

ORDINANCE NO. 23-2020

AN ORDINANCE ADDING A NEW ARTICLE IV TO CHAPTER 7 OF THE *CODE OF ORDINANCES OF THE CITY OF ALAMOSA* TO REGULATE FIREWORKS IN THE CITY OF ALAMOSA IN A WAY THAT MIRRORS STATE CODE

WHEREAS, the State of Colorado regulates fireworks pursuant to the provisions of Part 20, Article 33.5 of Title 24, C.R.S.; and

WHEREAS, at C.R.S. § 24-33.5-2007(1), that statute explicitly provides for the authority of the City of Alamosa to adopt ordinances governing the sale, use, and possession of fireworks so long as the city does not permit or authorize the sale, use, or possession of any fireworks in violation of the state statute; and

WHEREAS, the City regularly experiences the use of fireworks in violation of state statute, but in many instances such violations are under circumstances where the violation is better resolved in municipal court as an ordinance violation rather than in state court as violations of C.R.S. § 24-33.5-2001 *et seq.* and

WHEREAS, the only existing ordinance remotely applicable to such a violation is Section 11-43, governing disorderly conduct and the making of an unreasonable noise, which ordinance does not really address the public safety hazards attendant upon a violation of the laws governing fireworks; and

WHEREAS, Council deems it to be in the best interests of the citizens of Alamosa to create an ordinance allowing for the public safety regulation of sale, use, and possession of fireworks in Alamosa in a way that mirrors state statute;

NOW THEREFORE BE IT ORDAINED by the City Council of Alamosa as follows:

Section 1. Addition of New Article IV to Chapter 7 of the *Code of Ordinances of the City of Alamosa*. Chapter 7 of the *Code of Ordinances of the City of Alamosa* is amended to add a new Article IV to read as follows:

ARTICLE IV. – FIREWORKS

Sec. 7-50. – Definitions.

(a) "Articles pyrotechnic" means pyrotechnic special effects materials and pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but are intended for theatrical performances and not intended for consumer use. "Articles pyrotechnic" shall also include pyrotechnic devices meeting the weight limits for consumer fireworks but are not labeled as such and are classified as UN0431 or UN0432

pursuant to 49 CFR 172.101, as amended.

(b) "Fireworks" means any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation. "Fireworks" does not include:

(1) Toy caps, party poppers, and items similar to toy caps and party poppers that do not contain more than sixteen milligrams of pyrotechnic composition per item and snappers that do not contain more than one milligram of explosive composition per item;

(2) Highway flares, railroad fusees, ship distress signals, smoke candles, and other emergency signal devices;

(3) Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means;

(4) Fireworks that are used in testing or research by an explosives laboratory licensed by the State of Colorado.

(c) "Display fireworks" means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation and includes, but is not limited to, salutes containing more than one hundred thirty milligrams of explosive material, aerial shells containing more than forty grams of pyrotechnic compositions, and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks as defined in 16 CFR 1500.1 to 1500.272 and 16 CFR 1507.1 to 1507.12 and are classified as fireworks UN0333, UN0334, or UN0335 pursuant to 49 CFR 172.101, as amended, and including fused set pieces containing components that exceed fifty milligrams of salute powder.

(d) "Permissible fireworks" means the following small fireworks devices designed to produce audible or visual effects by combustion, complying with the requirements of the United States consumer product safety commission as set forth in 16 CFR 1500.1 to 1500.272 and 1507.1 to 1507.12, and classified as consumer fireworks UN0336 and UN0337 pursuant to 49 CFR 172.101:

(1) Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five grams each for a single tube or, when more than one tube is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;

(2) Cone fountains, total pyrotechnic composition not to exceed fifty grams each for a single cone or, when more than one cone is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;

(3) Wheels, total pyrotechnic composition not to exceed sixty grams for each driver unit or two hundred grams for each complete wheel;

(4) Ground spinner, a small device containing not more than twenty grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground;

(5) Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed two hundred grams each;

(6) Dipped sticks and sparklers, the total pyrotechnic composition of which does not exceed one hundred grams, of which the composition of any chlorate or perchlorate shall not exceed five grams;

(7) Any of the following that do not contain more than fifty milligrams of explosive composition:

(A) Explosive auto alarms;

(B) Toy propellant devices;

(C) Cigarette loads;

(D) Strike-on-box matches; or

(E) Other trick noise makers;

(F) Snake or glow worm pressed pellets of not more than two grams of pyrotechnic composition and packaged in retail packages of not more than twenty-five units;

(G) Fireworks that are used exclusively for testing or research by a licensed explosives laboratory;

(H) Multiple tube devices with:

(i) Each tube individually attached to a wood or plastic base;

(ii) The tubes separated from each other on the base by a distance of at least one-half of one inch;

(iii) The effect limited to a shower of sparks to a height of no more than fifteen feet above the ground;

(iv) Only one external fuse that causes all of the tubes to function in sequence; and

(v) A total pyrotechnic composition of no more than five hundred grams.

"Permissible fireworks" do not include aerial devices or audible ground devices, including, but not limited to, firecrackers.

Sec. 7-51 – Unlawful use or sale of fireworks – exceptions

(a) Except as provided in section 7-52, it shall be unlawful for any person to possess or discharge any fireworks, other than permissible fireworks, anywhere within the City of Alamosa.

(b) Except as provided for in subsection (d) of this section, it shall be unlawful for any person to knowingly furnish to any person who is under sixteen years of age, by gift, sale, or any other means, any fireworks, including those defined as permissible fireworks.

(c) Except as provided for in subsection (d) of this section, it shall be unlawful for any person who is under sixteen years of age to purchase any fireworks, including those defined as permissible fireworks.

(d) At all times that it is lawful for any person over the age of sixteen years to possess and discharge permissible fireworks, it shall also be lawful for a person under the age of sixteen years to possess and discharge permissible fireworks, if the person is under adult supervision.

(e) Nothing in this Article IV shall prevent or regulate:

(1) The use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(2) The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations;

(3) The sale, purchase, possession, or use of fireworks distributed by the division of parks and wildlife for agricultural purposes under conditions approved by the division; or

(4) The sale, delivery, consignment, gift, or furnishing of fireworks among display retailers, wholesalers, or exporters licensed under Part 20 of Article 33.5 of Title 24, C.R.S.

Sec. 7-52 – Display fireworks - permits

(a) The Fire Chief may grant nontransferable and nonassignable permits for displays of fireworks or pyrotechnic special effects performances by any person, fair association, amusement park, or other organizations or groups.

(b) The discharge of fireworks, including display fireworks or articles pyrotechnic, pursuant to a permit issued by the Fire Chief shall be lawful, if the display or pyrotechnic special effects

performance is performed in accordance with the requirements of the national fire protection association as stated in NFPA-1123, code for the outdoor display of fireworks or NFPA-1126, standard for the use of pyrotechnics before a proximate audience.

Section 2. Severability: Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 3. General Repealer. All other acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

Section 4. Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

Section 5. Publication and Effective Date. This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.

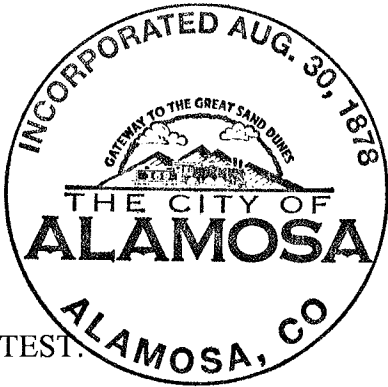
Section 6. Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

Section 7. Codification. The City Clerk is directed to codify the provisions of this ordinance in the *Code of Ordinances of the City of Alamosa* in substantially the same form as set forth herein.

INTRODUCED, READ AND APPROVED on first reading the 16th day of September, 2020, and ordered published by title and reference as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the 7th day of October, 2020, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

APPROVED, AND ADOPTED after public hearing the 7th day of October, 2020.

CITY OF ALAMOSA



ATTEST.

By Ty Coleman
Ty Coleman, Mayor

Holly C. Martinez
Holly C. Martinez, City Clerk