

TOWN OF PINETOP-LAKESIDE

ORDINANCE NO. 10-344

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, ADOPTING TOWN CODE CHAPTER 8.16, "FIREWORKS" BY ADDING REGULATIONS FOR THE USE OF FIREWORKS.

WHEREAS, the Mayor and Town Council deem it necessary to adopt certain regulations to protect, enhance and promote the health, safety and welfare of the Town of Pinetop-Lakeside 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 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.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, as follows:

Section 1. Chapter 8.16, "Fireworks" of the Town Code is hereby adopted:

Section 8.16.010 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 mean 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. Fire Marshall refers to designated employees of the Pinetop and Lakeside Fire Districts. Authority under this ordinance refers to the respective jurisdictions

5. Novelty items means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glowworms, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona Revised Statute 36-1601.

6. Permissible consumer fireworks means those fireworks as defined by Arizona Revised Statutes Section 36-1601 that may be sold within the Town even where the use of those items has been prohibited.

7. Supervised public display means a monitored performance of display fireworks open to the public and authorized by permit by the Fire Marshall or his designee.

Section 8.16.020 Fireworks prohibited; exceptions.

A. The use, discharge, or ignition of fireworks within the Town of Pinetop-Lakeside is prohibited.

B. Nothing in this section or article shall be construed to prohibit the use, discharge, or ignition of novelty items or the occurrence of a supervised public display of fireworks.

C. Permits may be granted by the Fire Marshall in consultation with the Town Chief of Police or designees 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, which 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 Marshall and the Chief of Police or designees have the authority to impose conditions on any permits granted.

D. Failure to comply with any permit requirements issued by the Fire Marshall shall be subject to a civil penalty of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1000).

Section 8.16.030 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.

Section 8.16.040 Posting of signs by persons or businesses engaged in the sale of fireworks; civil penalty.

A. Prior to the sale of permissible consumer fireworks, every person or business engaged in such sales shall prominently display signs indicating the following:

1. The use of fireworks, except novelty items as defined by Town 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 Marshall 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 Town's website and filed with the Clerk's office.

D. Failure to comply with subparts A and B of this section is a civil offense subject to a civil penalty of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1000).

Section 8.16.050 Authority to enforce violations of this article; means of enforcement.

A. A Police officer, the Town Attorney or the Fire Marshall or designee may issue civil complaint to enforce violations of this article.

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 Police Officer or the Town Attorney may issue criminal complaints to enforce this article.

Section 8.16.060 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 Two Hundred and Fifty Thousand Dollars (\$250,000) 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.

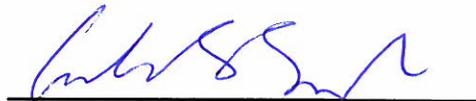
2. "Reasonable costs" includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.

Section 8.16.070 Penalty.

The penalty for violating any prohibition or requirement imposed by this article is a class three misdemeanor unless another penalty is specifically provided for. The Town Magistrate may impose community service or diversion procedures in the interest of justice when applicable.

PASSED AND ADOPTED by the Mayor and Town Council of Town of Pinetop-Lakeside, this 21st day of October 2010.

TOWN OF PINETOP-LAKESIDE



LUKE S. SMITH, Mayor

ATTEST:



LU ANNE FROST, Town Clerk

APPROVED AS TO FORM:



ROSEMARY H. ROSALES, Town Attorney