



TOWN OF JEROME, ARIZONA

POST OFFICE BOX 335, JEROME, ARIZONA 86331
(928) 634-7943 FAX (928) 634-0715

Founded 1876
Incorporated 1899

ORDINANCE NO. 382

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, ARIZONA, AMENDING CHAPTER 10, "OFFENSES," OF THE JEROME TOWN CODE TO ADD PROVISIONS REGARDING THE USE AND SALE OF FIREWORKS, AND RENAMING CHAPTER 10 TO "OFFENSES AND REGULATIONS"

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 Jerome 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; and

WHEREAS, due to the dry conditions, risk of fire, 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 Mayor and Council of the Town of Jerome, Yavapai County, Arizona, as follows:

Section 1. Chapter 10, "Offenses," is hereby renamed "Offenses and Regulations."

Section 2. Article 2, "Fireworks," of Chapter 10, "Offenses and Regulations," of the Town Code is hereby added, to read as follows:

ARTICLE 10-2	<u>FIREWORKS</u>
10-2-1	Definitions
10-2-2	Fireworks Prohibited
10-2-3	Sale of Fireworks
10-2-4	Posting of Signs by Persons Engaged in the Sale of Fireworks; Penalty
10-2-5	Authority to Enforce Violations of This Article; Means of Enforcement
10-2-6	Liability for Emergency Responses Related to Use of Fireworks; Definitions
10-2-7	Penalty

Section 10-2-1 Definitions

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 A.R.S. 36-1601.
- (2) *Display firework* means those fireworks defined by A.R.S. 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 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 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 Fire Chief or his designee.

Section 10-2-2 Fireworks Prohibited

A. The use, discharge or ignition of fireworks and/or sparklers within the Town of Jerome is prohibited.

B. Nothing in this section or article shall be construed to prohibit the use, discharge or ignition of novelty items other than sparklers, or the occurrence of a supervised public display of fireworks pursuant to paragraph C below.

C. Permits may be granted by the Fire Chief or his/her 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, in such 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 Fire Chief has authority to impose conditions on any permits granted.

D. Failure to comply with subpart A of this section is a Class 2 misdemeanor offense and may be punishable by a fine in an amount up to \$750.00 plus applicable surcharges, imprisonment for a period of up to four months, and probation for a period of up to two years.

E. Failure to comply with any permit requirements issued by the Fire Chief, as identified in subpart C of this section, is a Class 1 misdemeanor offense and may be punishable by a fine in an amount up to \$2,500.00 plus applicable surcharges, imprisonment for a period of up to six months, and probation for a period of up to three years.

Section 10-2-3 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 10-2-4 Posting of Signs by Persons Engaged in the Sale of Fireworks; 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, discharge or ignition of fireworks and/or sparklers within the Town of Jerome is prohibited, as set forth in Article 10-2 of the Jerome Town Code.

(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 Fire Chief or his/her 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 Clerk’s office.

D. Failure to comply with subparts A and B of this section is a Class 2 misdemeanor offense and may be punishable by a fine in an amount up to \$750.00 plus applicable surcharges, imprisonment for a period of up to four months, and probation for a period of up to two years.

Section 10-2-5 Authority to Enforce Violations of This Article; Means of Enforcement

The Fire Chief or his/her designee, a Town of Jerome police officer or marshal, or the Town Attorney may issue complaints to enforce violations of this article.

Section 10-2-6 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 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 any compensation paid to the persons who respond to the incident.

D. In addition to the recovery of expenses as provided for in this section, the Town of Jerome may impose fees for emergency responses related to the use of fireworks identical to the amounts set forth in Section 4-2-8, “Providing Fire, Rescue and EMS Services for Non-Residents,” of the Jerome Town Code.

Section 10-2-7 Penalty

Unless another penalty is specifically provided for, the penalty for violating any prohibition or requirement imposed by this article is a Class 2 misdemeanor offense and may be punishable by a fine in an amount up to \$750.00 plus applicable surcharges, imprisonment for a period of up to four months, and probation for a period of up to two years.

Section 2. Following its adoption, this ordinance shall be published by the Town Clerk in accordance with the requirements of A.R.S. 39-203 *et seq.*

Section 3. All ordinances or parts of ordinances that are in conflict with the provisions of this Ordinance are hereby repealed to the extent of their inconsistency herewith.

Section 4. Should any section or provision of this ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Town Code as a whole or any part thereof other than the part so declared invalid.

Section 5. This Ordinance shall take effect 30 days after final adoption, as provided by law.

FINALLY APPROVED this _____ day of _____, 2010.

Jay Kinsella, Mayor

ATTEST:

APPROVED AS TO FORM:

Candace Gallagher, Town Manager/Clerk

Kathleen G. Williamson, Williamson & Young, PC
Town Attorney

Date of First Reading:		11/17/10		Date of Adoption:		12/14/10	
<i>Ayes</i>	<i>Nays</i>	<i>Absent</i>	<i>Abstain</i>	<i>Ayes</i>	<i>Nays</i>	<i>Absent</i>	<i>Abstain</i>
5	0	0	0	5	0	0	0
Dates Published: 12/19/10							

CERTIFICATION OF POSTING

I, the duly appointed Deputy Clerk of the Town of Jerome, Arizona, or my representative, hereby certify that Ordinance No. 382 was posted in accordance with A.R.S. § 9-813 on the following dates and times, and at the following places:

	DATE	TIME	PLACE
1			301 Main Street, second floor, exterior posting case
2			970 Gulch Road, side of Gulch Fire Station, exterior posting case
3			600 Clark Street, Jerome Town Hall, exterior posting case
4			120 Main Street, Jerome Post Office, interior posting case

R.A. Shemaitis, Deputy Clerk