

**ORDINANCE NO. 501 N.S.**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF TOLLESON, ARIZONA, AMENDING THE TOLLESON CITY CODE, CHAPTER 7, OFFENSES, BY ADDING REGULATIONS RELATED TO THE USE OF FIREWORKS AND DECLARING AN EMERGENCY.

**WHEREAS**, the Council of the City of Tolleson (the "City Council") deems it necessary to adopt certain regulations to protect, enhance and promote the health, safety and welfare of the City of Tolleson (the "City") and its residents; and

**WHEREAS**, the City Council desires to prevent fire hazards which threaten the safety of individuals and private and public improvements, including residential, commercial and industrial dwellings; and

**WHEREAS**, the City Council desires to reduce the threat of harm to the community by banning the use of fireworks within its corporate limits.

**NOW, THEREFORE, BE IT ORDAINED** BY THE COUNCIL OF THE CITY OF TOLLESON, ARIZONA, as follows:

SECTION 1. The foregoing recitals are incorporated as if fully set forth herein.

SECTION 2. The Tolleson City Code, Chapter 7 (Offenses), Article 7-1 (Offenses), Section 7-1-5 (Explosives) is hereby deleted in its entirety and replaced with the following:

**§ 7-1-5 FIREWORKS**

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

(1) **CONSUMER FIREWORK.** Fireworks as defined as such by A.R.S. § 36-1601, as amended.

(2) **DISPLAY FIREWORK.** Fireworks as defined as such by A.R.S. § 36-1601, as amended.

(3) **EXPENSES OF AN EMERGENCY RESPONSE.** The reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident.

(4) **FIREWORKS.** 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, including a consumer firework, display firework or permissible consumer firework as defined by A.R.S. § 36-1601, as amended.

(5) **NOVELTY ITEMS.** 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 A.R.S. § 36-1601, as amended.

(6) **PERMISSIBLE CONSUMER FIREWORKS.** Those fireworks defined as such by A.R.S. § 36-1601, as amended, that may be sold within the city, even where the use of those items has been prohibited.

(7) **REASONABLE COSTS.** Reasonable costs may include, but is not limited to, 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.

(8) **SUPERVISED PUBLIC DISPLAY.** A monitored performance of display fireworks open to the public and authorized by permit by the Fire Chief or authorized designee.

(B) Use of 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, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.

(3) Permits may be granted by the Fire Chief or authorized designee for conducting a properly supervised public display of fireworks. Every such supervised 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 or authorized designee has authority to impose conditions on any permits granted.

(4) Failure to comply with any permit requirements issued by the Fire Chief or authorized designee is a civil offense punishable by a base civil fine of \$250 for each violation.

(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 16 years of age.

(2) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.

(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, including permissible consumer fireworks except novelty items as defined by city code, section 7-1-5, is prohibited within the corporate limits of the city.

(b) 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.

(3) The Fire Chief or authorized 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 City Clerk's office.

(4) Failure to comply with subsections 7-1-5(D)(1) or (2) of this section is a civil offense punishable by a base fine of up to \$250.00.

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

(1) The Fire Chief or authorized designee, a city police officer, a city code enforcement officer or the city prosecutor 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 or the city prosecutor may issue criminal complaints to enforce this section.

(F) Liability for emergency responses related to use of fireworks.

(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, including reasonable costs, 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 section.

(2) The reasonable costs or expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection 7-1-5(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 section is in addition to and not in limitation of any other liability that may be imposed.

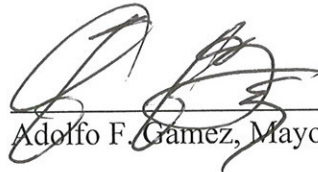
(G) Penalty. Unless otherwise specifically set forth in this section, the penalty for violating any prohibition or requirement imposed by this section is a class three misdemeanor.

SECTION 3. The immediate operation of this Ordinance is necessary to ensure public health and safety; therefore, an emergency is hereby declared to exist. This Ordinance shall be in full force and effect from and after its passage and approval by the City Council as required by law, and this Ordinance is hereby exempt from the referendum provisions of the constitution and laws of the State of Arizona.

SECTION 4. That if any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason to be held 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 5. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

**PASSED AND ADOPTED** by this Council of the City of Tolleson, this 9th day of November, 2010.

  
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Adolfo F. Gamez, Mayor

ATTEST:

  
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Chris Hagen, City Clerk

APPROVED AS TO FORM:

  
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Scott W. Ruby, City Attorney