - (17) Toluol or toluene.
 - (18) Trichloroethylene.
 - (19) Tricresyl phosphate.
 - (20) Xylol or xylene.
 - (21) Any other solvent, material, substance, chemical or any combination thereof which upon being inhaled causes a person to become intoxicated, elated, dazed, paralyzed, irrational or in any manner changes or distorts a person's eyesight, thinking process, judgment, balance or coordination.
- (Ord. No. 1507, § 2; Ord. No. 3294, § 1, 6-7-79)

Sec. 24-18. Sale or transfer of model glue to minor prohibited, exception; records of dealer.

It shall be unlawful for any person to sell or otherwise transfer possession of any type of model glue to any minor for any purpose whatsoever, unless at the time of the sale or other transfer of possession the minor is accompanied by a parent or guardian, and the written consent to such sale or transfer of the minor's parent or guardian is signed by the parent or guardian in the presence of the person making the sale or transfer. In such cases, the seller or transferor shall make a written record of such transaction, showing the name, address, sex and age of the minor, as well as the name and address of the consenting parent or guardian, which record shall be kept available for inspection by the police for a period of at least twelve (12) months from the date of sale or transfer; provided that separate records need not be kept if the seller or transferor retains the consent letter, where such letter contains the required information as herein set forth. At any time that an establishment is open for business, the police shall have full authority to inspect any and all records pertaining to the sale of model glue. It shall be a violation hereof to refuse the records to any police officer of the city requesting the same in his official capacity. This section does not apply where the model

glue is sold, delivered or given simultaneously with and as an integral part of a kit used for the construction of model airplanes, model boats, model automobiles, model trains or other similar models.

(Ord. No. 1507, § 3)

Sec. 24-19. Signing false consent letter.

It shall be unlawful for any person to sign and furnish any consent letter of the type referred to in section 24-18 that is false in any respect.

(Ord. No. 1507, § 4)

Sec. 24-20. Display of model glue on open shelves prohibited.

It shall be unlawful for any person selling or offering for sale model glue to display the same on open shelves or counters in his business establishment in such manner as to make the same accessible to customers or other members of the public.

(Ord. No. 1507, § 5)

Sec. 24-21. Inhaling, etc., of model glue prohibited; presumption.

It shall be unlawful for any person to inhale or to otherwise induce into his respiratory or circulatory system any model glues with the intent of becoming intoxicated, elated, dazed, paralyzed, irrational or in any manner changing or distorting his eyesight, thinking process, judgment, balance or coordination. A prima facie case for violation of this section shall be established by the state upon proof that the defendant was found in the act of inhaling model glue.

(Ord. No. 1507, § 6)

Sec. 24-22. Carrying model glue upon person prohibited; exception.

It shall be unlawful for any person to carry upon his person model glue unless the same is being transported from the place purchased to his place of residence or business, or is part of a kit; provided that this section shall not prohibit the use of the same at the residence or place of business of such person in connection with any lawful use.

(Ord. No. 1507, § 7)

Sec. 24-23. Possession, transfer of model glue for purpose of aiding or abetting violation of article prohibited.

It shall be unlawful for any person intentionally to possess, buy, sell or otherwise transfer any model glue for the purpose of inducing or aiding any other person to violate the provisions of this article.

(Ord. No. 1507, § 8)

Sec. 24-24. Inhaling, etc., of toxic vapors.

(a) Prohibited; presumption. It shall be unlawful for any person knowingly to inhale or to otherwise induce into his respiratory or circulation system any toxic vapors with the intent of becoming intoxicated, elated, dazed, paralyzed, irrational or in any manner

changing or distorting his eyesight, thinking process, judgment, balance or coordination. A prima facie case for violation of this section shall be established by the state upon proof that the defendant was found in the act of inhaling toxic vapors.

(b) Penalty for violation. Every person convicted of a violation of any of the provisions of this section shall be punished by a fine of not less than one dollar (\$1.00) nor more than two hundred dollars (\$200.00).

(Ord. No. 3294, §§ 2, 5, 6-7-79)

Editor's note--Ord. No. 3294, § 2, adopted June 7, 1979, amended the Code by adding provisions designated § 24-24. At his discretion, the editor has redesignated said provisions as subsection (a) of § 24-24, and included § 5 of Ord. No. 3294 as subsection (b) of § 24-24.

Section 6 of Ord. No. 3294 provides as follows:

"Section 6. This Amendment applies to offenses committed on or after its effective date, and any action for an offense committed before said effective date is governed by the Ordinance provisions [which were previously in effect, which provisions] are continued in effect for this purpose, as if this Amendment were not in force. For purposes of this Section, an offense is committed on or after the effective date of this Amendment if any element of the offense occurs on or after the effective date."

Secs. 24-25--24-30. Reserved.

ARTICLE IV. FIREWORKS*

*Editor's note--Ord. No. 2175, §§ 1--17, adopted Sept. 16, 1971, being nonamendatory of this Code, has been included herein as Art. IV, §§ 24-31--24-49, at the discretion of the editors.

Sec. 24-31. Definitions.

The term "fireworks", as used in this article, shall mean and include any firecrackers, cannon crackers, skyrocket, 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 herein specially designated and defined or not.

The term "person", as used in this article, shall mean and include any natural person, association of persons, partnership, corporation, agent or officer of a corporation, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors and administrators.

(Ord. No. 2175, § 1, 9-16-71)

Sec. 24-32. 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, transport, receive, keep, sell, offer or have in his possession with intent to sell, use, discharge, cause to be discharged,

ignite, detonate, fire or otherwise set in action any fireworks of any description.

(Ord. No. 2175, § 2, 9-16-71)

Sec. 24-33. Permitted transportation.

It shall be lawful to transport I.C.C. Class C Common Fireworks, as defined in Article 1725, Vernon's Annotated Texas Penal Code, by motor vehicles which meet the Interstate Commerce Commission requirement for transporting I.C.C. Class C Common Fireworks and equipped with at least one ten (10) pound fire extinguisher for extinguishing Type B fire, along and upon state and federally numbered highways within the City of Irving. It shall further be lawful for bona fide fireworks dealers to transport I.C.C. Class C Common Fireworks, as defined in Article 1725, Vernon's Annotated Texas Penal Code along and upon state and federally numbered highways within the City of Irving.

(Ord. No. 2175, § 3, 9-16-71)

Sec. 24-34. Certain signal flares, torpedoes and rockets exempt from article.

This article shall not apply to signal flares and torpedoes of the type and kind commonly used by any railroads, which signal flares and torpedoes are received by and stored or transported by any 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 flare or rocket is 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, nor shall this article apply to starter's blanks and pistols used at athletic events.

(Ord. No. 2175, § 4A, 9-16-71)

Sec. 24-35. Toy pistol caps containing less than twenty-five one-hundredths grains of explosive compounds excepted.

Toy paper pistol caps which contain less than twenty-five one-hundredths (25/100ths) grains of explosive compounds shall not be affected by this article and the sale and use is permitted at all times.

(Ord. No. 2175, § 4B, 9-16-71)

Sec. 24-36. Illegal fireworks as nuisance; seizure and destruction, etc.

The presence of any fireworks within the jurisdiction of the city in violation of this article is hereby declared to be a common and public nuisance. The fire chief and fire marshal are 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 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 chief and 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, transportation, keeping or use of fireworks within the jurisdiction 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.

(Ord. No. 2175, § 5A, 9-16-71)

Sec. 24-37. Article provisions to apply within five thousand feet of city limits.

This article shall also be applicable and in force within the area immediately adjacent and contiguous to the city limits of the City of Irving and extending for a distance outside of the city limits for a total of five thousand (5,000) feet, and it shall be unlawful to do or perform any act in violation of this article within such area of five thousand (5,000) feet outside the city limits; provided that this article shall not apply within any portion of such five thousand (5,000) foot area which is contained within the territory of any other municipal corporation.

(Ord. No. 2175, § 5B, 9-16-71)

Sec. 24-38. Right of entry to enforce article.

The fire chief 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; but such authority does not include the right to enter a private dwelling or apartment.

(Ord. No. 2175, § 6, 9-16-71)

Sec. 24-39. Public displays--When permitted.

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

(Ord. No. 2175, § 7, 9-16-71)

Sec. 24-40. Same--Application for permit.

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 chief at least twenty-four (24) hours in advance of the date of the proposed display. No city permit shall be issued until a permit issued for said purposes has been issued by the State of Texas.

(Ord. No. 2175, § 8, 9-16-71)

Sec. 24-41. Same--Issuance or denial and term of permit; permit not transferable.

It shall be the duty of the fire chief to make an investigation as to whether the display as proposed by the applicant for a permit

under this article 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 article. In the event the application is approved, a permit shall be issued for the public display by the fire chief. Such permit shall be for a period of time designated on the permit, but shall not exceed fourteen (14) days, and the permit shall not be transferable. In the event that the application is denied by the fire chief, he shall notify the applicant of the denial in writing.
(Ord. No. 2175, § 9, 9-16-71)

Sec. 24-42. Same--Insurance or bond required.

The applicant for a display permit under this article shall, at the time of making application, furnish proof that he carries compensation insurance for his employees as provided by the laws of the state, and he shall file with the city secretary, a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00) issued by an insurance carrier authorized to transact business in the state, for the benefit of the person named therein as assured, as evidence of ability to respond in damages in at least the amount of five hundred thousand dollars (\$500,000.00), such policy to be approved by the fire chief. In lieu of insurance, the applicant may file with the city secretary, a bond in the amount of five hundred thousand dollars (\$500,000.00) issued by an authorized surety company approved by the fire chief, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks or any negligence on the part of the applicant or his agents, servants, employees, or subcontractors in the presentation of the public display. The City of Irving shall also be designated as an insured by the insurance policy and bonded by the bond.
(Ord. No. 2175, § 10, 9-16-71)

Sec. 24-43. Same--Only aerial displays permitted.

Any fireworks display authorized under this article shall be limited to an aerial display.
(Ord. No. 2175, § 11, 9-16-71)

Sec. 24-44. Same--Material not to be stored in city.

The material to be used for a public display authorized by this article 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.
(Ord. No. 2175, § 12, 9-16-71)

Sec. 24-45. Same--Hazardous conditions prohibited.

No public display of fireworks shall be of such a character and so located, discharged, or fired as to be hazardous or dangerous to persons or property, and this determination shall be within the sound discretion of the fire chief.

(Ord. No. 2175, § 13, 9-16-71)

Sec. 24-46. Same--Qualifications of persons handling fireworks.

The persons handling the display of fireworks under this article shall be competent, adult persons and experienced pyrotechnic operators approved by the fire chief, and no person not approved by the fire chief shall handle fireworks at the public display. The names of the experienced pyrotechnic operators shall be designated on the permit issued.

(Ord. No. 2175, § 14, 9-16-71)

Sec. 24-47. Same--Firemen to be present.

For each public display of fireworks under this article, not less than two (2) firemen of the city shall be in attendance during the display. The expense of such firemen at the display shall be borne by the applicant for the permit and shall be paid in advance at the time of the application for the permit.

(Ord. No. 2175, § 15, 9-16-71)

Sec. 24-48. Violations of article.

Any person who shall manufacture, assemble, store, transport, receive, keep, sell, offer for sale or have in his possession with intent to sell any fireworks in violation of this article shall be fined two thousand dollars (\$2,000.00) for each offense. If the fireworks are separately wrapped or packaged, the doing or omitting to do any act prohibited by this article shall be a separate offense as to each such separately wrapped or separately packaged fireworks. Each day that a violation of this article shall continue with respect to any package of fireworks shall constitute a separate offense.

(Ord. No. 2175, § 16, 9-16-71; Ord. No. 5853, § 22, 9-6-90)

Sec. 24-49. Time within which to comply; five thousand feet.

Those persons, corporations, partnerships and associations who are presently in the business of buying, selling or manufacturing fireworks within five thousand (5,000) feet of the city limits of the City of Irving are hereby given ninety (90) days within which to comply with the article.

(Ord. No. 2175, § 17, 9-16-71)

ARTICLE V. BOWS, CROSSBOWS AND ARROWS*

*Editor's note--Ord. No. 2723, § 1, adopted Jan. 9, 1975, amended Ch. 24 by adding Art. V, § 24-50.

Sec. 24-50. Shooting in public parks regulated.

It shall be unlawful for any person to shoot an arrow from a bow or crossbow in, into or upon any public park within the city limits of the City of Irving, Texas, unless shot during an archery class sponsored and approved by the City of Irving or shot in an area designated for archery purposes by the director of parks. An "arrow" is defined as a long slender shaft which is the missile propelled by a bow.

A "bow" is defined as a weapon made of a strip of wood or other elastic material, with a cord to connect the two (2) ends when bent, by means of which an arrow is propelled.
(Ord. No. 2723, § 1, 1-9-75)

Sec. 24-51. Penalty; continuing violations.

A violation of any of the provisions of this article shall be punishable by a fine not to exceed five hundred dollars (\$500.00). Each day any violation of any provision of this article continues shall constitute a separate offense.

(Ord. No. 5853, § 23, 9-6-90)

Secs. 24-52--24-60. Reserved.

ARTICLE VI. DRUG PARAPHERNALIA†

†Editor;s note--Ord. No. 3619, adopted March 5, 1981, did not specifically amend the Code; therefore, codification of §§ 1--7 as Art. VI, §§ 24-61--24-67 has been at the editor's discretion.

Sec. 24-61. Definitions.

For the purpose of this article, the terms herein shall be defined as follows:

- (a) Controlled substance shall have the same definitions as "controlled substance" in the Texas Controlled Substances Act.
- (b) Act shall mean the Texas Controlled Substances Act.
- (c) Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:
 - (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
 - (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
 - (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
 - (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
 - (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
 - (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips, meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons, and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bonges;

m. Ice pipes or chillers.

(Ord. No. 3619, § 1, 3-5-81)

Sec. 24-62. Factors for court to consider in determining what is drug paraphernalia.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of any owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

(3) The proximity of the object, in time and space, to a direct violation of the act.

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object;

(6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object

to facilitate a violation of the act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of the act shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(13) The existence and scope of legitimate uses for the object in the community;

(14) Expert testimony concerning its use.

(Ord. No. 3619, § 2, 3-5-81)

Sec. 24-63. Possession of drug paraphernalia.

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the act.

(Ord. No. 3619, § 3, 3-5-81)

Sec. 24-64. Manufacture or delivery of drug paraphernalia.

It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the act.

(Ord. No. 3619, § 4, 3-5-81)

Sec. 24-65. Delivery of drug paraphernalia to a minor.

Any person eighteen (18) years of age or over who delivers drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior is guilty of a special offense and upon conviction shall be fined not more than two hundred dollars (\$200.00) or less than one hundred dollars (\$100.00).

(Ord. No. 3619, § 5, 3-5-81)

Sec. 24-66. Sale, etc., declared a nuisance.

Any store, shop, trailer, vehicle or place of business which shall possess, deliver, manufacture or offer for sale drug paraphernalia is hereby declared a nuisance. The city or other aggrieved party shall have the power to file a civil suit to abate or enjoin such nuisance.

(Ord. No. 3619, § 6, 3-19-81)

Sec. 24-67. Penalty.

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one dollar (\$1.00) unless otherwise provided herein, and in no event more than two hundred dollars (\$200.00). Each day the offense continues shall be a new and separate offense subject to the same fine.
(Ord. No. 3619, § 7, 3-5-81)

ARTICLE VII. REGULATIONS--PERFORMANCES OBSCENE AS TO A CHILD

Sec. 24-68. Definitions.

The following terms, as used in this article, shall have the following meanings unless the context requires otherwise:

(a) Performance obscene as to a child shall mean a performance which contains:

- (1) Anal copulation;
- (2) Bestial sexual relations;
- (3) Sadistic, masochistic or violent sexual relationships;
- (4) Sexual relations with a child;
- (5) Sexual relations with a corpse;
- (6) Exhibition of male or female genitals, rape or incest; or
- (7) A vulgar or indecent reference to sexual intercourse, excretory functions of the body, or male or female genitals; and which, taken as a whole: (1) Appeals to the prurient interest of a child under the age of fifteen (15) years; and (2) violates generally prevailing standards in the adult community as to the suitability of such performances for observation by a child under the age of fifteen (15) years; and (3) lacks any serious, artistic, literary, political or scientific merit as to a child under the age of fifteen (15) years.

(b) Control over city-owned facilities shall mean any person, or employee of such person, authorized by lease to produce, direct, participate in or perform any musical, dramatic or theatrical performance at a city-owned facility. It shall include employees of persons authorized by lease to produce, direct, participate in or perform any musical, dramatic or theatrical performance at a city-owned facility and their supervisors and employees, who sell or collect tickets at the entrance to such facilities. This term shall not include peace officers in performance of their official duties nor any other employee of the city of Irving.

(c) Person shall mean any individual, partnership, corporation or other legal entity of any kind.

(d) Intentionally, knowingly recklessly shall have those meanings as defined in the Texas Penal Code.

(e) Leased area shall mean that area of a city-owned facility identified by lease providing for performance of a musical, dramatic or theatrical production.

(f) Produce shall mean contractual responsibility for advertising, staging or setting up a musical, dramatic or theatrical production.

(g) Perform shall mean acting or performing a musical, dramatic or theatrical production.

(h) Direct shall mean commanding movement of any actor, performer, stage equipment or stage props.

(i) Participate shall mean placing or moving equipment or props used in a musical, dramatic or theatrical production.

(j) Aid or assist shall mean intentionally or knowingly concealing, disguising or misrepresenting the age of a child.

(k) Performance shall mean any musical, dramatic or theatrical production performed by any individual or identifiable group whether or not the production includes more than one individual or identifiable group staged in a city-owned facility.

(l) Explicit reference shall mean the use of words which have a readily recognizable meaning describing or depicting conduct proscribed hereby, but shall not include words which are merely suggestive or have meanings which are equally consistent with actions not proscribed hereby.

(Ord. No. 5960, § 1, 4-25-91)

Sec. 24-69. Admission of children under fifteen (15) without parent or legal guardian prohibited.

No person having control over a city-owned facility shall intentionally, knowingly, or recklessly allow or permit a child under the age of fifteen (15) years to enter or to remain within a leased area in a city-owned facility within one hour before or at any time during which a performance is scheduled, if such person

(1) knows, or (2) has knowledge of sufficient facts and circumstances from which a reasonable person would know that the performance is or will be a performance obscene as to a child, unless such child is admitted with a parent or legal guardian.

(Ord. No. 5960, § 2, 4-25-91)

Sec. 24-70. Advertising and notification.

It shall be an offense for any person to produce, direct, perform, participate in a performance, or any agent of such persons or any person having control over city-owned facilities, and who (1) knows, or (2) has knowledge of such facts and circumstances from which a reasonable person would know that the performance is or will be a performance obscene as to a child, to fail to include in any advertising the following notice, and to fail to post notification at all public entrances of the city-owned facilities where the performance will occur. The notice shall read:

This performance may contain material not suitable for children without supervision. Parental discretion is advised. No child under the age of fifteen (15) years of age will be admitted without a parent or legal guardian.

No person shall intentionally, knowingly, or recklessly contract for or obtain any advertising for a performance which is obscene as to a child, without providing for the notice required by the foregoing sentence to be included therein.

(Ord. No. 5960, § 3, 4-25-91)

Sec. 24-71. Aiding or assisting a child in gaining admission without parent or legal guardian prohibited.

(a) No person shall intentionally or knowingly aid or assist a child under the age of fifteen (15) years not accompanied by a parent or legal guardian in gaining admission to, or in remaining present during a performance which the said person (1) knows, or (2) knows such facts and circumstances from which a reasonable person would know that the performance is or will be a performance obscene as to a child.

(b) No person shall intentionally or knowingly provide a child with an invalid document described in section 24-72.

(Ord. No. 5960, § 4, 4-25-91)

Sec. 24-72. Defenses.

It shall be an affirmative defense to any prosecution under section 24-69 of this article if the person having control over a city-owned facility attempts to ascertain the true age of a child seeking entrance to a performance obscene as to a child by requiring production of a birth certificate, school record, including identification showing the child's age or other school record indicating the child to be enrolled in ninth (9th) grade or higher, and not relying solely on oral allegations or apparent age of the child.

(Ord. No. 5960, § 5, 4-25-91)

Sec. 24-73. Penalties.

Each act or failure to act as required herein shall be punishable by a fine of not more than two thousand dollars (\$2,000.00).

(Ord. No. 5960, § 6, 4-25-91)