

ORDINANCE NO. O2023-037

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
YUMA, ARIZONA, AMENDING TITLE 13, CHAPTER 139 OF
THE YUMA CITY CODE REGULATING FIREWORKS
WITHIN THE CITY**

WHEREAS, the State of Arizona, by 2015 enactment of Arizona Revised Statutes (A.R.S.) § 36-1606, has preempted municipalities from regulating the sale and use of Permissible Consumer Fireworks; and,

WHEREAS, State law permits Chapter 139 of the Yuma City Code to supplement Title 36, Chapter 13, Article 1 of the Arizona Revised Statutes in a specific and limited manner; and,

WHEREAS, the regulation of the use of Fireworks and Permissible Consumer Fireworks at a local level is desired and needed by the Yuma community; and,

WHEREAS, the Senate Bill 1188, of the Fifty-sixth Legislature, First Regular Session, 2023 amends A.R.S. § 36-1606; and,

WHEREAS, Chapter 139 of the Yuma City Code need to be modified to comply with the State preemption and the amendment to A.R.S. § 36-1606; and,

WHEREAS, there is no current means for enforcement of Firework and Permissible Consumer Firework regulations at the State level; and,

WHEREAS, to meet the needs of the community and enforce regulation of Fireworks and Permissible Consumer Fireworks, Chapter 139 of the Yuma City Code must be updated.

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

SECTION 1: Yuma City Code, Chapter 139: *Fireworks*, is amended to add the bold text and delete the strikethrough text as follows:

§ 139-004 Use of Permissible Consumer Fireworks.

(A) A person shall not use permissible consumer fireworks except during the following dates:

- (1) June 24 through July 6; and
- (2) December ~~24~~ **26** through January ~~3~~ **4**.

(B) A person shall only use permissible consumer fireworks between the hours of 8:00 a.m. through 11:00 p.m. on the dates listed above, except as follows:

- (1) On December 31 and January 1, use may occur between the hours of 8:00 a.m. and 1:00 a.m.; and

(2) On July 4 and July 5, use may occur between the hours of 8:00 a.m. and 1:00 a.m.

(C) The Fire Chief, or designee, may prohibit the use of permissible consumer fireworks during the dates and times listed in this section when a federal or state agency implements a Stage 1 or higher fire restriction. The prohibition is limited to those dates on which the Stage 1 or higher fire restriction is in place.

(D) A person shall not use permissible consumer fireworks in or on public property, including, but not limited to, public buildings, public parking areas, public parks, sidewalks, and streets, roadways, and highways.

§ 139-006 Posting of Signs; Penalty.

(A) All persons engaged in the use or sale of permissible consumer fireworks shall post signage as required by the NFPA 1124.

(B) Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs that include the following language:

State of Arizona

Consumer Fireworks Regulations

Arizona Revised Statutes § 36-1601, et al.

The use of Permissible Consumer Fireworks as defined under state law is allowed:

June 24 - July 6 and December 24 26 - January 3 4

The sale of Permissible Consumer Fireworks as defined under state law is allowed:

May 20 - July 6 and December 10 - January 3

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.

(C) Signs required by division (B) of this section shall:

- (1) Be placed at all retail sales displays of permissible consumer fireworks;
- (2) Be on cardstock paper, sized 8-1/2" x 11"; and
- (3) Be in landscape orientation; and
- (4) Have language on contrasting background.

SECTION 2: Penalty

(A) A violation of this chapter is a civil offense. A person violating any provision of this chapter shall be fined \$1,000, plus all applicable fees, surcharges, and assessments, except that persons violating the provisions adopted by § 139-002(2) shall pay fines in the amounts set forth in A.R.S. § 36-1605(B) and (C).

(B) All fireworks and/or permissible consumer fireworks possessed, stored, or offered or exposed for sale, in violation of this chapter, shall be seized and removed by the Yuma Police Department at the person's expense. Fireworks offered for sale in violation of this chapter may also be seized by the Fire Marshal.

(C) The penalties provided in this chapter shall not be interpreted as limiting or disallowing pursuit of a civil action or remedy by any person suffering injury or damages as the result of a violation of this chapter.

Adopted this _____ day of _____ 2023.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney