

November 17th, 2010

The Town of Davie, Florida passed an ordinance which restricts the use of illegal fireworks.

***Congratulations* to the City for taking this step to make it's citizens safer and to enable them to have greater peace of mind during the Holiday seasons.**

The ordinance is as follows:

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers
FROM/PHONE: John C. Rayson, 954-566-8855
PREPARED BY: Town Attorney's Office
SUBJECT: Ordinance

AFFECTED DISTRICT: Townwide

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING SECTION 7-3 OF THE TOWN CODE OF ORDINANCES, ENTITLED "USE AND STORAGE OF FIREWORKS"; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE. {Approved on first reading on November 3, 2010. The vote was as follows: Mayor Paul: yes; Vice Mayor Starkey: away from seat; Councilmember Caletka: yes; Councilmember Hattan: yes; Councilmember Luis: yes} (Motion carried 4-0)

EXECUTIVE SUMMARY: Amends Code to specify times and places for fireworks sales and usage

KEY POINTS:

- Provides exception for wholesale establishments that relied on definition of "wholesale" pursuant to Section 12-503
- Allows fireworks usage between 8 p.m. and 1 a.m. New Years Eve and the Fourth of July
- No usage within 1000 feet of livestock, school or municipal building

CONCURRENCES:

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

If yes, expected cost: \$

Account name and number:

If no, amount needed: \$

What account name and number will funds be appropriated from:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING SECTION 7-3 OF THE TOWN CODE OF ORDINANCES, ENTITLED "USE AND STORAGE OF FIREWORKS"; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 7-3 of the Town of Davie Code of Ordinances, the Town regulates the sale, use and storage of fireworks; and

WHEREAS, the Town Council of the Town of Davie finds it in the best interest of the Town to amend Section 7-3 in order to clarify the sales and uses permitted within the Town; and

WHEREAS, the Town Council finds that the amendments to the Code contained herein will reasonably protect the health, safety, and welfare of the residents of the Town.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. Recitals. The above recitals are true, correct and incorporated herein by reference.

SECTION 2. Amendment. Section 7-3 entitled "Use and Storage of Fireworks" of the Code of Ordinances of the Town of Davie is hereby amended to state as follows:

Sec. 7-3. Sales, use and storage of fireworks.

- (a) *Definition.* "Fireworks" shall mean and include any combustible or explosive composition or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets of any type, Roman candles, Dago bombs, or other devices of like construction, and any devices containing any explosive or flammable compound, or any tablets or other device containing any explosive substances. The term "fireworks" shall not include auto flares, sparklers, paper caps containing not in excess of an average of twenty-five hundredths (.25) of a grain of explosive content per cap, and toy pistols, toy canes, toy guns, or other devices for use of such caps, the sale and use of which shall be permitted at all times.

(b) *Sale, use, etc., prohibited; exceptions for use on certain holidays; conditions under which permit for display will issue.*

(1) Except as hereinafter provided, it shall be unlawful for any person, firm, co-partnership, or corporation to offer for sale, expose for sale, sell at retail or wholesale, manufacture, or use or explode any fireworks. Wholesale fireworks establishments that reasonably relied upon the definition of "wholesale" contained in Section 12-503 prior to the amendments to this Section shall be exempted from this Section and grandfathered in as a legally permitted use. No illegal fireworks under Florida law shall be offered for sale. Illegal fireworks found in the possession of anyone are subject to confiscation.

(2) Use of fireworks is allowed only between 8:00 p.m. and 1:00 a.m. on the Fourth of July and New Year's Eve, provided that said use shall not occur within 1000 feet of any livestock enclosure, stable, kennel, school, fire station, police station, or other municipal building.

(3) The police chief shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displayed fireworks by organizations or groups of individuals.

(4) If the police chief issues a permit as hereafter provided, such display must be managed and handled by a competent licensed operator. The operator must be approved by both the chief of police and the chief of the fire department of the town. The operator shall supply the chief of police and chief of the fire department a written statement of the nature of the display, the location of the display, and the type of fireworks to be used at least three (3) days prior to the date of the proposed display.

(5) It shall be the duty of the chief of police and the chief of the fire department to determine that the display shall be of such a character, and so located, discharged or fired as in the opinion of the chiefs, after proper inspection, shall not be hazardous to property or endanger any person or persons.

(c) *Filing of permit application; permit nontransferable.* Applications for permits shall be filed with the police chief in writing at least fifteen (15) days in advance of the date of the display. After such permit has been granted, it shall then be lawful for the organization or groups of individuals holding the permit to purchase and possess fireworks, but no use or display of the fireworks shall be made until such time as the aforementioned approval of the chief of police and the chief of the fire department shall be granted. No permit granted hereunder shall be transferable.

(d) *Bond or liability insurance for fireworks display.* The permittee shall furnish a bond or public liability and property damage insurance in the amount of one hundred thousand dollars/three hundred thousand dollars (\$100,000.00/\$300,000.00) for the payment of all damages which may be caused either to a person or persons or to property by reason of the

permitted display, and arising from any acts of the permittee, his agent, employee or subcontractors.

(e) *Disposal of unfired fireworks.* Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining.

(f) *Seizure of fireworks.* The chief of the fire department or chief of police or any officer thereof, including code enforcement officials, shall seize, take, remove, or cause to be removed at the expense of the owner all stock of fireworks offered or exposed for sale, stored, or held in violation of this section.

SECTION 3. Severability. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word hereof be declared unconstitutional or invalid, the invalidity thereof shall not affect the validity of any of the remaining portions of this Ordinance.

SECTION 4. Effective Date. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS 3rd DAY OF November, 2010

PASSED ON SECOND READING THIS 17th DAY OF November, 2010


MAYOR/COUNCILMEMBER

ATTEST:


TOWN CLERK

APPROVED THIS 17th DAY OF November 2010.