

CHAPTER 10 OFFENSES

Article 10-1 OFFENSES (1)

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Section 10-1-1 Dangerous Construction

It is unlawful for any person to maintain or allow any signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

Section 10-1-2 Damage to Property

- A. It is unlawful for any person to damage in any manner or attempt to damage or tamper with any pipe lines, water hydrants, street lamps or lights, or the fixtures and appliances hereunto belonging upon any of the poles or other objects for use in connection with the lighting of the streets of the Town or any water pipes, hydrants, or any appliances pertaining to the water or sewer works, or any other property of any and every character belonging to the Town.

(1) *Section 9-240 B, A.R.S.*

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- B. It is unlawful for any person to deface, walk, ride or drive upon or over any sidewalk or street crossing composed of or containing cement, during the construction thereof, or before the same is thrown open to public use.
- C. It is unlawful for any person, firm or corporation to damage in any manner any road, street or bridge in the Town limits by using the same, by heavy vehicles, malicious destruction or by any act that will result in damage to any such road, street or bridge.
- D. It is unlawful to break or destroy any window, door or part of any dwelling owned or occupied by another or to break or sever from any premises owned or occupied by another any gate, fence, railing, tree, brush or vine or any property whatsoever, or to deface, mutilate or injure the same.
- E. It is unlawful for any person within the Town to throw stones or other missiles at railroad trains; or to let off the brakes of railroad cars standing on side tracks or tamper with the couplings of railroad cars, or to uncouple cars standing on railroad tracks, or to uncouple the air hose of the air brake system on railroad cars; or to remove, tamper with or break switch lamps or other signals set to control the movements of trains, or to jump on or off moving trains, or to throw refuse upon or in any way litter the depot or station grounds of any railroad.

Section 10-1-3 Deposits of Injurious Material on Thoroughfares/Covered Loads (Deleted by Ordinance #340 Passed 1/24/12; Effective 2/24/12)

Section 10-1-4 Excavation to be Covered

- A. It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the Town without providing a sufficient light at night and a temporary fence or suitable obstruction around or in front of such excavation during the day.
- B. It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than two feet in depth on any unenclosed lot, without substantial curbing, covering or protection.

Section 10-1-5 Explosives (Revised 10/26/10, Effective 11/26/10; Ordinance 330)

It is unlawful for any person within the limits of the Town to blast or use powder or other explosives without a permit from the Chief of Police in writing.

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Section 10-1-6 False or Misleading Reports to Police

It is unlawful for any person willfully to make to the police department of the Town any false, fraudulent, misleading or unfounded report or statement, or willfully to misrepresent any fact for the purpose of interfering with the operation of the police department or with the intention of misleading any police officer.

Section 10-1-7 Fences - Electric

It is unlawful for any person to erect or maintain within the Town any electric fence. Any such fence is hereby declared a public nuisance and subject to abatement by order of the Town Court.

Section 10-1-8 Liquor Violations

- A. It is unlawful for any person to consume spirituous liquor from a broken package in a public place, thoroughfare or gathering. This subsection shall not apply to the sale of spirituous liquors on the premises of and by any on sale retail liquor licensee.
- B. For purposes of this section, “spirituous liquor” includes alcohol, brandy, whiskey, vodka, rum, tequila, mescal, gin, wine, porter, ale, beer, and malt liquor, malt beverage, absinthe or compound or mixture of any of them, or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquified mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent of alcohol by volume.
- C. For purposes of this section, “broken package” means any container of spirituous liquor on which the United States tax seal has been broken or removed, or from which the cap, cork or seal placed thereupon by the manufacturer has been removed.
- D. For purposes of this section, “premises” shall mean the area from which a liquor licensee is authorized to sell, dispense or serve spirituous liquors under the provision of the liquor license.

Section 10-1-9 Littering

It is unlawful for any person to throw or deposit any litter in or upon any street, alley, public grounds, school grounds or church grounds.

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Section 10-1-10 Loitering

It is unlawful for any person, other than the owner, manager or his authorized representative, to interfere individually or collectively with free enjoyment of such property by the owners thereof; or interfere with the conduct of any lawful business by obstructing entrance to such business or by obstructing free passage of persons or merchandise or commodities within such place of business, or by obstructing service rendered by such business to its customers.

Section 10-1-11 Noise

- A. It is hereby declared to be a public nuisance, and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.
- B. It is unlawful to play, operate, or use any device known as a sound track, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the Chief of Police to operate any such vehicle so equipped.
- C. It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.
- D. Engine Braking: It is unlawful to operate a truck or motor vehicle in the Town of Clarkdale in such a manner as to cause the engine to emit additional noise from its exhaust or muffler system through deceleration or down shifting gears.

Section 10-1-12 Obstruction of Streets

It is unlawful for any person to obstruct any public street or alley, sidewalk or park or other public grounds within the Town by committing any act of, or doing anything which is injurious

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to the health, or indecent or offensive to the senses, or to do in or upon any such streets, alleys, sidewalks, parks, or other public grounds, any act or thing which is an obstruction of interference to the free use of property or with any business lawfully conducted by anyone, in or upon, or facing or fronting on any of such streets, alleys, sidewalks, parks or other public grounds in the Town.

Section 10-1-13 Obstruction of View (Revised 10/25/16; Resolution 1529; Ordinance 376; Effective 10/26/16)

It is unlawful for any person to maintain or allow any tree, hedge, billboard or other obstruction which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk. A violation of this section is punishable under Article 1-8 of the code; no violation may be brought as a criminal misdemeanor but may be brought as a petty offense.

Section 10-1-14 Offensive Business

It is unlawful for any person to establish or maintain any slaughterhouse or make a practice of slaughtering cattle, hogs, sheep or any other kind of animal, or establish or maintain any soap factory, render tallow, or pursue, maintain or carry on any other business or occupation offensive to the senses of prejudicial to the public health within the limits of the Town.

Section 10-1-15 Offensive Premises

It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him, or any cellar, privy, vault, pool, sewer or private drain therein to become nauseous, foul or offensive to the senses or prejudicial to the public health or comfort.

Section 10-1-16 Prostitution

It is unlawful for any person to practice prostitution, to patronize a prostitute or to solicit any person to visit or patronize a prostitute or place of prostitution.

Section 10-1-17 Searchlights

It is unlawful for any person to operate within the Town any incandescent or arc-type searchlight, beacon light or similar lighting device designed to and capable of projecting a beam of light into the sky for a distance in excess of one-half mile unless permission is obtained from the Council. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

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Section 10-1-18 Signs and Banners

It is unlawful for any person to place any banner or sign upon any streetlight pole, traffic signal pole or utility pole within the Town without first obtaining authorization from the Council.

Section 10-1-19 Spitting (Revised 10/25/16; Resolution 1529; Ordinance 376; Effective 10/26/16)

It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the Town or upon any public path, byway or highway, or in or on any public ground or park in the Town, or upon the floor or interior of any public building in the Town.

A violation of this section is punishable under Article 1-8 of the code; no violation may be brought as a criminal misdemeanor but may be brought as a petty offense.

Section 10-1-20 Water - Flow Upon Streets Prohibited

- A. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, or to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the Town.
- B. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the Town through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch or waste ditch in which said person has a vested right or interest or through the willful or negligent failure of said person to accept irrigation water after it has been ordered by him.

Section 10-1-21 Camping Prohibited

- A. It is unlawful for any person to camp on public property within the Town limits of Clarkdale, Arizona, other than designated areas, without prior written approval of the Chief of Police.
- B. It is unlawful for any property owner to allow any person to camp on their private property within the Town limits of the Town of Clarkdale, Arizona except in accordance with the following:

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1. No person(s) shall so camp for more than two weeks per visit.
 2. Property owners shall be limited to no more than three (3) such camping visits per calendar year.
 3. Camping shall be in a recreational vehicle (RV) or travel trailer only, with a self contained sewage collection system.
- C. For the purposes of this section, the term “camping” means to use real property for living accommodation purposes such as sleeping activities, or making preparations to sleep, including the laying down of bedding for the purpose of sleeping, or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants in conducting these activities are in fact using the area for living accommodations purposes regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

Article 10-2 SMOKING (Recreated by Resolution 1535, Ordinance #381 on 12/13/16, Effective 1/13/17)

- 10-2-1 Purpose
- 10-2-2 Definitions
- 10-2-3 Regulation of Smoking on Area Owned, Leased or Otherwise Acquired by or Under the Operation and Supervision of the Town
- 10-2-4 Where Smoking is Not Regulated (A.R.S.36-601.01)
- 10-2-5 Posting Regulation
- 10-2-6 Penalty

Section 10-2-1 Purpose

Since the smoking of tobacco or any other plant is a danger to health and/or an annoyance, inconvenience, discomfort or health hazard to those who are present, and in order to serve the public health, safety and welfare, the declared purpose of this chapter is to prohibit the smoking of tobacco or any other plant, as defined in this chapter.

Section 10-2-2 Definitions

“**BAR**” means a facility devoted primarily to serving alcoholic beverages pursuant to either a Bar License or Beer and Wine Bar license from the State Liquor Department and which does not qualify as a restaurant.

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“DESIGNATED SMOKING AREA” means any area within an enclosed public place where smoking is specifically permitted, provided however, that any designated smoking area shall not exceed in area and size of the nonsmoking area and shall be so situated as to allow nonsmoking individuals reasonable opportunity to conduct normal activity in a smoke free environment.

“ELECTRONIC SMOKING DEVICE” means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation or vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.”

"EMPLOYEE" means any person who performs any service on a full-time, part-time or contracted basis whether or not the person is denominated an employee, independent contractor or otherwise and whether or not the person is compensated or is a volunteer.

"EMPLOYER" means a person, business, partnership, association, the state of Arizona and its political subdivisions, corporations, including a municipal corporations, trust, or non-profit entity that employs the services of one or more individual persons.

"ENCLOSED AREA" means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling. Enclosed area includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means.

"PERSON" means an individual, partnership, corporation, limited liability company, entity, association, governmental subdivision or unit of a governmental subdivision, or a public or private organization of any character.

"PHYSICALLY SEPARATED" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageway) and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas.

"PLACES OF EMPLOYMENT" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private

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residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

"PUBLIC PLACE" means any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

"RESTAURANT" Means a facility which is regularly open for the primary purpose of serving food prepared for consumption, either on or off the premises, to customers for compensation. No facility shall be classified as a restaurant unless such facility receives at least forty percent (40%) of its gross revenues from serving food.

"RETAILER" shall mean any person, firm or corporation engaged in the business of selling tobacco products, alternative nicotine products, or vapor products to any individual customer or consumer.

"SMOKING" means inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco, marijuana or medical marijuana, any other lighted tobacco product and any electronic smoking device designated for the purpose of inhaling and exhaling aerosol or vapor.

"SMOKE MEDICAL MARIJUANA" as defined in this chapter means the use of medical marijuana as authorized under the provisions of the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency, including smoking or any method of consumption other than smoking. (Created 3/8/11 Ordinance #331)

"SPORTS FACILITIES" means enclosed areas of sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, billiard halls, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sporting events.

"VETERAN AND FRATERNAL CLUBS" means a club as defined in A.R.S. 4-101(7)(a)(b) or (c).

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Section 10-2-3 Regulation of Smoking on Area Owned, Leased or Otherwise Acquired by or Under the Operation and Supervision of the Town

- A. All enclosed public places occupied by the Town of Clarkdale shall be subject to the provisions of this Chapter.
- B. Smoking shall be prohibited in all parks, trails and recreation areas and associated improvements and areas owned, leased or otherwise acquired by or under the operation and supervision of the Town of Clarkdale (except the Lower Tapco River Access Point) and other public areas signed or designated.
- C. These regulations shall apply to Arizona (“parks and recreation facilities”).

Section 10-2-4 Where Smoking is Not Regulated (A.R.S.36-601.01)

Smoking is prohibited in all public places and places of employment within the state of Arizona, except the following:

1. Private residences, except when used as a licensed child care, adult day care, or health care facility.
2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than fifty percent of rooms rented to guests in a hotel or motel are so designated.
3. Retail tobacco stores that are physically separated so that smoke from retail tobacco stores does not infiltrate into areas where smoking is prohibited under the provisions of this section.
4. Veterans and fraternal clubs when they are not open to the general public.
5. Smoking when associated with a religious ceremony practiced pursuant to the American Indian religious freedom act of 1978.
6. Outdoor patios so long as tobacco smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.

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7. A theatrical performance upon a stage or in the course of a film or television production if the smoking is part of the performance or production.

Section 10-2-5 Posting Regulations

- A. “No Smoking” or “Smoke Free” signs, or the international “No Smoking” symbol shall be clearly and conspicuously posted by the owner, operator, manager, or employer or other person in control in every place where smoking is controlled by this chapter.
- B. Any owner, manager, operator or employer of any establishment controlled by this Chapter shall, upon either observing or being advised of a violation of Section 10-2 have the obligation to inform the violator of the appropriate requirements of this Section and then request immediate compliance.

Section 10-2-6 Penalty

A violation of this section shall be punishable under Article 1-8 of the Clarkdale Town Code as a civil violation. A monetary fine for a violation of not less than twenty-five (\$25.00) nor more than one hundred dollars (\$100) may be imposed. No violation may be brought as a criminal misdemeanor but may be brought as a petty offense.

Article 10-3 CURFEW HOURS FOR MINORS

10-3-1	Definitions
10-3-2	Curfew Regulations
10-3-3	Defenses/Exceptions
10-3-4	Enforcement
10-5-5	Penalties

Section 10-3-1 Definitions

- A. **“EMERGENCY”** means an unforeseen combination of circumstances or the resulting state that calls for immediate action.
- B. **“GUARDIAN”** means a person who, under court order, is the guardian of a minor or a public or private agency with who a minor has been placed by an authorized agency or court; or at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.
- C. **“INSUFFICIENT CONTROL”** means failure to exercise reasonable care and diligence in the supervision of the minor.

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- D. **“MINOR”** means any person under eighteen years of age.
- E. **“PARENT”** means a person who is a natural parent, adoptive parent or step-parent of another person.

Section 10-3-2 Curfew Regulations

- A. It is unlawful for any minor under the age of sixteen years to be in, about, or upon any place in the Town away from the property where the youth resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.
- B. It is unlawful for any minor sixteen years of age or older and under the age of eighteen years, to be in, about, or upon any place in the Town away from the property where the child resides between the hours of 12:00 a.m. and 5:00 a.m.
- C. It is unlawful for a parent, guardian, or other person having supervisory custody of the minor to knowingly permit, or by insufficient control, allow a minor to violate the provisions of Subsections A or B of this Ordinance, except as expressly provided herein. It shall not constitute a defense hereto that such parent, guardian, or other person having supervisory custody of the minor did not have actual knowledge of the minor’s violation of Subsections A or B, if such parent, guardian, or other person having responsibility for the minor, in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of the minor.
- D. It is unlawful for parent, guardian, or other person having the care, custody, or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him by a law enforcement officer who arrests the minor for violation of Subsection A or B as listed.

Section 10-3-3 Defenses/Exceptions

It is a defense to prosecution under Section 10-3-2 if the minor was:

- A. Accompanied by the minor’s parent or guardian or an adult having supervisory custody of the minor.
- B. With prior permission of the parent or guardian or an adult having supervisory custody, in a motor vehicle involved in interstate travel.
- C. With prior permission of the parent or guardian or an adult having supervisory

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custody, in an employment activity or going to or returning home from an employment activity without a detour or stop by the most direct route.

- D. On an emergency errand.
- E. Specifically directed to the location by the parent or guardian or an adult having supervisory custody, on reasonable legitimate business or some other activity, or going to or returning home from such business or activity.
- F. With prior permission of the parent or guardian or an adult having supervisory custody engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution.
- G. Married and 16 years of age or over, or in the military.
- H. On the sidewalk abutting their residence on the next door neighbors' property with the consent of the neighbor.

Section 10-3-4 Enforcement

- A. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon circumstances, the minor's responses and minor's conduct, no defense as provided in Section 10-3-3 is probably present.
- B. In addition to any other powers he/she may have, any law enforcement officer who arrests a minor for violating any of the provisions of Section 10-3-2, Subsection A or B is also hereby empowered to demand of the parent, guardian, or adult having supervisory custody that such parent, guardian, or other adult come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian, an adult having supervisory custody or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.

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Section 10-3-5 Penalties (Revised 10/25/16; Resolution 1529; Ordinance 376; Effective 10/26/16)

Any violation of this section is punishable under Article 1-8 of the code; a monetary fine for a violation shall not to exceed the maximum provided by statute for a petty offense; no violation may be brought as a criminal misdemeanor but may be brought as a petty offense.

ARTICLE 10-4 Fireworks Regulations (Created 10/26/10, Effective 11/26/10; Ordinance 330)

10-4-1 Definitions

10-4-2 Fireworks Prohibited; exceptions

10-4-3 Sale of Fireworks

10-4-4 Posting of Signs by Persons Engaged in the Sale of Fireworks; penalty.

10-4-5 Authority to Enforce Violations of this Article; Means of Enforcement

10-4-6 Liability for Emergency Responses Related to Use of Fireworks; Definitions

10-4-7 Penalty

Section 10-4-1 Definitions

- A. 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 Arizona Revised Statutes Section 36-1601.
 2. *Display firework* means those fireworks defined by Arizona Revised Statutes Section 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 Arizona Revised Statute Section 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 Arizona Revised Statute 36-1601.

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5. *Permissible consumer fireworks* means those fireworks as defined by Arizona Revised Statute Section 36-1601 that may be sold within the Town of Clarkdale 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 Marshall or his designee.

Section 10-4-2 Fireworks prohibited; exceptions.

(Revised 10/25/16; Resolution 1529; Ordinance 376; Effective 10/26/16)

- A. The use, discharge or ignition of fireworks within the Town of Clarkdale is prohibited.
- B. Nothing in this section or article shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.
- C. Permits may be granted by the Fire Marshall or 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 and in 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 Marshall has authority to impose conditions on any permits granted.
- D. Any violation of subsection A of this Section is punishable under Article 1-8 of the code; the first violation is punishable as a civil offense, with monetary fine of at least fifty dollars (\$50) but not to exceed two hundred fifty dollars (\$250); a second offense may be brought as a class 2 misdemeanor or as a civil offense with the monetary fine not to exceed the amount of the fine plus applicable surcharges for a class 2 misdemeanor.
- E. Any violation of this Section by failing to comply with any permit requirements issued by the Fire Marshal, as identified in Subsection C, is punishable under Article 1-8 of the code; any violation brought as a criminal misdemeanor offense shall be a class 1 misdemeanor.

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Section 10-4-3 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 (16) years of age.
- B. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law or the Clarkdale Town Code.

Section 10-4-4 Posting of signs by persons engaged in the sale of fireworks; civil penalty. (Revised 10/25/16; Resolution 1529; Ordinance 376; Effective 10/26/16)

- 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 of fireworks, except novelty items as defined by the Clarkdale Town Code, including permissible consumer fireworks, is prohibited.
 - 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 Community Development Director or 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 posted on the Town's website and filed with the Town Clerk's office.
- D. Violation of Subsections A and B of this Section shall be punishable under Article 1-8 of the Town Code; any violation brought as a criminal misdemeanor offense shall be a class 1 misdemeanor.

Section 10-4-5 Authority to enforce violations of this article; means of enforcement.

- A. A Town police officer or the Town Attorney may issue complaints to enforce violations of this article.

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Section 10-4-6 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(s) 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 the salaries of the persons who respond to the incident.

Section 10-4-7 Penalty. (Revised 10/25/16; Resolution 1529; Ordinance 376; Effective10/26/16)

A violation of this Article shall be punishable under Article 1-8 of the Town Code; any violation brought as a criminal misdemeanor offense shall be a class 2 misdemeanor.