

ORDINANCE NO. 4769-1120

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESOTT, YAVAPAI COUNTY, ARIZONA, AMENDING THE CITY CODE BY ADDING CHAPTER 5-14, FIREWORKS, AND AMENDING SECTION 15-1-20(A) TO ADD REGULATIONS AND PENALTIES FOR THE USE OF FIREWORKS

RECITALS:

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 Prescott 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; and

WHEREAS, due to the dry/desert-like, and timberland conditions surrounding the City of Prescott, risk of wildfires, 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; and

WHEREAS, A.R.S. § 36-1601 authorizes municipalities to regulate and prohibit some activities related to consumer fireworks; and

WHEREAS, the Mayor and Council of the City of Prescott wish to adopt certain amendments to the City Code to add Chapter 5-14 "Fireworks", and amend the City Code Chapter 15-1-20(A), all by adding regulations for the use and penalties for the use of fireworks.

ENACTMENTS:

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

SECTION 1. THAT Title V of the Prescott City Code entitled "Police Regulations" is hereby amended by adding Chapter 5-14, to read as follows:

CHAPTER 5-14: FIREWORKS.

5-14-1: 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 fireworks* means those fireworks defined by Arizona Revised Statutes Section 36-1601.
- (2) *Display fireworks* 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, display firework or permissible consumer firework as defined by Arizona Revised Statute Section 36-1601.
- (4) *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.
- (5) *Permissible consumer fireworks* means those fireworks as defined by Arizona Revised Statute Section 36-1601 that may be sold within the City of Prescott even where the use of those items has been prohibited.
- (6) *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.

5-14-2: FIREWORKS PROHIBITED; EXCEPTIONS:

- (A) The use, discharge or ignition of fireworks within the City of Prescott is prohibited.
- (B) 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.
- (C) The Fire Chief or his designee may grant permits 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 by the Prescott Fire Department, and in a manner that does not endanger persons, animals, or property. A permit shall not be issued, and may be revoked by the Fire Chief or his designee, during time periods of High Fire Danger warnings. The Fire Chief or designee has authority to impose reasonable conditions on any permits granted.

5-14-3: 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.

5-14-4: 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:
 - (1) The use of fireworks, except novelty items as defined by City Code, including permissible consumer fireworks within the City of Prescott is prohibited.
 - (2) 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 each cash register and in each area where fireworks are displayed for sale.
- (C) The Fire Chief or his designee shall develop regulations concerning the size and color of the required signs and shall develop a model sign. The required sign regulations and model sign shall be posted on the City's website and filed with the Clerk's office.
- (D) Failure to comply with subsections A and B of this section is a civil violation punishable as provided in Section 1-3-2 of this Code.

5-14-5: PENALTY:

Except as otherwise provided herein, any person who violates any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of this Code.

5-14-6: SEVERANCE CLAUSE:

The provisions of this Chapter are hereby declared to be severable, and if any section, sentence, clause or phrase of this Chapter shall, for any reason, be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the validity of any part thereof.

SECTION 2. THAT Title 15, Chapter 15-1, "Parks and Recreation", Section 15-1-20(A) of the Prescott City Code is hereby amended as follows:

15-1-20: FIREWORKS AND EXPLOSIVES:

- (A) ~~Except for consumer fireworks as defined in A.R.S. § 36-1601,~~ No person shall possess fireworks or explosives or devices for such use of any kind within the park system except under special permit for fireworks display issued by the director or his agent.
- (B) ALL MUNICIPAL, COUNTY, STATE OR FEDERAL ORDINANCES, RULES, REGULATIONS AND ACTS SHALL BE COMPLIED WITH. (ORD. 3533, EFF. 10-10-1996)

PASSED AND ADOPTED by the Mayor and City Council of the City of Prescott this 9th day of November, 2010.


MARLIN D. KUYKENDALL, Mayor

ATTEST:


ELIZABETH A. BURKE, City Clerk

APPROVED AS TO FORM:


GARY D. KIDD, City Attorney