

ORDINANCE NUMBER 2020-02

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, ARTICLE 13-3, FIREWORKS, PROVIDING FOR SEVERABILITY

WHEREAS, The Town of Paradise Valley wishes to protect the residents of the Town; and

WHEREAS, The State of Arizona has adopted updated regulations specifying the dates when consumer fireworks can be used; and

WHEREAS, The Town of Paradise Valley wishes to be consistent with the regulations of the State of Arizona and with those of the other jurisdictions within the State;

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA:

Section 1. Article 13-3, Fireworks, is hereby amended (with deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

Article 13-3 FIREWORKS

13-3-8 **1** Purpose

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13-3-14 **7** Liability for emergency responses related to use of fireworks; definitions

Section 13-3-1 Purpose

The Town Council hereby recognizes that the desert environment of Arizona has unique fire risks and adopts this article law to enhance the public safety and welfare of its citizens and the community by regulating the use and sale of fireworks within the Town.

Section 13-3-2 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. *Display fireworks* means those fireworks defined by Arizona Revised Statutes Section 36-1601.
 2. *Fireworks* means display fireworks, consumer fireworks and permissible consumer fireworks as defined by Arizona Revised Statute Section 36-1601.
 3. *Novelty items* means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices and sparklers as defined in Arizona Revised Statute 36-1601.
 4. *Permissible consumer fireworks* has the same meaning as Arizona Revised Statutes Section 36-1601.
 5. *Supervised show* means a monitored performance of display fireworks open to the public authorized by permit by the Town Fire Marshal or designee.

Sec 13-3-3 Fireworks prohibited; exceptions

- A. The use of fireworks including permissible consumer fireworks within the Town is prohibited except for the limited use of permissible consumer fireworks during the time frame of ~~June 24th through July 6th and December 24th through January 3rd~~ **as specified in ARS §36-1606.**
- B. The use of permissible consumer fireworks within the Town is prohibited on all publicly owned property which includes, but is not limited to, Town buildings, Town parking lots, public schools and Town streets, unless there is a supervised show of fireworks authorized by permit issued by the Fire Marshal or designee.
- C. The use of permissible consumer fireworks within the Town is prohibited within 500 yards of the Mummy Mountain Preserve.

Section 13-3-4 Sale of Fireworks

- A. No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under eighteen years of age.
- B. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.

- C. No person shall sell, resell or manufacture consumer or display fireworks unless authorized by state law or town permit, or otherwise authorized by this article.
- D. No person shall sell permissible consumer fireworks to the public except ~~from May 20th through July 6th and December 10th through January 3rd~~ **as specified in ARS §36-1606.**
- E. Violation of this section shall be punishable as provided in Section 1-9-3 of the Town Code.

Section 13-3-5 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 all fireworks including permissible consumer fireworks (as defined under state law) within the Town of Paradise Valley is prohibited except on private property with the consent of the owner ~~from June 24th through July 6th and December 24th through January 3rd~~ **as specified in ARS §36-1606.**
 - 2. Consumer fireworks authorized for sale under state law may not be sold to or used by persons under the age of 18.
 - 3. Persons using permissible consumer fireworks are liable for any emergency response costs related to the use of fireworks.
- B. Signs required under this section shall be placed in each area where fireworks are displayed for sale.
- C. The Fire Marshal or designee shall develop regulations concerning the size and color of the required signs and develop a model sign. The required sign regulations and model sign shall be posted on the Town's website and filed with the Town Clerk's office.
- D. Failure to comply with subsections A or B above is a civil offense punishable by a minimum fine of two hundred fifty dollars (\$250.00). A second or subsequent violation of subsections A or B is a civil offense punishable by a minimum fine of five hundred dollars (\$500.00). A third or subsequent violation of subsections A or B within two years are class one misdemeanors.

Section 13-3-6 Authority to enforce violations of this article; means of enforcement

- A. The Fire Marshal or designee, a Paradise Valley police officer or the Town Attorney may issue civil complaints to enforce violations of this article designated as civil offenses.

- B. 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.
- C. A Paradise Valley police officer or the Town Attorney may issue criminal complaints to enforce this article.

Section 13-3-7 Liability for emergency responses related to use of fireworks; definitions

- A. A person who uses, discharges or ignites permissible consumer fireworks, prohibited novelty items, 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 article is prima facie evidence of liability under this section.
- B. The expenses of an emergency response are a charge against the person, parent or legal guardian if a minor, 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. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed. The emergency response charges shall not include charges assessed by an ambulance service that is regulated pursuant to Title 36, Chapter 21.1, Article 2.
- 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.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference 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 Mayor and Council of the Town of Paradise Valley,
Arizona, this 13th day of February 2020.

Jerry Bien-Willner, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney