

RESOLUTION 67-2010

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ENTITLED "CITY ORDINANCE FIREWORKS: REGULATION"

BE IT HEREBY RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA THAT:

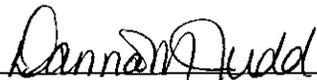
That certain document entitled "City Ordinance Fireworks: Regulation" is hereby declared to be a public record and three (3) copies of such document are on file in the Office of the Benson City Clerk and such copies are hereby ordered to remain on file with the Benson City Clerk for public inspection.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 8th day of November, 2010.



MARK M. FENN, Mayor

ATTEST:

 for
VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:


MICHAEL J. MASSEE, City Attorney

CITY ORDINANCE

FIREWORKS: REGULATION

Section 10-1-3 Explosives

It is unlawful for any person within the limits of the city to blast or use powder, ~~fireworks~~ or other explosives without a permit from the Chief of Police in writing.

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Section 10-1-10 Fireworks

A. Definitions 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(1).
2. *Display fireworks* means those fireworks defined by Arizona Revised Statutes Section 36-1601(2).
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 as defined by Arizona Revised Statute Section 36-1601(3).
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.
5. *Permissible consumer fireworks* means those fireworks as defined by Arizona Revised Statute Section 36-1601(5) that may be sold within the City 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.

B. Possession of Fireworks Prohibited; Exception - No person shall possess fireworks within the City except as follows:

1. Persons may possess novelty items.
2. Persons at least sixteen (16) years of age or older may possess permissible consumer fireworks.

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C. Use of Fireworks Prohibited; Exception - The use, discharge, or ignition of fireworks within the City is prohibited except as provided for in this section:

1. Fireworks are permitted to be used beginning at 9 a.m. the day of the special event and end at 2 a.m. the following morning for the following holidays:
 - a. The Fourth of July
 - b. New Year's Eve
2. Nothing in this section or article shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a properly permitted supervised public display of fireworks. Sparklers greater than sixteen inches in total length are prohibited.
3. 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.
4. Failure to comply with any permit requirements issued by the Fire Chief is a misdemeanor offense punishable by a fine of not to exceed two thousand five hundred dollars or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

D. Sale of Fireworks

1. No person shall sell or permit or authorize the sale of permissible consumer 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 the Benson City Code.
3. No person shall sell permissible consumer fireworks without first obtaining an inspection from the Fire Chief for compliance with the currently adopted International Fire Code and applicable reference standard enforced in the City of Benson. Following such inspection, the Fire Chief shall issue a permit if the sales site is in compliance.
4. Temporary stands, canopies, and structures are required to obtain a temporary use permit or conditional use permit, as applicable.
5. No roadside sales shall be permitted.

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E. Labeling of Fireworks for sale. All fireworks for sale within the City of Benson shall be categorized, segregated, and labeled as either novelty items or permissible consumer fireworks so as to permit a reasonable inspection to determine if seller is in compliance with the requirements of Arizona Revised Statute Section 36-1601 and this Code.

F. Signage required for 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 City Code, is prohibited, and
 - b. Permissible consumer fireworks may be used only on the Fourth of July and New Year's Eve.
 - c. Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.
2. Signs required under this section shall be placed 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 Arizona Revised Statute Section 36-1609.
3. The Fire Chief or 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.
4. Failure to comply with subparts 1 and 2 of this section is a misdemeanor offense punishable by a fine of not to exceed two thousand five hundred dollars or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment.

G. Authority to enforce violations of this article; means of enforcement.

1. The Fire Chief or designee, a City Police Officer, or the City Attorney may issue charges to enforce violations of this article.
2. Any person authorized pursuant to this section to issue charges may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid charges as stated in the code.
3. A City Police Officer or the City Attorney may issue charges as stated in the code to enforce this article.

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H. Liability for emergency responses related to use of fireworks; 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 caused 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.
2. The expenses of an emergency response include all reasonable costs directly incurred by public agencies to make an emergency response to the incident. Such expense constitutes a debt against the person liable for those expenses pursuant to subpart 1 of this section. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.
3. For the purposes of this section:
 - a. “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.
 - 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 the persons who respond to the incident.

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