

# City of South Daytona

## Office of the City Manager

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3014



### MEMORANDUM

To: James L. Gillis Jr., City Manager

From: Becky Witte, Deputy City Clerk

Re: **Consideration of the First Reading of Ordinance No. 2022-10** amending Article 10, Offenses and Miscellaneous Provisions, Section 10-13 of the South Daytona Code of Ordinances related to the sale and use of fireworks within the City.

Date: July 28, 2022

Florida Statute Chapter 791 (Sale of Fireworks) regulates the sale and use of fireworks. In 2020, Governor DeSantis established New Year's Eve, New Year's Day and the 4<sup>th</sup> of July as designated holidays to allow for the use of fireworks.

Following the recent 4<sup>th</sup> of July holiday, our Police Department noted that several streets were impassable due to large firework displays being set off right in the road. There were also complaints about fireworks being set off late at night and into the morning.

Regulations need to be set whereby those wishing to celebrate the holiday with fireworks can do so without inadvertently causing unintentional harm and stress on others. The roads need to be open at all times to allow first responders unimpeded access due to the inherent dangers present when setting off fireworks. In addition, there needs to be a cut-off time to respect your neighbor's right to peace and quiet at bedtime.

As a result of the numerous complaints that we have received, staff is recommending that the City Council establish regulations on the use of fireworks so that all can enjoy these holidays that mean so much to each and every one of us.

The regulations being proposed are as follows:

1. It shall be unlawful for any person, firm, partnership, corporation, or business entity of any other type to offer for sale or display or to use or explode any fireworks within the City of South Daytona except as provided in Florida Statute Chapter 791.
2. It shall be unlawful to discharge any fireworks or sparklers in public rights-of-way, streets, parks, or other public properties.
3. It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any person or group of persons, or from, in the direction of or into any vehicle of any kind.
4. When permitted, noise from firework activity must conclude at 11:00pm and all debris from fireworks or sparklers must be collected immediately, placed in a solid waste container and placed for pick-up on the next available waste collection day.

The proposed Ordinance attached to this memorandum will incorporate these four regulations under Section 10 (Offenses and Miscellaneous Provisions) of the City's Code of Ordinances. Staff recommends the City Council approve the Second and Final Reading of Ordinance No. 2022-10 regarding the regulation of fireworks in the City of South Daytona.

**ORDINANCE NO. 2022-10**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING ARTICLE 10. OFFENSES AND MISCELLANEOUS PROVISIONS, SECTION 10-13 OF THE SOUTH DAYTONA CODE OF ORDINANCES RELATED TO THE SALE AND USE OF FIREWORKS WITHIN THE CITY; AND PROVIDING FOR RECITALS, ADMINISTRATIVE ACTIONS, CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statute Chapter 791 (Sale of Fireworks) regulates the sale and use of fireworks; and

**WHEREAS**, the City Council recognizes State regulations and the established designated holidays as outlined in Florida Statute Chapter 791; and

**WHEREAS**, the City Council determines upon its review of our local conditions that more detailed requirements than those specified in Florida Statute are necessary; and

**WHEREAS**, hereby adopts an amendment to Article 10 Offenses and Miscellaneous Provisions relating to fireworks within the City for the purpose of furthering the public health, safety and welfare of the City and its residents; and

**WHEREAS**, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA:**

**Section 1. Recitals.** The foregoing recitals are true and correct and by this reference are hereby incorporated herein and made an integral part hereof as though fully set forth herein, and adopted as findings of the City Council of the City of South Daytona.

**Section 2.** The City Council of the City of South Daytona hereby amends Article 10. Offenses and Miscellaneous Provisions, Section 10-13 of the South Daytona Code of Ordinances to read as follows:

**Sec. 10-13. ~~Reserved.~~ Fireworks.**

1. It shall be unlawful for any person, firm, partnership, corporation, or business entity of any other type to offer for sale or display or to use or explode any fireworks within the City of South Daytona except as provided in Florida Statute Chapter 791.
2. It shall be unlawful to discharge any fireworks or sparklers in public rights-of-way, streets, parks, or other public properties.
3. It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any person or group of persons, or from, in the direction of or into any vehicle of any kind.
4. When permitted, noise from firework activity must conclude at 11:00pm and all debris from fireworks or sparklers must be collected immediately, placed in a solid waste container and placed for pick-up on the next available waste collection day.

**Section 3. Administrative Actions.** The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

**Section 4. Codification.** The provisions of this Ordinance amending or adding to the City of South Daytona Code of Ordinances and/or Land Development Code shall be codified and shall become and be made a part of the City of South Daytona Code of Ordinances and/or Land Development Code, as applicable. The codified portions of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate words. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**Section 5. Conflicts.** All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 6. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 7. Effective Date.** This Ordinance shall take effect immediately upon enactment.

Passed upon first reading at a regular meeting of the City Council of the City of South Daytona, Florida on the 26<sup>th</sup> day of July, 2022.

Passed and adopted upon second and final reading at a regular meeting of the City Council of the City of South Daytona, held in South Daytona, Florida on the 9<sup>th</sup> day of August, 2022.

CITY OF SOUTH DAYTONA:

ATTEST:

\_\_\_\_\_  
William C. Hall, Mayor

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James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

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Wade C. Vose, City Attorney