



# Ordinance

## Ordinance No. 288

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

AN ORDINANCE OF THE MAYOR AND CITY OF SAN LUIS, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING THE CITY CODE TO ADD SECTION 9-1-6 "FIREWORKS" IN CHAPTER 9 "OFFENSES" OF THE CITY CODE TO PROVIDE FOR THE SALE WITHIN THE CITY OF "PERMISSIBLE CONSUMER FIREWORKS" AS DEFINED BY A.R.S. §36-1601, SUBJECT TO CERTAIN RESTRICTIONS AND LIMITATIONS, AND PROVIDING FOR RESTRICTIONS REGARDING THE USE OF SAID FIREWORKS WITHIN THE CITY; REPEALING CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, the Legislature recently amended the state's underlying authority for municipal regulation of fireworks [A.R.S. §§36-1601 *et seq.*] to provide for the sale of certain "permissible consumer fireworks" in Arizona (subject to certain restrictions and limitations), while continuing to authorize prohibition of the use of such fireworks; and

WHEREAS, the City Council is concerned about the fire hazards posed by use of fireworks within the City;

WHEREAS, the Fire Chief of the City of San Luis has recommended against permitting use of "permissible consumer fireworks" within the City because of the inherent fire risks; and

WHEREAS, in light of the Fire Chief's recommendations, the dry conditions in this area, and the risks to life and property posed by fire, the Council deems it necessary for the health, safety and welfare of the City and its residents to prohibit use of "permissible consumer fireworks" within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AS FOLLOWS:

SECTION ONE. That Section 9-1-6 "Fireworks" in Chapter 9 "OFFENSES" of the City Code of the City of San Luis, Arizona, be hereby amended to read as follows:

## **9-1-6 Fireworks.**

A. Definitions. The following words, terms and phrases, when used in this Section, have the meanings ascribed to them in this subsection, unless the context otherwise requires:

1. *Consumer firework* means those fireworks defined by A.R.S. §36-1601, as amended.
2. *Display firework* means those fireworks defined by A.R.S. §36-1601, as amended.
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 A.R.S. §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 A.R.S. §36-1601.
5. *Permissible consumer fireworks* means those fireworks as defined by A.R.S. §36-1601 that may be sold within the City even where 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 the Fire Marshal after appropriate inspection(s) to confirm that all safety precautions deemed necessary and prudent by the Fire Marshal for safe deployment of the display are in place.

### **B. Fireworks Prohibited; Exceptions.**

1. The use, discharge, or ignition of fireworks within the City is prohibited.
2. No person shall possess fireworks within the Town except as follows:
  - a. Persons of suitable age and discretion may possess novelty items.
  - b. Persons at least sixteen (16) years of age or older may possess permissible consumer fireworks.
3. Nothing in this Section shall be construed to prohibit the use, discharge, or ignition of novelty items when supervised by a responsible adult.

4. Supervised displays of fireworks by a licensed fireworks contractor and shooter may be used within the City after proper inspection and authorization by the Fire Marshal or designee. Such displays shall be of a character and so located, discharged or fired, as to not endanger persons, animals, or property. The Fire Marshal or designee has authority to impose conditions on any such display and to decline to authorize, or revoke authorization, of any public display of fireworks during time periods when High Fire Danger Warnings are in effect. Failure to comply with the requirements issued by the Fire Marshal for a public display of fireworks is punishable as provided in this Section and the applicable rules and regulations of the State Fire Marshal.

C. Sale of Fireworks Prohibited; Exceptions.

1. Sale of fireworks within the City is prohibited with the exception of novelty items and permissible consumer fireworks which may be sold by a retailer pursuant to A.R.S. §§36-1601 et. seq., as amended; provided, however, that no person shall sell, permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen (16) years of age or to any person or entity prior to the effective date of A.R.S. §§36-1601 et. seq., as amended by Laws 2010, Ch. 286, §§1-6. Sale of permissible consumer fireworks and novelty items shall conform to the requirements of the City Code.

2. All sales of permissible consumer fireworks shall conform to the requirements of state law and to the rules and regulations adopted by the State Fire Marshal pursuant to A.R.S. §36-1609.

D. Enforcement.

1. The Fire Chief/Fire Marshall or designee, a police officer, or the City Attorney may issue civil citations to enforce violations of this Section as civil offenses.

2. Any person authorized 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.

3. A police officer or marshal or the City Attorney may issue criminal complaints to enforce this article.

E. Emergency Response; Liability.

1. A person who uses, discharges or ignites permissible consumer 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 Section is prima facie evidence of liability under this Subsection.

2. The expenses of an emergency response include all reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to the incident. Such expenses constitute a debt against the person liable for those expenses pursuant to paragraph 1 of this Subsection and may be collected proportionately by the responding agencies/entities that incurred the expenses. A person's liability for the expense of an emergency response shall not exceed \$10,000 for a single incident. The liability imposed under this Subsection is in addition to, and not in limitation of, any other liability that may be imposed.

F. Penalty

The penalty for violating any prohibition or requirement by this Section is a class three misdemeanor unless another penalty is specifically provided for.

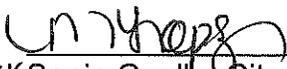
SECTION TWO: In the event of a conflict between the provisions of this Ordinance and any other ordinance, resolution, regulation, or policy of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this ordinance shall govern.

SECTION THREE: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

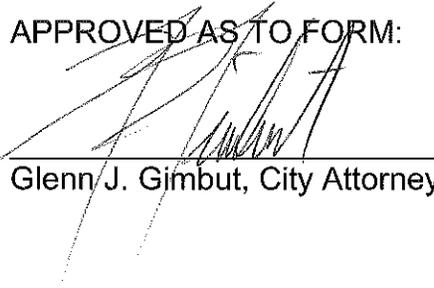
PASSED AND ADOPTED by the Mayor and Council of the City of San Luis, Arizona, this 10<sup>th</sup> day of November, 2010.

  
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Juan Carlos Escamilla, Mayor

ATTEST:

  
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Sonia Cuello, City Clerk

APPROVED AS TO FORM:

  
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Glenn J. Gimbut, City Attorney