

ORDINANCE NO. 17-1186

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF LAKE HAVASU CITY, MOHAVE COUNTY, ARIZONA, AMENDING LAKE HAVASU CITY CODE CHAPTER 8.26, FIREWORKS

IT IS ORDAINED, by the Mayor and City Council of Lake Havasu City, Arizona, as follows:

Section 1: That Lake Havasu City Code Chapter 8.26, Fireworks, is amended in its entirety as follows:

§ 8.26.010 DEFINITIONS.

A. In this chapter, unless the context otherwise requires:

1. “Consumer firework” means those fireworks defined by A.R.S. § 36-1601, ~~as amended.~~

2. “Display firework” means those fireworks defined by A.R.S. § 36-1601, ~~as amended.~~

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 OR; display firework ~~or permissible consumer firework~~ as defined by A.R.S. § 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 DEFINED BY A.R.S. § 36-1601.

~~54.~~ “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 A.R.S. § 36-1601.

~~65.~~ “Permissible consumer fireworks” means those fireworks as defined by A.R.S. § 36-1601 ~~that may be sold within the City even though use of those items within the City is prohibited.~~

~~76.~~ “Supervised public display” means a monitored performance of display fireworks open to the public and authorized by PERMIT BY the Fire Marshal OR DESIGNEE, ~~after appropriate inspection(s) to confirm that all safety precautions deemed necessary and prudent by the Fire Marshal for safe deployment of the display are in place.~~

§ 8.26.020 POSSESSION OF FIREWORKS PROHIBITED; EXCEPTIONS.

~~A. No person shall possess fireworks within the city except as follows:~~

~~2. Persons at least 16 years of age or older may possess permissible consumer fireworks.~~

§ 8.26.030 USE OF FIREWORKS PROHIBITED; EXCEPTIONS.

A. EXCEPT AS OTHERWISE PROVIDED BY THIS CHAPTER, IT IS UNLAWFUL TO SELL, OFFER OR EXPOSE FOR SALE, USE, EXPLODE OR POSSESS ANY FIREWORKS IN THE CITY'S LIMITS.

B. The use, discharge, or ignition of fireworks within the City is prohibited ON ALL PUBLIC PROPERTY INCLUDING BUT NOT LIMITED TO, PUBLIC BUILDINGS, PARKING LOTS, PARKS, SCHOOLS, STREETS, AND RIGHTS-OF-WAY, EXCEPT AS AUTHORIZED IN THIS CHAPTER. ~~except as follows:~~

1. NOTHING IN THIS SECTION OR CHAPTER SHALL BE CONSTRUED TO PROHIBIT THE USE, DISCHARGE, OR IGNITION OF NOVELTY ITEMS OR THE OCCURRENCE OF A SUPERVISED PUBLIC DISPLAY OF FIREWORKS. ~~Novelty items may be used within the city. Sparklers greater than 16 inches in total length are prohibited.~~

2. ~~Permissible consumer fireworks may be used only on the 4th of July. PERMITS MAY BE GRANTED BY THE FIRE MARSHAL OR DESIGNEE FOR CONDUCTING A PROPERLY supervised PUBLIC display of fireworks by a licensed fireworks contractor and shooter may be used within the city after proper inspection, permitting, and authorization by the Fire Marshal or designee. Such SUPERVISED PUBLIC displays OF FIREWORKS shall be of a character and so located, discharged or fired, ONLY AFTER PROPER INSPECTION AND IN A MANNER THAT DOES as to not endanger persons, animals, or property. PERMITS SHALL NOT BE ISSUED, and may be revoked, The Fire Marshal or designee has authority to impose conditions on any such display and to decline to authorize, or revoke authorization, of any public display of fireworks during time periods OF when high fire danger warnings are in effect. THE FIRE MARSHAL HAS AUTHORITY TO IMPOSE CONDITIONS ON ANY PERMIT FOR A SUPERVISED PUBLIC DISPLAY OF FIREWORKS.~~

3. Failure to comply with the requirements issued by the Fire Marshal for a SUPERVISED public display of fireworks IS A CIVIL OFFENSE punishable BY A FINE OF AT LEAST \$1,000 FOR EACH VIOLATION ~~as provided in this chapter and the applicable rules and regulations of the State Fire Marshal.~~

§ 8.26.030 LIMITED USE OF PERMISSIBLE CONSUMER FIREWORKS.

THE USE, DISCHARGE, OR IGNITION OF PERMISSIBLE CONSUMER FIREWORKS WITHIN CITY IS ALLOWED FROM JUNE 24 THROUGH JULY 6 AND DECEMBER 24 THROUGH JANUARY 3 OF EACH YEAR, EXCEPT WHEN A FEDERAL OR STATE AGENCY IMPLEMENTS FIRE RESTRICTIONS ON THESE DATES.

§ 8.26.040 SALE OF FIREWORKS PROHIBITED; EXCEPTIONS.

A. NO PERSON SHALL SELL, PERMIT, OR AUTHORIZE THE SALE OF ~~Sale of fireworks within the city is prohibited with the exception of novelty items and permissible~~

consumer fireworks IN CONFLICT WITH STATE LAW, THIS CODE, OR NFPA 1124., which may be sold pursuant to all applicable Lake Havasu City Code provisions.

B. No person shall sell, permit, or authorize the sale of permissible consumer fireworks to a person who is under 16 years of age ~~or to any person or entity prior to the effective date of A.R.S. §§ 36-1601 et seq., as amended.~~

C. ~~All sales of permissible consumer fireworks shall conform to the requirements of state law and to the rules and regulations adopted by the State Fire Marshal pursuant to A.R.S. § 36-1601 et seq. Failure to comply with this section is a criminal offense punishable as a Class 1 misdemeanor.~~

§ 8.26.050 POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF FIREWORKS; CIVIL PENALTY SIGNAGE REQUIRED FOR SALE OF FIREWORKS.

A. Prior to the sale of permissible consumer fireworks, EVERY PERSON ENGAGED IN SUCH SALES ~~seller~~ shall prominently display signs stating 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:
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.

~~1. The use of fireworks (except novelty items defined by city code) is strictly prohibited within the city; and~~

~~2. Permissible consumer fireworks may be used only on the 4th of July; and~~

~~3. Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.~~

B. Signs required under this section shall be placed AT ANY RETAILS SALES DISPLAY OF PERMISSIBLE CONSUMER FIREWORKS. ~~at each cash register and in each area where fireworks are displayed for sale and shall conform to the rules and regulations of the State Fire Marshal adopted pursuant to A.R.S. § 36-1609.~~

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 ~~The required verbiage and sign specifications~~ IS AVAILABLE ~~shall be posted on the City's website and shall be available ON FILE at the City Clerk's office.~~

D. Failure to comply with this section is a ~~CIVIL criminal~~ offense punishable BY CIVIL FINE OF AT LEAST \$100 PER VIOLATION ~~as a Class 1 misdemeanor.~~

§ 8.26.060 AUTHORITY TO ENFORCE VIOLATIONS OF THIS CHAPTER; MEANS OF ENFORCEMENT.

A. The Fire Marshal or designee, A CITY POLICE OFFICER, or the City Attorney's OFFICE may issue civil complaints to enforce violations of this chapter DESIGNATED AS CIVIL OFFENSES.

B. Any person authorized under this section to issue a civil complaint ~~and~~ may also issue a notice of violation specifying actions to be taken and the time in which they must be taken to avoid issuance of a civil OR CRIMINAL complaint.

C. A CITY POLICE OFFICER OR THE CITY PROSECUTOR MAY ISSUE CRIMINAL COMPLAINTS TO ENFORCE THIS CHAPTER.

~~Persons found responsible for civil violations of this chapter shall be subject to fines, an administrative fee then in effect, restitution (if applicable) and any other remedies available under applicable law. Unless otherwise stated, a violation of this chapter shall be considered a civil violation. A city police officer or the City Prosecutor may issue criminal complaints to enforce violations of this chapter designated as Class 1 misdemeanors.~~

§ 8.26.070 LIABILITY FOR EMERGENCY RESPONSES RELATED TO USE OF FIREWORKS; LIABILITY 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 chapter 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. ~~include all reasonable costs directly incurred by public agencies that make an emergency response to the incident. Such expenses constitute a debt against the person liable for those expenses pursuant to division (A).~~ The PERSON'S 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.

§ 8.26.080 PENALTY.

UNLESS OTHERWISE STATED IN THIS CHAPTER, THE PENALTY FOR VIOLATING ANY PROHIBITION OR REQUIREMENT IMPOSED BY THIS CHAPTER IS A CLASS THREE MISDEMEANOR.

Section 2: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed.

Section 3: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance 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 City Council of Lake Havasu City, Arizona, on _____, 2017.

APPROVED:

Mark S. Nexsen, Mayor

ATTEST:

Kelly Williams, City Clerk

APPROVED AS TO FORM:

REVIEWED BY:

Kelly Garry, City Attorney

Charlie Cassens, City Manager