

ORDINANCE No. 10-16

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COOLIDGE, ARIZONA, AMENDING SECTION 11-1-5 OF CHAPTER 11 OF THE CITY OF COOLIDGE CITY CODE BY DELETING THE REFERENCE TO FIREWORKS AND BY ADDING SECTION 11-1-27 TO CHAPTER 11 OF THE CITY OF COOLIDGE CITY CODE TO SET FORTH REGULATIONS FOR THE USE OF FIREWORKS; ESTABLISHING THE SEVERABILITY OF THE VARIOUS SECTIONS OF THE ORDINANCE; AND DECLARING AN EMERGENCY.

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 Coolidge and its residents, and

WHEREAS, the Mayor and Council desire to limit and reduce potential 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, risk of wildfires, and terrain of the community there is a danger of fire with the unrestricted 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 MAYOR AND CITY COUNCIL OF THE CITY OF COOLIDGE, ARIZONA AS FOLLOWS:

SECTION 1. Section 11-1-5 (Explosives) of the City of Coolidge Code is hereby amended by deleting the word "fireworks" from said Section.

SECTION 2. Chapter 11 of the City of Coolidge Code is hereby amended to add Section 11-1-27 to be entitled "Fireworks" and to read as follows:

Section 11-1-27 Fireworks.

A. Definitions

1. The following words, terms and phrases, when used in this section, have the following meanings ascribed to them, except where the context clearly indicates a different meaning:
 - a. "Consumer firework" means those fireworks defined by Arizona Revised Statutes Section 36-1601, as amended from time to time.
 - b. "Display firework" means those fireworks defined by Arizona Revised Statutes Section 36-1601, as amended from time to time.

- c. "Fire Chief" means the Chief of the Coolidge Fire Department or his/her designee.
- d. "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, as amended from time to time.
- e. "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, as amended from time to time.
- f. "Permissible consumer fireworks" means those fireworks as defined by Arizona Revised Statutes Section 36-1601, as amended from time to time.
- g. "Person" means a corporation, company, partnership, firm, association, society, or other legal entity, as well as a natural person.
- h. "Supervised public display" means a monitored performance of display fireworks open to the public and authorized by permit by the Fire Chief.

B. Fireworks prohibited; exceptions

1. The use, discharge, or ignition of fireworks within the City is prohibited.
2. Nothing in this section shall be construed to prohibit the use of novelty items or the occurrence of a supervised public display of fireworks authorized by City permit.
3. Permits may be granted by the Fire Chief for conducting a properly supervised public display of fireworks or pyrotechnics training class. Every such display 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, as designated by the Fire Chief. The Fire Chief has authority to impose reasonable conditions on any permits granted pursuant to this section.

C. Sale of Fireworks.

1. No person shall sell, or permit or authorize the sale of, any fireworks to a person who is under sixteen years of age.
2. No person shall sell, or permit or authorize the sale of, permissible consumer fireworks in conflict with state law or Coolidge City Code.

D. Posting of signs by persons engaged in the sale of fireworks.

1. Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:
 - a. The use of fireworks, except novelty items as defined by Coolidge City Code, including permissible consumer fireworks, is prohibited.
 - b. Fireworks authorized for sale under state law shall not be sold to persons less than 16 years of age.
2. Signs required under this section shall be placed at each cash register and in each area where fireworks are displayed for sale.
3. The Fire Chief 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.

E. Authority to enforce violations of this section; means of enforcement.

1. The Fire Chief, a City Police Officer, or a City Code Enforcement Officer may issue civil complaints to enforce violations of this section designated as civil offenses.
2. 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 or criminal complaint.
3. A City police officer may issue criminal complaints to enforce this section.

F. Penalties.

1. Discharge of permissible consumer fireworks in violation of section 11-1-27(B) or the failure to comply with the requirements of section 11-1-27 (D)(1) or (2) is a civil offense punishable by a civil fine as follows:
 - a. First Offense – Not less than \$50 but not more than \$250.
 - b. Second Offense within one calendar year – Not less than \$250 but not more than \$500.
 - c. Third and subsequent offenses within one calendar year – Not less than \$500 but not more than \$1000.
2. A person who violates the provisions of this section shall be guilty of a Class 3 misdemeanor punishable by the maximum punishment allowed by law.

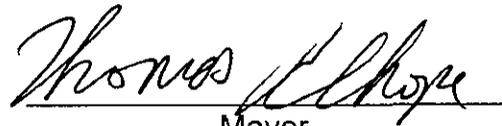
G. Liability for emergency response related to use of firework; definitions

1. 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 of this section is prima facie evidence of liability under this section.
2. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection (1) of this Section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies or other first responders that incurred the expenses. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.
3. For purposes of this section:
 - a. "Expenses of emergency response" means reasonable costs directly incurred by public agencies, for-profit or not-for-profit entities that make an appropriate emergency response to an incident.
 - b. "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 persons who respond to the incident.

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.

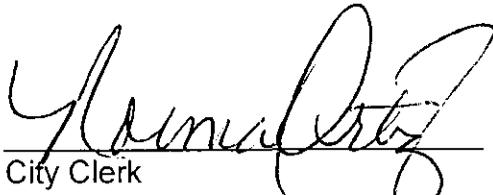
SECTION 4. The immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health and safety; therefore, an emergency is hereby declared to exist and this Ordinance shall become effective December 1, 2010

PASSED AND ADOPTED by the Mayor and City Council of the City of Coolidge, Arizona, on this 22nd day of November, 2010.



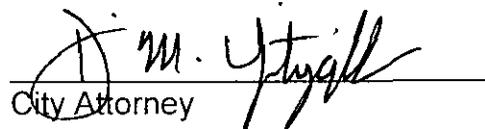
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney