

**ORDINANCE NO. 1686**

**AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF KINGMAN, ARIZONA, AMENDING THE CITY CODE CHAPTER 7, FIREWORKS BY DELETING THE CURRENT FIREWORKS REGULATIONS AND ADDING REGULATIONS FOR THE USE OF FIREWORKS TO CONFORM TO THE NEW STATE STATUE REQUIREMENTS**

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

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

**WHEREAS**, due to the dry desert like conditions, risk of wildfires, 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,

**WHEREAS**, the State of Arizona has passed legislation regarding the possession and use of firework with an effective date of December 1<sup>st</sup>, 2010; the City of Kingman has determined that the Ordinance now being adopted should have an effective date of December 1<sup>st</sup>, 2010 as well.

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

**SECTION 1** Deleting text by strikeout in Section 7-206 and adding Article VII of Chapter 7, Fireworks of the City Code, which is hereby added by bold capitol:

**Sec. 7-206 Fireworks-RESERVED**

~~It shall be unlawful for any person to sell, offer or expose for sale, to use, or to explode or possess any fireworks within the city corporate limits, other than an authorized public display under supervision.~~

**ARTICLE VII. FIREWORKS.**

**SEC. 7-300 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 FIREWORK** MEANS THOSE FIREWORKS DEFINED BY ARIZONA REVISED STATUTES SECTION 36-1601.
- (2) **DISPLAY FIREWORK** 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 STATUTE SECTION 36-1601.
- (4) **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 STATUTE 36-1601.
- (5) **PERMISSIBLE CONSUMER FIREWORKS** MEANS THOSE FIREWORKS AS DEFINED BY ARIZONA REVISED STATUTE SECTION 36-1601 THAT MAY BE SOLD WITHIN THE CITY 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 MARSHAL OR HIS DESIGNEE.

**SEC. 7-302 FIREWORKS PROHIBITED; EXCEPTIONS.**

(A) THE USE, DISCHARGE OR IGNITION OF FIREWORKS WITHIN THE CITY LIMITS OF KINGMAN IS PROHIBITED.

(B) NOTHING IN THIS SECTION OR ARTICLE SHALL BE CONSTRUED TO PROHIBIT THE USE, DISCHARGE OR IGNITION OF NOVELTY ITEMS, WITH THE EXCEPTION OF SPARKLERS OR OTHER DEVICES THAT EMIT SPARKS; OR THE OCCURRENCE OF A SUPERVISED PUBLIC DISPLAY OF FIREWORKS.

(C) 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.**

**(D) FAILURE TO COMPLY WITH ANY PERMIT REQUIREMENTS ISSUED BY THE FIRE MARSHAL IS A CLASS ONE MISDEMEANOR CRIMINAL OFFENSE.**

**SEC. 7-302 SALE OF FIREWORKS.**

**(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.**

**SEC. 7-304 POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF FIREWORKS.**

**(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 FIREWORKS, EXCEPT NOVELTY ITEMS AS DEFINED BY CITY CODE, INCLUDING PERMISSIBLE CONSUMER FIREWORKS IS PROHIBITED.**
- (2) CONSUMER FIREWORKS AUTHORIZED FOR SALE UNDER STATE LAW MAY NOT BE SOLD TO PERSONS UNDER THE AGE OF 16.**

**(B) SIGNS REQUIRED UNDER THIS SECTION SHALL BE PLACED AT EACH CASH REGISTER AND 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 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.**

**(D) FAILURE TO COMPLY WITH SUBPARTS A AND B OF THIS SECTION IS A CLASS THREE MISDEMEANOR CRIMINAL OFFENSE.**

**SEC. 7-305. AUTHORITY TO ENFORCE VIOLATIONS OF THIS ARTICLE;  
MEANS OF ENFORCEMENT.**

**(A) A CITY POLICE OFFICER, FIRE MARSHAL OR THE CITY ATTORNEY MAY ISSUE CRIMINAL COMPLAINTS TO ENFORCE THIS ARTICLE.**

**SEC. 7-306 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 \$2,500 FOR A SINGLE INCIDENT. 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 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.**

**SEC. 7-307 PENALTY.**

**THE PENALTY FOR VIOLATING ANY PROHIBITION OR REQUIREMENT IMPOSED BY THIS ARTICLE IS A CLASS ONE MISDEMEANOR UNLESS ANOTHER PENALTY IS SPECIFICALLY PROVIDED FOR.**

**SECTION 2** Penalties for violation of this article shall be in accordance with Section 1-8 of the Code of Ordinances for the City of Kingman, which reads as follows:

Sec. 1-8 Penalty or sanction.

(A) Any person found guilty of violating a misdemeanor crime shall be sentenced to the following:

- (1) Class 1 Misdemeanor, up to three years probation, six months jail, and \$2,500 in fines;
- (2) Class 2 Misdemeanor, up to two years probation, four months jail, and \$750 in fines;
- (3) Class 3 Misdemeanor, up to one year probation, thirty days Jail, and \$500 in fines.

(B) Any person found guilty of violating any provision of this city's codes and regulations or amendments thereto, that are not classified as per subsection A, shall be guilty of a Class 1 misdemeanor.

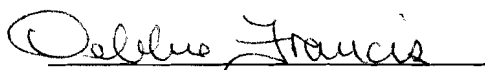
(C) Each day that a violation continues shall be a separate offense punishable as described in this section.

(D) Any violation of the provision of this city's codes and regulations, or amendments thereto, shall also constitute a civil offense, and any person who is served with a civil citation charging such violation and who admits, or is convicted of, such offense shall be liable to pay to the city a civil sanction in an amount not to exceed two hundred fifty dollars (\$250.00).


**SECTION 3** If any section, subsection, sentence, clause, phrase or portion 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 thereof.

**PASSED AND ADOPTED** by the Mayor and Common Council of the City of Kingman, Arizona, on August 16, 2010

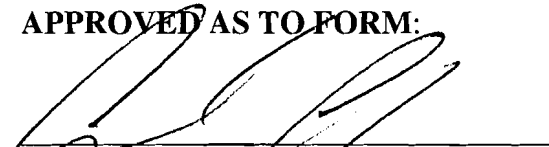
**ATTEST:**

  
Debbie Francis, City Clerk

**APPROVED:**

  
John Salem, Mayor

**APPROVED AS TO FORM:**

  
Carl Cooper, City Attorney

