

WHEN RECORDED, RETURN TO:

City of Buckeye
ATTN: City Clerk, Lucinda J. Aja
530 East Monroe Avenue
Buckeye, Arizona 85326

ORDINANCE NO. 02-25

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BUCKEYE, ARIZONA, AMENDING THE BUCKEYE CITY CODE BY AMENDING CHAPTER 10, MISCELLANEOUS OFFENSE REGULATIONS, ARTICLE 10-1 GENERAL OFFENSES, OFFICERS IN GENERAL, SECTION 10-1-2, DISTURBING AND UNNECESSARY NOISE PROHIBITED, TO INSERT "FIREWORKS" AS SUBSECTION 12; CHAPTER 10, MISCELLANEOUS OFFENSE REGULATIONS, ARTICLE 10-2, PUBLIC SAFETY OFFENSES, SECTION 10-2-8, DISCHARGE OR IGNITION OF FIREWORKS, TO DELETE SUBSECTION B.6., D.4., AND E.3.; AND PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the Mayor and Council of the City of Buckeye, Arizona ("City") are authorized by City Code Chapter 2, Article 2-5, Section 2-5-4 to adopt and/or amend all ordinances necessary or proper for the carrying into effect of the powers vested in the City; and,

WHEREAS, the Mayor and Council believe that it is in the best interest of the City to amend particular sections of the City Code applicable to fireworks to include fireworks in the list of Disturbing and Unnecessary Noise Prohibited and to clarify the penalty for violations for unlawful discharge or ignition of fireworks.

BE IT ORDAINED by the Mayor and Council of the City of Buckeye, Arizona, as follows:

Section 1. The foregoing recitals are incorporated as if fully set forth herein.

Section 2. The City Code is hereby amended by amending Chapter 10, Miscellaneous Offense Regulation, Article 10-1, General Offenses, Section 10-1-2, Disturbing and Unnecessary Noise Prohibited, to add Subsection 12. Fireworks, as follows:

12. Fireworks. The use of any firework, as defined by A.R.S. § 36-1601, except for those uses authorized by Section 10-2-8 or A.R.S. 36-1601, et al.

Section 3. The City Code is hereby amended by amending Chapter 10, Miscellaneous Offense Regulation, Article 10-2, Public Safety Offenses, Section 10-2-8, Discharge or Ignition of Fireworks, Subsection B. Fireworks prohibited; exceptions, is amended to delete sub-subsection 6., which states:

6. Penalty. A violation of this section 10-2-8(B) shall be a class 3 misdemeanor.

Section 4. The City Code is hereby amended by amending Chapter 10, Miscellaneous Offense Regulation, Article 10-2, Public Safety Offenses, Section 10-2-8, Discharge or Ignition of Fireworks, Subsection D. Posting of signs by persons engaged in the

sale of fireworks; civil penalty, is amended to delete sub-subsection 4 is amended to delete sub-subsection 6., which states:

4. A violation of subsection 10-2-8(D)(1) or (D)(2) shall be a civil offense punishable by base fine of up to \$500.00.

Section 5. The City Code is hereby amended by amending Chapter 10, Miscellaneous Offense Regulation, Article 10-2, Public Safety Offenses, Section 10-2-8, Discharge or Ignition of Fireworks, Subsection E. Enforcement, is amended to delete sub-subsection 3., which states:

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

Section 6. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 7. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 8. The Mayor, City Manager, City Attorney, and City Clerk are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Buckeye, Arizona, this 7th day of January, 2025.



Eric W. Orsborn, Mayor

ATTEST:



Lucinda J. Aja, City Clerk

APPROVED AS TO FORM:



K. Scott McCoy, City Attorney

The City Code is amended with additions in bolded capital letters and deletions in strikethrough:

Section 10-1-2 Disturbing and Unnecessary Noise Prohibited

- A. Creation of unreasonably loud and disturbing noises prohibited. Subject to the provisions of this section the creating of any unreasonable loud, disturbing and unnecessary noises within the corporate limits of the city is hereby prohibited.
- B. Noises detrimental to the life and health or public peace and welfare are prohibited. Noises of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare are hereby prohibited.
- C. Enumeration of loud, disturbing and unreasonable noises; enumeration not exclusive. The following acts are declared to be loud, disturbing and unreasonable noises and noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:
1. Blowing horn or signal devices. The sounding or blowing of any horn or signal device or any automobile, truck, bus, motorcycle or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonable loud or harsh sound; and the sounding of such devices of any unnecessary and unreasonable period of time.
 2. Sound production or reproduction devices. The playing of any radio, phonograph, stereo, television set, compact disc player, musical instrument, loud speaker(s), or any similar machines or devices for the producing or reproducing sound in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons on adjoining property or property within the vicinity.
 - a. In addition to the provisions in section 10-1-2(C)(2), above, in residential subdivisions, any continuous sound production from devices such as those described in section 10-1-2(C)(2), above shall not emanate beyond the property boundary between the hours of 10:00 p.m. and 6:00 a.m. in such volume as to be heard on any adjoining residential property. A police officer may elect to issue a citation for violation of this section 10-1-2(C)(2)(a), if at least two (2) unrelated complainants from separate residences and with independent knowledge of the acts have signed a complaint. No person shall be found guilty of a misdemeanor for violating the provisions of this section 10-1-2(C)(2)(a), unless such complainants have made themselves available to testify in any court proceedings related to the complaint.
 3. Yelling, shouting, etc., on streets. Yelling, shouting, hooting, whistling or singing in the public streets so as to annoy or disturb the quiet, comfort or repose of persons in any hospital, dwelling, hotel or other type of residence, or of persons in the vicinity.
 4. Pets. The keeping of any animal, bird, or fowl which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.
 5. Use of vehicle.
 - a. It shall be unlawful for any person within any residential area of the city to repair, rebuild or test any motor vehicle (1) between the hours of 10:00 p.m. of one day and 7:00 a.m. of the next day or (2) in such a manner that a reasonable person of normal sensitivity residing in the area is caused discomfort or annoyance.

The City Code is amended with additions in bolded capital letters and deletions in strikethrough:

- b. No person shall operate or cause to operate any motor vehicle unless the exhaust system of such vehicle:
 - i. Is free from defects which may cause sound level magnification.
 - ii. Is equipped with a muffler.
 - iii. Has not been modified in such a manner which will amplify or increase the sound level emitted by the motor of such vehicle above that emitted by a muffler originally installed on the vehicle as manufactured for initial sale.
6. Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device, which will effectively prevent loud or explosive noises therefrom.
7. Noise from landscape and golf course maintenance operations; construction activities; excavation of streets. Noise resulting from construction, erection, excavation, demolition, alteration or repair of any infrastructure, building, street or highway in any residential zoned area or district or that can be heard in any residential zoned area or district within the city shall take place only during that period of time which begins one hour prior to sunrise and ends at sunset, Monday through and including Saturday, subject to the following exceptions:
 - a. In the event of urgent necessity affecting the interest of public health and safety, the police chief or authorized designee may issue a written permit exempting a party from the time restrictions contained in this subsection for a period not to exceed thirty (30) days to resolve such emergency situation.
 - b. Upon application to the development services director or authorized designee prior to the initiation of the erection, excavation, demolition, alteration or repair of any building, street or highway in or near any residential zoned area or district within the city that the applicant wishes to perform at times other than those specified in this section and upon a determination by the city manager or authorized designee that (i) the public health and safety will not be impaired by the noise ordinance variance created by such erection, demolition, alteration or repair of any building or excavation of streets and highways and (ii) loss or inconvenience would not result to any party in interest, the city manager or authorized designee may grant a written permit for such noise ordinance variance.
8. Noises near hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any institution of learning, church or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings or session thereof.
9. Loading and unloading operations. The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
10. Noises to attract attention. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise.
11. Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on automobiles, trucks, busses or other moving or standing vehicles for advertising or other purposes.

The City Code is amended with additions in bolded capital letters and deletions in strikethrough:

12. FIREWORKS. THE USE OF ANY FIREWORK, AS DEFINED BY A.R.S. § 36-1601, EXCEPT FOR THOSE USES AUTHORIZED BY SECTION 10-2-8 OR A.R.S. 36-1601, ET AL.

- D. Exemptions. None of the terms or prohibitions of this section shall apply to or be enforced against:
1. Any vehicle of the city while engaged in necessary public business.
 2. Excavation or repairs of bridges, streets or highways by or on behalf of the city, at night, when the public welfare and convenience renders it impossible to perform such work during the day.
 3. Emergency vehicles.
- E. No person shall operate a motor vehicle in such a manner which creates the squealing of tires in the roadway.
- F. No person shall operate either a motor vehicle or combination of vehicles at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the following noise limit of the category of motor vehicle based on a distance of fifty (50) feet from the center of the lane or travel within the speed limits specified in this section:

	Speed Limit of 35 MPH or Less	Speed Limit of More than 35 MPH
1. Any motor vehicle with a manufacturer's gross vehicle weight rating of 6,000 pounds or more, any combination of vehicles towed by such motor vehicle, and any motor-cycle other than a motor-driven cycle.	88 DB(A)	92 DB(A)
2. Any other motor vehicle and any combination of vehicles towed by such motor vehicle.	82 DB(A)	86 DB(A)

(Ord. No. 34-10, § 2, 11-16-2010; Ord. No. 03-21, § 3, 1-19-2021)

Section 10-2-8 Discharge or Ignition of Fireworks

- A. Definitions. The following words, terms and phrases, when used in this Section 10-2-8, shall have the meanings ascribed to them in this subsection 10-2-8(A), except where the context clearly indicates a different meaning:
1. "Consumer firework" means those fireworks defined by A.R.S. § 36-1601.
 2. "Display firework" means those fireworks defined by A.R.S. § 36-1601.
 3. "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.
 4. "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.

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5. "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.
 6. "Permissible consumer fireworks" means those fireworks of the same title as defined by A.R.S. § 36-1601.
 7. "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.
 8. "Supervised public display" means a monitored performance of display fireworks open to the public and authorized by permit issued by the city manager or authorized designee.

B. Fireworks prohibited; exceptions.

1. It shall be unlawful for any person, other than those parties engaged in a supervised public display, to use, discharge or cause the ignition of fireworks within the corporate limits of the city, except that the use of permissible consumer fireworks shall be allowed from May 4 through May 6, from June 24 through July 6, from December 24 through January 3, and on the second and third days of Diwali each year.
2. It shall be unlawful for any person to use permissible consumer fireworks between the hours of 11:00 p.m. and 8:00 a.m. on any day of the year, except that the use of permissible consumer fireworks shall be allowed between the hours of 11:00 p.m. on December 31 through 1:00 a.m. on January 1, and between the hours of 11:00 p.m. through July 4 and 1:00 a.m. on July 5.
3. It shall be unlawful, on all days during a stage one or higher fire restriction, for any person to use permissible consumer fireworks 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.
4. Nothing in this Section 10-2-8 shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks pursuant to a permit issued by the city.
5. Upon written application to the city on a form approved by the city, permits may be granted by the city manager or authorized designee for conducting a supervised public display of fireworks. Application to the city for a permit shall be made in writing not less than ten days prior to the date of the display. Every display shall be handled by a competent operator, and shall be of a character and located, discharged and fired so that it will not be hazardous to property or endanger any person. Before a permit is granted, the operator, location and handling of the display shall be approved, after investigation, by the city manager or authorized designee. After a permit is granted, the sale, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. No permit is transferable or assignable. A permit shall not be issued, and may be revoked, during time periods of high fire danger warnings. The city manager or authorized designee has authority to impose conditions on any supervised public display permit granted.
- ~~6. Penalty. A violation of this section 10-2-8(B) shall be a class 3 misdemeanor.~~

C. Sale of fireworks.

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1. No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under 16 years of age.
 2. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.
 3. Except as otherwise provided in this section and under state law, it shall be unlawful for any person to sell fireworks within the corporate limits of the city, except that the sale of permissible consumer fireworks is allowed from April 25 through May 6, from May 20 through July 6, from December 10 through January 3, and from two days before the first day of Diwali through the third day of Diwali each year.

D. Posting of signs by persons engaged in the sale of fireworks; civil penalty.

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

State of Arizona
Consumer Fireworks Regulations
Arizona Revised Statutes section 36-1601, et al.

The use of permissible consumer fireworks as defined under state law is allowed:
May 4—May 6, June 24—July 6, December 24—January 3, and [insert relevant dates for
Diwali]

The sale of permissible consumer fireworks as defined under state law is allowed:
April 25—May 6, May 20—July 6, December 10—January 3, and [insert relevant dates for
Diwali]

All other fireworks are prohibited, except as authorized by local fire department permit.

The sale and use of novelties known as snappers (pop-its), party poppers, glow worms, snakes, toy smoke devices and sparklers are permitted at all times.

Permissible consumer fireworks may not be sold to persons under 16 years of age.

Check with your local fire department for additional regulations and dates before using.

2. Signs required pursuant to this section shall be eight and one-half inches by eleven inches in size, on cardstock paper in landscape orientation, and placed by each retail sales display of permissible consumer fireworks.
3. Every person who sells permissible consumer fireworks to the public shall comply with rules adopted pursuant to A.R.S. § 36-1609 relating to the storage of consumer fireworks and relating to the retail sale of consumer fireworks before selling permissible consumer fireworks to the public.
4. ~~A violation of subsection 10-2-8(D)(1) or (D)(2) shall be a civil offense punishable by base fine of up to \$500.00.~~

E. Enforcement.

1. The city manager or authorized designee, a city police officer or marshal, or the city attorney may issue civil complaints to enforce those provisions of this Section 10-2-8 designated as civil offenses.
2. 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.

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3. ~~A city police officer or marshal or the city attorney may issue criminal complaints to enforce this article.~~

F. Liability for emergency responses related to use of fireworks; definitions.

1. 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, shall be strictly 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 10-2-8 shall be prima facie evidence of liability under this section.
2. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection 10-2-8(F)(1). 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.

G. Penalty. The penalty for violating any prohibition or requirement imposed by this Section 10-2-8 is a civil penalty of \$1,000.00.

(Ord. No. 34-10, § 2, 11-16-2010; Ord. No. 08-14, §§ 1—5, 7-1-2014; Ord. No. 16-23, § 2, 4-18-2023)