

ORDINANCE NO. 2010-08

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF CAREFREE, ARIZONA, AMENDING THE TOWN CODE CHAPTER 6, "OFFENSES" BY ADDING REGULATIONS FOR THE USE OF FIREWORKS.

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

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.

NOW THEREFORE, BE IT ORDAINED by the Council of the Town of Carefree, Arizona, as follows:

Section 1. Article 6-7 of Chapter 6, "Offenses" of the Town Code is hereby added:

ARTICLE 6-7. FIREWORKS.

Section 6-7-1 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 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 Town 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 Town's Fire Chief or his designee.

Section 6-7-2 Fireworks prohibited; exceptions.

(A) The use, discharge or ignition of fireworks within the Town is prohibited except for the Fourth of July, New Year's Eve or other Town event between the hours of 5 PM and 10 PM and with a permit issued by the Town's Fire Chief or his designee.

(B) The use, discharge or ignition of novelty items defined in Section 6-7-1 (A) (4) shall be strictly prohibited.

(C) Permits may be granted by the Town's 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. A permit shall not be issued, and may be revoked, during time periods of High Fire Danger warnings. The Town's Fire Chief or designee has authority to impose conditions on any permits granted.

(D) Failure to comply with any permit requirements issued by the Town's Fire Chief or designee is a civil offense punishable by seven hundred and fifty dollar (\$750) civil fine for each violation.

Section 6-7-3 Sale of Fireworks.

(A) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under 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 6-7-4 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) The use of fireworks, including novelty items as defined by Town Code, 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 Town's Fire Chief 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 filed with the Town Clerk's office.

(D) Failure to comply with subparts A and B of this section is a civil offense punishable by fine of seven hundred and fifty dollars (\$750).

Section 6-7-5. Authority to enforce violations of this article; means of enforcement.

(A) The Town's Fire Chief or designee, a police officer, Town Code Enforcement Officer, or the Town 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 police officer, Town Code Enforcement Officer or Town Attorney may issue criminal complaints to enforce this article.

Section 6-7-6 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 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.

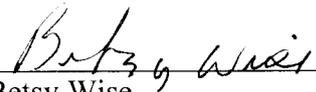
Section 6-7-7. Penalty.

The penalty for violating any prohibition or requirement imposed by this article shall be subject to a sanction of up to seven hundred and fifty dollars (\$750) and is a class three misdemeanor unless another penalty is specifically provided for.

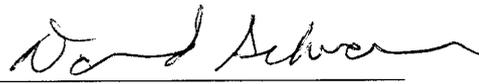
PASSED AND ADOPTED by the Town Council of Carefree, Arizona this 7th day of September, 2010.

ATTEST:

TOWN OF CAREFREE, an
Arizona municipal corporation

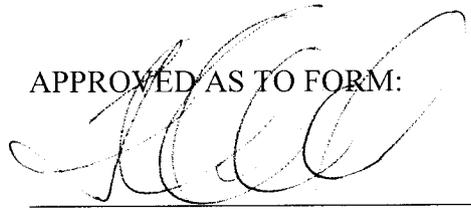


Betsy Wise
Town Clerk



David Schwan
Mayor

APPROVED AS TO FORM:



Thomas Chenal
City/Town Attorney