

Attachment A

ORDINANCE G-

AN ORDINANCE REPEALING PHOENIX CITY CODE CHAPTER 23, ARTICLE II, DIVISION 5, ENTITLED "CONSUMER FIREWORKS" IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 23, ARTICLE II, DIVISION 5, ENTITLED "FIREWORKS AND PERMISSIBLE CONSUMER FIREWORKS."

WHEREAS, Arizona Revised Statute ("A.R.S.") Title 36, Chapter 13, Article 1, governs the sale and use of fireworks in Arizona and sets forth certain preemption limitations on a municipal or county government's regulation of fireworks, including that a municipality may only prohibit the sale and use of permissible consumer fireworks within its jurisdiction on specified days and times of the year.

WHEREAS, Chapter 23, Article II, Division 5, of the Phoenix City Code entitled "Consumer Fireworks," in conjunction with the City of Phoenix Fire Code, governs, the possession, use, and sale of fireworks and permissible consumer fireworks in the City of Phoenix, Arizona (the "City").

WHEREAS, due to the dry conditions, air quality concerns and terrain of Phoenix, the use of fireworks and permissible consumer fireworks includes risk of significant harm to the community and its residents.

WHEREAS, the City wishes to prevent fire hazards and injuries caused by fireworks which threaten the health and safety of individuals and are hazardous to real property and improvements including residential, commercial and industrial buildings.

WHEREAS, reasonable penalties are required to ensure compliance with the City's regulation of fireworks, display fireworks, and permissible consumer fireworks.

WHEREAS, the City deems it necessary to adopt additional regulations addressing fireworks, display fireworks, and permissible consumer fireworks to protect, enhance and promote the health, safety and welfare of City residents as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. REPEALED AND REPLACED LANGUAGE. That the City of Phoenix City Code Chapter 23, Article II, Division 5, entitled "Consumer Fireworks" is repealed in its entirety and replaced with the following language:

CHAPTER 23

FIREWORKS AND PERMISSIBLE CONSUMER FIREWORKS

SECTION:

- 23-44.1: DEFINITIONS
- 23-44.2: FIREWORKS AND PERMISSIBLE CONSUMER FIREWORKS PROHIBITED, EXCEPTIONS
- 23-44.3: SALE OF PERMISSIBLE CONSUMER FIREWORKS
- 23-44.4: POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF PERMISSIBLE CONSUMER FIREWORKS

23-44.5: AUTHORITY TO ENFORCE VIOLATIONS; PENALTY

23-44.6 LIABILITY FOR EXPENSES OF EMERGENCY RESPONSE, STORAGE AND DISPOSAL RELATED TO POSSESSION AND USE OF FIREWORKS

23-44.1: DEFINITIONS

(A) The following words, terms, and phrases, when used in this Division, have the meanings ascribed to them in this Section except where the context clearly indicates a different meaning.

(1) DISPLAY FIREWORK: as defined by A.R.S. § 36-1601.

(2) EXPENSES OF AN EMERGENCY RESPONSE: means reasonable costs incurred by public agencies including but not limited to the City, Fire, and Police Departments or other first responders in making an appropriate emergency response to an incident.

(3) FIREWORKS: as defined by A.R.S. § 36-1601.

(4) PERMISSIBLE CONSUMER FIREWORKS: as defined by A.R.S. § 36-1601.

(5) SUPERVISED DISPLAY: means a monitored performance of display fireworks, fireworks or permissible consumer fireworks authorized by permit by the City of Phoenix Fire Marshal or their designee.

(6) All references to Arizona Revised Statutes in this Division refer to the Arizona Revised Statutes on the date this ordinance becomes effective and thereafter as the Statutes may be amended or replaced.

23-44.2: FIREWORKS AND PERMISSIBLE CONSUMER FIREWORKS PROHIBITED; EXCEPTIONS

(A) The sale, use or possession of fireworks within the City of Phoenix corporate limits is unlawful, except for the lawful manufacture, possession or use by a qualified pyrotechnic expert.

(B) The City of Phoenix prohibits the use of permissible consumer fireworks within the City of Phoenix to the full extent allowed by A.R.S. § 36-1606.

(C) The use of permissible consumer fireworks is prohibited during a stage one or higher fire restriction within a one-mile radius of the border of any municipal or county mountain preserve, desert park, regional park, designated conservation area, national forest, or wilderness area.

(D) The use of permissible consumer fireworks is prohibited within a one-mile radius

of the border of preservation lands owned by the City of Phoenix.

- (E) The use of permissible consumer fireworks is prohibited on property owned or controlled by the City of Phoenix, excluding public right of way.
- (F) Nothing in this Section shall be construed to prohibit the use of federally deregulated novelty items, known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, or sparklers, and certain types of toy devices as provided in A.R.S. § 36-1601.
- (G) Nothing in this Section shall be construed to prohibit the use of display fireworks, fireworks, or permissible consumer fireworks in supervised displays.

23-44.3: SALE OF PERMISSIBLE CONSUMER FIREWORKS

The City of Phoenix prohibits the sale of permissible consumer fireworks within the City of Phoenix to the full extent allowed by A.R.S. § 36-1606.

23-44.4: POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF PERMISSIBLE CONSUMER FIREWORKS

Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall comply with the signage requirements of A.R.S. § 36-1606 and provide the additional signage language in the words and manner provided therein.

23-44.5: AUTHORITY TO ENFORCE VIOLATIONS; PENALTY

- (A) The City of Phoenix Fire Marshal, Phoenix Police Chief, and their designees, have the authority to issue civil citations to enforce civil violations of this Division. The Phoenix Police Chief and their designees have the authority to issue criminal citations to enforce criminal violations of this Division. The City Prosecutor and their designees have the authority to issue civil or criminal complaints to enforce violations of this Division.
- (B) A violation of this Division is a class 1 misdemeanor that is subject to a sentence of incarceration not to exceed six (6) months in jail, a fine not to exceed twenty-five hundred dollars (\$2,500), probation not to exceed three years, or any combination of such fine, imprisonment, or probation in the discretion of the City magistrate for each count upon which a conviction is obtained.
- (C) A violation of this Division is a civil offense punishable by a fine of up to twenty-five hundred dollars (\$2,500) for each violation.
- (D) It is unlawful for owners, managers, operators, or other persons in control of a

business or property where fireworks or permissible consumer fireworks are sold or offered for sale to knowingly allow the sale or offer for sale of fireworks or permissible consumer fireworks in violation of this Division.

- (E) The City of Phoenix Fire Marshal, Phoenix Police Chief, and their designees, have the authority to seize and dispose of fireworks offered or exposed for sale, stored, possessed or used in violation of this Division.
- (F) The penalties provided for in this Section are in addition to any other enforcement remedies the City of Phoenix may have under City ordinances and state law.

23-44.6: LIABILITY FOR EXPENSES OF EMERGENCY RESPONSE, STORAGE
 AND DISPOSAL RELATED TO POSSESSION AND USE OF FIREWORKS

- (A) A person who uses, discharges or ignites fireworks is liable for the expense 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 of this Division shall create a rebuttable presumption of liability under this section.
- (B) A person who possesses fireworks in violation of this Division is liable for the reasonable expense of storage and destruction after seizure. The fact that a person is convicted or found responsible for a violation of this Division shall create a rebuttable presumption of liability under this section.
- (C) The Fire Department shall promulgate a schedule of charges for emergency response and fireworks storage and destruction under this section. The charge constitutes a debt of that person and may be distributed proportionately to the responding Departments that incurred the expenses.
- (D) The liability imposed under this subsection is in addition to and not in limitation of any other liability that may be imposed.

SECTION 2. EFFECTIVE DATE. The effective date of this Ordinance shall be thirty days following adoption by the Phoenix City Council.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or any part of the material adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining

portions thereof.

PASSED by the Council of the City of Phoenix this XXth day of XXXXX,
2026.

M A Y O R

ATTEST:

Denise Archibald, City Clerk

APPROVED AS TO FORM:
Julie M. Kriegh, City Attorney

BY: _____

REVIEWED BY:

Ed Zuercher, City Manager