

ORDINANCE NO. 5260

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING MESA CITY CODE TITLE 6, CHAPTER 21, SECTIONS 2 AND 3 OF THE MESA CITY CODE ENTITLED "FIREWORKS PROHIBITED; EXCEPTIONS" AND "SALE OF FIREWORKS."

WHEREAS, the City Council previously adopted Ordinance No. 5021, in part providing regulations for the use and sale of permissible consumer fireworks in the City of Mesa; and

WHEREAS, Ordinance 5021 set forth the time periods during which the use of permissible consumer fireworks is allowed in the City of Mesa, but set forth no date restrictions on the sale of permissible consumer fireworks;

WHEREAS, the Arizona State Legislature recently amended the state law governing fireworks by adding restrictions on the dates incorporated cities and towns can prohibit the use and sale of permissible consumer fireworks; and

WHEREAS, the time periods during which the use of permissible consumer fireworks is allowed in Mesa are inconsistent with the new state law and the new state law preempts Mesa's regulations; and

WHEREAS, the City of Mesa is required to comply with the new state law restrictions on the dates an incorporated city or town may prohibit the use of permissible consumer fireworks.

WHEREAS, the City of Mesa desires to be consistent with other local incorporated cities and towns as to the dates of sale of permissible consumer fireworks, and thus desires to adopt the state law time periods during which the sale of permissible consumer fireworks is allowed.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Mesa, Arizona, as follows:

SECTION 1: That Title 6, Chapter 21, Sections 2 and 3 are hereby amended to read:

Section 6-21-2 Fireworks prohibited; exceptions.

- (A) The use, discharge or ignition of permissible consumer fireworks within the City of Mesa corporate limits, is prohibited except as provided for in this section:
- (i) The use, discharge or ignition of permissible consumer fireworks is limited to June 28th through July 4th and December 30th through January 13th on private property with the property owner's permission.

- (ii) The use, discharge or ignition of fireworks is prohibited in all public parks, public retention basins and public facilities.
- (B) Nothing in this section shall be construed to prohibit the use, discharge or ignition of novelty items as defined in Section 6-21-1(A)(4) or the occurrence of a supervised public display of fireworks.
- (C) Permits may be granted by the City of Mesa 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. Additionally, a permit may be denied or revoked during time periods of High Fire Danger warnings. The City of Mesa Fire Chief or designee has authority to impose conditions on any permits granted.

Section 6-21-3 Sale of Fireworks.

- (A) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under 16 years of age.
- (B) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.
- (C) **THE SALE OF PERMISSIBLE CONSUMER FIREWORKS WITHIN THE CITY OF MESA CORPORATE LIMITS IS LIMITED TO MAY 20 THROUGH JULY 6 AND DECEMBER 10 THROUGH JANUARY 3 EACH YEAR.**

Section 6-21-5 Authority to enforce violations; means of enforcement; penalty.

- (A) The City of Mesa Fire Chief or designee or a City of Mesa police officer may issue complaints to enforce violations of this Chapter.
- (B) Using, discharging or igniting permissible consumer fireworks in violation of this Chapter is a civil offense and is subject to the following penalties:
 - (i) A first offense is punishable by a fine of seventy five dollars (\$75.00).
 - (ii) A second offense within 12 months of the first offense is punishable by a fine of one hundred fifty dollars (\$150.00).
 - (iii) A third offense within 12 months of the second offense is punishable by a fine of five hundred dollars (\$500.00).
 - (iv) For each offense thereafter occurring within 12 months of the preceding offense is punishable by a fine of seven hundred fifty dollars (\$750.00).

- (C) All owners, managers, operators, tenants or other persons in control of a business offering for sale fireworks under this Chapter are jointly and individually liable for compliance with this Chapter.
- (D) Selling or offering for sale permissible consumer fireworks in violation of this Chapter is a civil offense and is subject to the following penalties:
- (i) A first offense is punishable by a fine of two hundred fifty dollars (\$250.00).
 - (ii) A second offense within 12 months of the first offense is punishable by a fine of five hundred dollars. (\$500.00).
 - (iii) A third offense within 12 months of the second offense is punishable by a fine of one thousand dollars (\$1000.00).
 - (iv) For each offense thereafter, the violator shall be subject to class one criminal misdemeanor prosecution in the Mesa Municipal Court as a habitual offender. For each violation as a habitual offender, the defendant is subject to a maximum fine of two thousand five hundred dollars (\$2500.00) and up to six (6) months in jail.
- (E) The penalties provided for in Subsection (B) and (D) are in addition to any other enforcement remedies that the City may have under City ordinances and state law. Nothing in this Section shall preclude City employees from issuing warnings for violations under this Chapter or seeking voluntary compliance with the provisions of this Chapter.

SECTION 2: That the Mesa City Code, as amended, will remain in full force and effect, save and except as amended by this Ordinance.

SECTION 3: That the terms and provisions of this Ordinance are severable and if any section, subsection, sentence, clause, phrase or portion of this Ordinance, or any part of the Mesa City Code adopted herein by reference, is for any reason held to be invalid, unenforceable or unconstitutional by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in effect.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 8th day of December, 2014.

APPROVED:



John G. ...

Mayor

ATTEST:

Dee Ann Mickelsen

City Clerk