



OFFICE OF THE
MAYOR
CITY OF SOMERTON

Ordinance

2020-002

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SOMERTON, ARIZONA, REPEALING AND REPLACING THE CITY CODE CHAPTER 10-1-29, "FIREWORKS" BY ADDING REGULATIONS FOR THE USE OF FIREWORKS.

WHEREAS, the Mayor and Council deem it necessary to adopt certain regulations to protect, enhance and promote the health, safety and welfare of the City of Somerton and its residents, and

WHEREAS, the Mayor and Council desire to prevent fire hazards which threaten the safety of individuals and private and public improvements, including residential, commercial and industrial dwellings,

WHEREAS, due to the dry/desert like conditions and terrain of the community there is a danger of fire with the use of consumer fireworks in the community that can cause significant harm to the community and its residents.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Somerton, Arizona, as follows:

Section 1: Chapter 10-9-29, "FIREWORKS" of the City Code is hereby repealed and replaced with the following:

§10-1-29. FIREWORKS.

Sec. 1-1 Definitions.

(A) The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Consumer firework* means those fireworks defined by Arizona Revised Statutes Section 36-1601.

- (2) *Display firework* means those fireworks defined by Arizona Revised Statutes Section 36-1601.
- (3) *Fireworks* means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework, and display firework as defined by Arizona Revised Statute Section 36-1601.
- (4) *NFPA 1124* means the National Fire Protection Association Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles as defined by Arizona Revised Statute Section 36-1601.
- (5) *Novelty items* means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona Revised Statute 36-1601.
- (6) *Permissible consumer fireworks* means consumer fireworks defined by Arizona Revised Statute Section 36-1601 that may be sold within the City.
- (7) *Supervised public display* means a monitored performance of display fireworks open to the public and authorized by permit by the Fire Chief or his designee.

Sec. 1-2 Fireworks prohibited; exceptions.

The use, discharge or ignition of fireworks within the City is prohibited on all private and public property including but not limited to, public buildings, parking lots, public parks, public schools, streets, and public rights of way, except as authorized in Sec. 1-3.

- (A) Nothing in this section or article shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.
- (B) Permits may be granted by the Fire Chief or designee for conducting a properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection and in a manner that does not endanger persons, animals, or property. A permit shall not be issued, and may be revoked, during time periods of High Fire Danger warnings. The Fire Chief has authority to impose conditions on any permits granted.
- (C) Failure to comply with any permit requirements issued by the Fire Chief is a civil offense punishable by civil fines for each violation or schedule of progressive fines for multiple permit violations.

Sec. 1-3 Limited Use of Permissible Consumer Fireworks.

The use, discharge, or ignition of permissible consumer fireworks within the City may be used from June 24 through July 6 and December 24 through January 3 of each year, except when a federal or state agency implements a stage one or higher restriction on these dates.

Sec. 1-4 Sale of Fireworks.

(A) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen years of age.

(B) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law, this code, or NFPA 1124.

(C) No person shall sell or permit or authorize the sale of permissible consumer fireworks, except from May 20 through July 6 and December 10 through January 3 of each year. The sale of permissible consumer fireworks shall be prohibited from May 20 through July 6 and December 10 through January 3 when a federal or state agency implements a stage one or higher restriction during these dates.

Sec. 1-5 Posting of signs by persons engaged in the sale of fireworks; civil penalty.

(A) Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:

State of Arizona

Consumer Fireworks Regulations

Arizona Revised Statutes § 36-1601, et al.

The use of permissible consumer fireworks as defined under state law is allowed:

June 24 - July 6 and December 24 - January 3

The sale of permissible consumer fireworks as defined under state law is allowed:

May 20 - July 6 and December 10 - January 3

All other fireworks are prohibited, except as authorized by local fire department permit.

The sale and use of novelties known as snappers (pop-its), party poppers, glow worms, snakes, toy smoke devices and sparklers are permitted at all times.

Permissible consumer fireworks may not be sold to persons under sixteen years of age.

Check with your local fire department for additional regulations and dates before using.

(B) Signs required under this section may be placed at any retail sales display of permissible consumer fireworks.

(C) The sign shall be eight and one-half inches by eleven inches in size, on cardstock paper, in landscape orientation, and displayed on a contrasting background. A model sign shall be posted on City's website and filed with the Clerk's office.

(D) Failure to comply with subparts A, B, and C of this section is a civil offense punishable by civil fine of \$500.00.

Sec. 1-6. Authority to enforce violations of this article; means of enforcement.

(A) The Fire Chief or designee, a City police officer, or the City Attorney may issue civil complaints to enforce violations of this article designated as civil offenses.

(B) Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil complaint.

(C) A City police officer or the City Attorney may issue criminal complaints to enforce this article.

Sec. 1-7 Liability for emergency responses related to use of fireworks; definitions

(A) A person who uses, discharges or ignites permissible consumer fireworks, fireworks or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this article is prima facie evidence of liability under this section.

(B) The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subpart A of this section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities or not-for-profit entities that incurred the expenses. The person's liability for the expense of an emergency response shall not exceed \$5,000.00 for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

(C) For the purposes of this section:

- (1) "Expenses of an emergency response" means reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident.
- (2) "Reasonable costs" includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.

Sec. 1-8. Penalty.

The penalty for violating any prohibition or requirement imposed by this article is a class three misdemeanor unless another penalty is specifically provided for.

Sec. 1-9. Seizure.

(A) A city police officer or any other peace officer shall seize, remove or cause to be removed, at the expense of the owner, all fireworks or combustibles offered or exposed for sale, stored or possessed in violation of this article.

(B) In addition to the persons specified in subsection A of this article, a fire marshal working for or contracted with a city or fire district may seize, remove or cause to be removed all fireworks for sale or offered for sale in the fire marshal's jurisdiction. The city or fire

district may impose a fine on the owner of the fireworks that at a minimum covers the cost of the enforcement of this article.

- (C) A person that has fireworks confiscated more than two times in a five-year period is prohibited from selling permissible consumer fireworks in this city for the three succeeding years following the most recent violation.

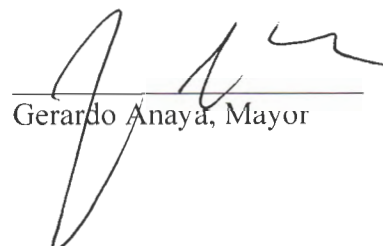
Sec. 1-10. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Sec. 1-11. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

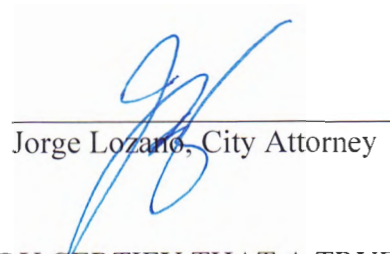
PASSED AND ADOPTED by the Mayor and Council of the City of Somerton, Arizona this 2nd day of June, 2020.


Gerardo Anaya, Mayor

ATTEST:

APPROVED AS TO FORM:


Ian McGaughey, City Clerk


Jorge Lozano, City Attorney

I, IAN MCGAUGHEY, CITY CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO 2020-2 ADOPTED BY THE CITY OF SOMERTON ON THE 2nd DAY OF June, 2020, WAS POSTED IN THREE PLACES ON THE 4th DAY OF June, 2020.


Ian McGaughey, City Clerk