

ORDINANCE NO. 05-01-2012

AN ORDINANCE REGULATING THE USE OF FIREWORKS WITHIN SANTAQUIN CITY BOUNDARIES, CODIFICATION, AND INCLUSION IN THE CODE; ALSO PROVIDING FOR THE CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, A SAVING CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, the State of Utah is experiencing a severe fire season due to extremely dry conditions and the Governor of Utah, Gary Herbert, has asked each municipality to review its ordinances pertaining to incendiary devices and fire hazards within wild land - urban interface areas; and

WHEREAS, Santaquin City has adopted Title 4: Public Health and Safety into its municipal codes, such title containing regulations to protect the public health and safety from fire hazards; and

WHEREAS, the City Council desires to amend the Title 4: Public Health and Safety regulations pertaining to the use of fireworks;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Santaquin City, State of Utah, as follows:

Section I.

1. Title 4-1-5 paragraph C is amended as follows: (underlined text is added, stricken text is deleted)

Willfully And Negligently Causing Fire: It shall be unlawful for any person willfully or negligently to ignite or cause to be ignited, any trees, shrubs, cultivated crop, fence, building or other property on any land not his own. This shall include, but not be limited to, starting a fire by using, discarding or failing to properly dispose of or to throw away any lighted cigar, cigarette, match, firework, or other burning material whatsoever, and/or recreational shooting of firearms in the vicinity of ~~on~~ any land cover which will carry fire.

2. Title 4-1-6: Penalty is renumbered as Title 4-1-7.
3. Title 4-1-6: Use of Fireworks, is created and adopted to read as follows:

Title 4-1-6: Use of Fireworks

- A. Sale. Subject to federal, state, and local laws and ordinances governing such sales, to include applicable zoning and business license regulations, and as provided by State law governing the periods during when such sales may occur, Class C common state approved explosives may be sold within Santaquin each year: (1) beginning on June 23, and ending on July 27; (2) beginning on December 29, and ending on December 31; and (c) two days before and on the eve of the Chinese New Year.
- B. It shall be unlawful for any person to use and/or discharge fireworks except as expressly permitted in the following section.
- C. Permitted Use Periods and Stages: In the event that the City Council finds further restrictions are necessary for the protection of public health, safety, and welfare, the council may further restrict the use of fireworks, pursuant to the authority granted to the city under Utah Code Annotated 10-8-47, as follows.

1. Subject to the above prohibition on the discharge of fireworks, the following stages shall apply to the discharge of class C common state approved fireworks and display fireworks, which stages (and duration thereof), except for stage one, shall be set by resolution of the Santaquin City Council, depending on the climatic conditions existing at a given time:

a. Stage One; Limited Restrictions: Unless stage restrictions are declared by resolution of the City Council, the provisions of this subsection shall apply. During a period of stage one restrictions:

1. Except where expressly prohibited by federal, state or local law or ordinance, or where otherwise posted, and subject to the provisions of subsection a2 below, persons exercising reasonable caution and prudence may discharge class C common state approved explosives each year as follows:

(a) between the hours of 11:00 a.m. and 11:59 p.m. (midnight) on July 4 and July 24; and

(b) between the hours of 11:00 a.m. and 11:00 p.m., beginning on July 1 and ending on July 7, and beginning on July 21 and ending on July 27, except as set forth in subsection 1(a) above; and

(c) beginning at 11:00 a.m. on December 31 and ending at 1:00 a.m. on January 1; unless New Year's Eve falls on a Sunday and the City Council has, by resolution, designated the Saturday preceding New Year's Day as the date upon which to celebrate New Year's Eve in Santaquin, in which case such discharge may commence at 11:00 a.m. on said Saturday;

(d) between the hours of 11:00 a.m. on the eve of the Chinese New Year and 1:00 a.m. of the day of the Chinese New Year.

2. During the dates or time periods set forth in subsection a.1 above, no class C common state approved explosives may be discharged within the jurisdictional limits of the city:

(a) by persons not exercising reasonable caution and prudence; or

(b) in violation of park curfews or noise ordinances adopted by the City.

3. The city, as part of a community sponsored event, may discharge: (1) class C common state approved fireworks and (2) display fireworks at such times and places as permitted by state law and in connection with community sponsored events, to include, but not be limited to, the periods allowed by law from June 23 through July 27; during City's annual celebration activities; on December 31 and January 1; and on the day before and the day of the Chinese New Year.

b. Stage Two; Enhanced Restrictions: During a period of stage two restrictions:

1. Except where expressly prohibited by federal, state or local law or ordinance, or where otherwise posted, and subject to the provisions of subsection b2 below, persons exercising reasonable caution and prudence may only discharge class C common state approved fireworks within the jurisdictional boundaries of Santaquin, at location(s) and during such time frame(s) as specifically designated by Santaquin City—which may be co-extensive with, or for a portion of or set of dates and/or times within, the following time periods:

(a) between the hours of 11:00 a.m. and 11:59 p.m. (midnight) on July 4 and July 24; and

- (b) between the hours of 11:00 a.m. and 11:00 p.m., beginning on July 1 and ending on July 7, and beginning on July 21 and ending on July 27, except as set forth in subsection (a) above; and
 - (c) beginning at 11:00 a.m. on December 31 and ending at 1:00 a.m. on January 1; unless New Year's Eve falls on a Sunday and the City Council has, by resolution, designated the Saturday preceding New Year's Day as the date upon which to celebrate New Year's Eve in Santaquin, in which case such discharge may commence at 11:00 a.m. on said Saturday;
 - (d) between the hours of 11:00 a.m. on the eve of the Chinese New Year and 1:00 a.m. of the day of the Chinese New Year.
 - 2. During the dates or time periods set forth in subsection (1) above, no class C common state approved explosives may be discharged within the jurisdictional limits of the city:
 - (a) by persons not exercising reasonable caution and prudence; or
 - (b) in violation of park curfews or noise ordinances adopted by the City.
 - 3. The city, as part of a community sponsored event, may discharge: (1) class C common state approved fireworks and (2) display fireworks at such times and places as permitted by state law and in connection with community sponsored events, to include, but not be limited to, the periods allowed by law from June 23 through July 27; during City's annual celebration activities; on December 31 and January 1; and on the day before and the day of the Chinese New Year
- c. Stage Three; Restricted to City Use: During a period of stage three restrictions:
- 1. The use and/or discharge of fireworks within the jurisdictional boundaries of Santaquin City shall be restricted to city use only. Discharge of class C common state approved fireworks or display fireworks shall be limited to professional pyrotechnic displays at community sponsored events and by licensed display operators; and may be used and/or discharged at such times and places as permitted by state law and in connection with community sponsored events, to include, but not be limited to, the periods allowed by law from June 23 through July 27; during City's annual celebration activities; on December 31 and January 1; and on the day before and the day of the Chinese New Year
 - 2. It shall be unlawful for persons to discharge fireworks of any kind within the jurisdictional limits of the city.
- d. Stage Four; Full Restriction: It shall be unlawful to discharge fireworks of any kind anywhere within the jurisdictional boundaries of Santaquin City during a period of stage four restrictions.
- D. Penalty. Notwithstanding the provision of Section 4-1-7, any person, firm, or corporation violating the date and time restrictions for discharging fireworks, as set forth in Section 4-1-6.C of this Code, shall be guilty of an infraction on a first offense. Any additional offenses occurring within a 12 month period shall be in accordance with Section 4-1-7 of this code.

Section II. Codification, Inclusion in the Code, and Scrivener’s Errors

It is the intent of the City Council that the provisions of this ordinance be made part of the City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished, sections of the ordinance may be re-numbered or re-lettered. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

Section III. Severability

If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section IV. Effective Date

The City Recorder shall deposit a copy of this ordinance in the official records of the City on June 28, 2012, and before 5:00 p.m. on that same day, shall place a copy of this ordinance in three places within the City. This ordinance shall become effective immediately upon passage.

PASSED AND APPROVED this 27th day of June 2012.

James E. DeGraffenried, Mayor

Councilmember Keith Broadhead	Voted_____
Councilmember Matt Carr	Voted_____
Councilmember James F. Linford	Voted_____
Councilmember Richard Payne	Voted_____
Councilmember Rick Steele	Voted_____

ATTEST:

City Recorder