

CHAPTER 13

OFFENSES

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ARTICLE 13-1

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Section 13-1-1 Burning

It is unlawful for any person to start or maintain any open fire for the purpose of burning trash or rubbish in any of the streets, alleys or vacant lots in the town, or to start or maintain any such fire in the yard or enclosures surrounding any dwelling, house or business without a burning permit.

Section 13-1-2 Interference With Use of Property

It is unlawful for any person, other than the owner, manager or his authorized representative to interfere individually or collectively with the 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, merchandise or commodities within such place of business, or by obstructing service rendered by such business to its customers.

Section 13-1-3 Alcoholic Beverages In A Motor Vehicle

- A. No person shall drink any alcoholic beverage while in a motor vehicle upon a street or highway within the town limits.
- B. No person shall have in his possession on his person while driving a motor vehicle upon a street or highway, within the town limits, any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or the seal broken, or the contents of which have been partially removed.
- C. No person shall have in his possession, while in a motor vehicle upon a street or a highway, within the town limits, any bottle, can or other receptacle containing any alcoholic beverage which has been partially removed.
- D. It is unlawful for the registered owner of any motor vehicle, or the driver if the registered owner is not then present in the vehicle, to keep in a motor vehicle, when such vehicle is upon a street or highway, within the town limits, any bottle, can or other

receptacle containing any alcoholic beverage which has been partially removed, unless such container is kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passenger.

Section 13-1-4 Alcoholic Beverages In A Town Park

A. It is unlawful for any person, while on the premises of any town park, to commit any of the following acts, except as provided in subsection B of this section:

1. Drink or have in his possession any alcoholic beverage.
2. Have in his possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, its seal broken or the contents of which have been partially removed.

B. Organizations seeking exemption from the prohibition of subsection A of this section shall apply to the town manager for a permit. If the permit is denied, the organization may file a request for review by the council within five days of the denial. The matter shall be heard as an item on the agenda of the next regular meeting. The town manager shall charge a maintenance fee for the purpose of maintaining the grounds of the park upon the issuance of the permit.

C. For the promotion and protection of the public health, safety, convenience and general welfare of the citizens and residents of the town, the council hereby reserves the right to close parks to give effect to this section.

Section 13-1-5 Use and Sale of Fireworks

A. Definitions. The following words, terms and phrases, when used in this section, 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 §36-1601.
2. "Display firework" means those fireworks defined by Arizona Revised Statutes §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 Statutes §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 Statutes §36-1601.
5. "Permissible consumer fireworks" means those fireworks as defined by Arizona Revised Statutes §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 Duncan Rural Fire Department or designee.
7. "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.
8. "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.

B. Fireworks Prohibited; Exceptions.

1. The use, discharge or ignition of consumer and permissible consumer fireworks within the Town is prohibited.
2. Nothing in this division shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence, with a permit, of a supervised public display of fireworks.
3. Permits may be granted by the Duncan Rural Fire Department or designee for conducting 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 Duncan Rural Fire Department has authority to impose conditions on any permits granted.
4. Failure to comply with any permit requirements issued by the Duncan Rural Fire Department is a class 1 misdemeanor.

C. Sale of Fireworks.

1. No person shall sell, permit or authorize the sale of permissible consumer fireworks in conflict with state law.
2. Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall:
 - i. Comply with Duncan Municipal Code Chapter 5 regarding business licenses.

- ii. Obtain an inspection certificate from the Duncan Rural Fire Department verifying compliance with applicable state law pertaining to the storage, transportation and sale of consumer fireworks.
 - iii. Openly and conspicuously post color copies of inspection certificates at each cash register and in each area where fireworks are displayed for sale.
 3. Every person engaged in such sales shall prominently display signs indicating the following:
 - i. The use of fireworks, including permissible consumer fireworks, is prohibited within the Town limits. This prohibition does not apply to novelty items as defined by Town Code.
 - ii. Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.
 4. No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen years of age

D. Penalties.

Any person in violation of this Section if guilty of a class 1 misdemeanor in accordance with Duncan Municipal Code Chapter 1, Article 1-8 and upon conviction thereof shall be punished by a fine of not to exceed two thousand five hundred dollars or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

E. Liability.

1. 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.
2. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subpart E1 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.