

ORDINANCE NO. 2010- 33

AN ORDINANCE OF THE CITY OF PEORIA MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 9 OF THE PEORIA CITY CODE (1992) BY ENACTING SECTION 9-46 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; DEFINITIONS; ENACTING SECTION 9-47 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; PROHIBITED; EXCEPTIONS; ENACTING SECTION 9-48 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; SALE OF FIREWORKS; VIOLATIONS; ENACTING SECTION 9-49 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF FIREWORKS; CIVIL PENALTY: ENACTING SECTION 9-50 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; AUTHORITY TO ENFORCE VIOLATIONS OF THIS ARTICLE; MEANS OF ENFORCEMENT; ENACTING SECTION 9-51 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; LIABILITY FOR EMERGENCY RESPONSES RELATED TO USE OF FIREWORKS; DEFINITIONS; ENACTING SECTION 9-52 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; PENALTY AND ESTABLISHING SECTIONS 9-53, 9-54, AND 9-55 AS RESERVED; PROVIDING FOR AN EXPIRATION DATE; AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and Council deem it necessary to adopt certain regulations to protect, enhance and promote the health, safety and welfare of the City of Peoria and its residents, and

WHEREAS, the Mayor and Council desire to prevent fire hazards which threaten the safety of individuals and private and public improvements, including residential, commercial and industrial dwellings, and

WHEREAS, due to the dry/desert like conditions, risk of fires, and terrain of the community there is a danger of fire with the use of consumer fireworks in the community that can cause significant harm to the community and its residents.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-46 which was previously reserved and now pertains to Fireworks; definitions and providing that Section 9-46 shall read as follows:

Sec. 9-46. Fireworks; 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) *Consumer fireworks* means those fireworks defined by Arizona Revised Statutes Section 36-1601.

(2) *Display fireworks* means those fireworks defined by Arizona Revised Statutes Section 36-1601.

(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, display firework or permissible consumer firework as defined by Arizona Revised Statutes Section 36-1601.

(4) *Novelty item* 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 Section 36-1601.

(5) *Permissible consumer fireworks* means those fireworks as defined by Arizona Revised Statutes Section 36-1601 that may be sold within the City of Peoria 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 Marshall and/or Fire Chief or their designee.

SECTION 2. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-47 which was previously reserved and now pertains to Fireworks; prohibited; exceptions and providing that Section 9-47 shall read as follows:

Sec. 9-47. Fireworks; prohibited; exceptions.

(a) The use, discharge or ignition of fireworks within the City of Peoria is prohibited. The use of all consumer fireworks is banned within the incorporated City of Peoria.

(b) Permits may be granted by the Fire Marshal and/or Fire Chief or their 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 and/or Fire Chief have authority to impose conditions on any permits granted.

(c) Failure to comply with any permit requirements issued by the Fire Marshal and/or Fire Chief shall result in the immediate termination of the permit and imposition of a civil penalty of not less than five hundred dollars (\$500.00) imposed by the Fire Chief. A revocation of the permit or imposition of a civil penalty may be appealed in the manner provided for license appeals pursuant to Chapter 11 of this code.

SECTION 3. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-48 which was previously reserved and now pertains to Fireworks; sale of fireworks and providing that Section 9-48 shall read as follows:

Sec. 9-48. Fireworks; sale of fireworks; violations.

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

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

(c) It shall be a class one misdemeanor to sell, permit or authorize the sale of permissible consumer fireworks in violation of state law.

SECTION 4. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-49 which was previously reserved and now pertains to Fireworks; posting of signs by persons engaged in the sale of fireworks; civil penalty and providing that Section 9-49 shall read as follows:

Sec. 9-49. Fireworks; 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) NOTICE: Use of fireworks, including permissible consumer fireworks is not allowed in the City of Peoria.

(2) Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.

(b) Any person who obtains a business license for the sale of retail fireworks under this section shall have signage placed at each cash register and in each area where fireworks are displayed for sale informing customers that the use of fireworks in the City of Peoria is prohibited.

(c) The prominently displayed signs are required to be at least 8½ X 11 at a minimum and the type (font) size cannot be less than 1 inch in size.

(d) Failure to comply with subparts a, b, and c of this section is a civil offense punishable by a civil fine of not less than two hundred dollars (\$250.00) for each violation.

SECTION 5. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-50 which was previously reserved and now pertains to Fireworks; authority to enforce violations of this article; means of enforcement and providing that Section 9-50 shall read as follows:

Sec. 9-50. Fireworks; authority to enforce violations of this article; means of enforcement.

(a) The Fire Marshal and/or Fire Chief or their designee, a police officer or the Peoria City 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 Peoria police officer or the Peoria City Attorney may issue criminal complaints to enforce sections 9-46 through 9-52.

SECTION 6. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-51 which was previously reserved and now pertains to Fireworks; liability for emergency responses related to use of fireworks; definitions and providing that Section 9-51 shall read as follows:

Sec. 9-51. Fireworks; liability for emergency responses related to use of fireworks; definitions.

(a) 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 article is prima facie evidence of liability under this section.

(b) The expenses of an emergency response are a charge against the person 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 person's liability for the expense of an emergency response shall not exceed five hundred sixty-nine dollars (\$569.00) per hour of emergency response time for a single incident depending on the apparatus and personnel required to respond. The person will be liable for a minimum hourly rate upon response. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

(c) For the purpose 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 7. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-52 which was previously reserved and now pertains to Fireworks; penalty and providing that Section 9-52 shall read as follows:

Sec. 9-52. Fireworks; penalty.

The penalty for violating any prohibition or requirement imposed by this article is a class two misdemeanor and is punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) or jail time not to exceed four (4) months.

SECTION 8. Chapter 9 of the Peoria City Code (1992) is amended by establishing Sections 9-53, 9-54 and 9-55 as Reserved.

SECTION 9. The provisions of this ordinance shall automatically terminate on November 30, 2011.

SECTION 10. If any section, subsection, sentence, clause or phrase of this Ordinance 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 of this Ordinance.

SECTION 11. This Ordinance shall become effective in the manner provided by law.

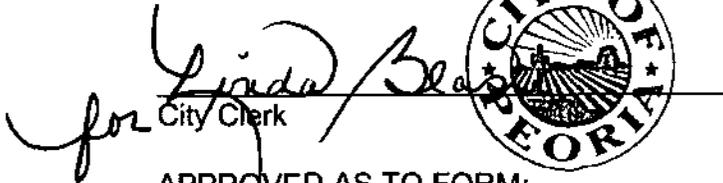
PASSED AND ADOPTED by the Mayor and Council of the City of Peoria,
Arizona, this 16th day of November, 2010.

CITY OF PEORIA, Arizona, an
Arizona municipal corporation



Bob Barrett, Mayor
DATE: 11/20/2010

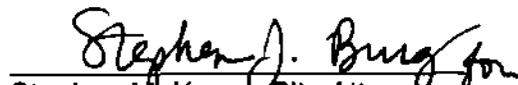
ATTEST:



for Linda Beasly
City Clerk



APPROVED AS TO FORM:



Stephen M. Kemp, City Attorney

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