

ORDINANCE NO. 14-1302

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING AND REPLACING CHAPTER 11 (OFFENSES) 1-34 (FIREWORKS) OF THE GOODYEAR CITY CODE; PROVIDING FOR PENALTIES, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the amendments to Chapter 11 of the Goodyear City Code will ensure that the city's code regarding fireworks is consistent with state law; and

WHEREAS, the Mayor and Council of the City of Goodyear, believe that it is in the best interest of the City to amend and replace Chapter 11-1-34 (Offenses; Fireworks) of Goodyear City Code;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Goodyear, Arizona, as follows:

SECTION I: CHAPTER 11-1-34 (OFFENSES; FIREWORKS) OF THE GOODYEAR CITY CODE.

That certain document titled "Ordinance 14-1302 amending and replacing Chapter 11-1-34 (Offenses; Fireworks) of the Goodyear City Code," is hereby referred to, adopted and made a part hereof as if fully set forth in this ordinance.

SECTION II. PENALTIES

Violations of any provision of Chapter 11 (Offenses; Fireworks) are subject to all criminal and civil penalties available as provided in Article 1-8 and Chapter 18 of the Goodyear City Code. In addition the penalties provided in Article 1-8 and Chapter 18, the court has authority to order restitution for any and all damages, costs and expenses resulting from any violation of Chapter 11-1-34.

SECTION III. SEVERABILITY

If any section, subdivision, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of the ordinance or parts thereof.

SECTION IV. EFFECTIVE DATE

This ordinance shall be effective as provided by law. The provisions of Chapter 11-1-34 to be deleted by this ordinance shall remain in full force and effect until the effective date of this ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, this 23rd day of June, 2014.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Maureen Scott, City Clerk

Roric Massey, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Maureen Scott, being the duly appointed and qualified City Clerk of the City of Goodyear, Maricopa County, Arizona, certify that the foregoing Ordinance No. 14-1302 is a true, correct and accurate copy of Ordinance No. 14-1302, passed and adopted at a regular meeting of the Council of the City of Goodyear, Maricopa County, Arizona, held on the 23rd day of June, 2014, at which a quorum was present and, by a _____ vote, _____ voted in favor of said ordinance.

Given under my hand and sealed this _____ day of _____, 2014.

seal

Maureen Scott, City Clerk

CHAPTER 11

11-1-34 FIREWORKS

(A) Definitions.

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

CONSUMER FIREWORK means those fireworks defined by Arizona Revised Statutes § 36-1601.

DISPLAY FIREWORK means those fireworks defined by Arizona Revised Statutes § 36-1601.

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 Statutes § 36-1601.

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 Statutes § 36-1601.

PERMISSIBLE CONSUMER FIREWORKS means those fireworks as defined by Arizona Revised Statutes § 36-1601 that may be sold within the City even where the use of those items has been prohibited.

SUPERVISED PUBLIC DISPLAY means a monitored performance of display fireworks open to the public and authorized by permit by the Fire Marshal or his designee.

(B) Fireworks prohibited; exceptions.

- (1) The use, discharge or ignition of fireworks within the City is prohibited, except for the limited use of permissible consumer fireworks during the time periods and under the conditions provided for in Section 36-77.1.
- (2) Nothing in this subsection or section shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.
- (3) Permits may be granted by the Fire Marshal 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 Marshal has authority to impose conditions on any permits granted.

(4) Except as provided for above, permissible consumer fireworks may be used on private property with the consent of the owner from June 24th through July 6th and December 24th through January 3rd.

(5) The use of permissible consumer fireworks within the City is prohibited on all publicly owned property which includes, but is not limited to, City buildings, city parking lots, city parks, public schools, and city streets and within one (1) mile of the Corgett Wash, Agua Fria River, and Estrella Mountain Regional Park.

(6) The use of permissible consumer fireworks is prohibited by anyone under the age of eighteen (18) years of age.

(7) Failure to comply with any permit requirements issued by the Fire Marshal is a civil offense with a fine of up to \$1000.00.

(C) Sale of fireworks.

(1) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under eighteen (18) years of age.

(2) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law or as otherwise authorized by this article.

(3) No person shall sell permissible consumer fireworks to the public except from May 20th through July 6th and December 10th through January 3rd.

(D) Posting of signs by persons engaged in the sale of fireworks; civil penalty.

(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, including permissible consumer fireworks is prohibited within the Goodyear City limits except on private property with the consent of the owner from June 24th through July 6th and December 24th through January 3rd.

b) Consumer fireworks authorized for sale under state law may not be sold to persons under the age of eighteen years old.

c) Persons using consumer fireworks are liable for any emergency response costs related to the use of fireworks.

(2) Signs required under this subsection shall be placed at each cash register and in each area where fireworks are displayed for sale.

(3) The Fire Marshal 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 subsections (D)(1) and (D)(2) of this section is a civil offense punishable by a civil fine of up to \$1,000.00.

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

(1) The Fire Marshal or designee, a City police officer or marshal, City code enforcement officers, or the City Attorney may issue civil complaints to enforce violations of this section designated as civil offenses.

(2) Any person authorized pursuant to this subsection 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, City code enforcement officers, or the City Attorney may issue criminal complaints to enforce this section.

(F) 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 required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this section is prima facie evidence of liability under this subsection.

(2) The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection (F)(1) 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 liability imposed under this subsection is in addition to and not in limitation of any other liability that may be imposed.

(3) For the purposes of this subsection:

- 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.

(G) Penalty. The penalty for violating any prohibition or requirement imposed by this section is a civil offense with a fine of up to \$1,000.00 unless another penalty is specifically provided for.

(Prior Code, Ord. 10-1224, passed 9-27-2010)