

file for record on the 11th
of December A.D., 1988
at 12:29 o'clock P. M. and duly
recorded in book 204 of the records

COUNTY ORDINANCES BK. #204

569

Ordinance
569-75

my hand and seal of office

County Clerk, Grant Co., N.M.

FIREWORKS ORDINANCE NO. 88-12-30-B

AN ORDINANCE REGULATING THE SALE, POSSESSION OR DISCHARGE OF FIREWORKS, PROVIDING FOR EXCEPTIONS, PROVIDING FOR PUBLIC DISPLAYS, ESTABLISHING ORDINANCE APPLICABLE TO WHOLESALE DEALERS, PROHIBITING MANUFACTURING, ESTABLISHING FIREWORKS SALES, APPLICATIONS, GUIDELINES, AND RESTRICTIONS, ESTABLISHING REGULATIONS FOR ANNUAL EXCEPTION JUNE 24TH THROUGH JULY 5TH, AND PROVIDING FOR PENALTIES, ENFORCEMENT AND SEVERABILITY.

WHEREAS, the health, safety and general welfare of the residents of Grant County require the regulation of the sale and use of fireworks; and,

WHEREAS, Sections 4-37-1 et seq., N.M.S.A., 1978 Compilation, provide that Counties may adopt Ordinances to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any County and its inhabitants; and the County of Grant has the same power as a municipality to regulate and prohibit the use of fireworks pursuant to Section 3-18-11, N.M.S.A., 1978 Compilation.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Grant County, New Mexico, that this Ordinance be adopted and enacted as follows:

SECTION I. SALE, POSSESSION OR DISCHARGE OF FIREWORKS ILLEGAL; ANNUAL EXCEPTION.

- A. It shall be unlawful to sell, display for sale, own, possess or discharge within the unincorporated areas of Grant County, New Mexico, any firecracker, Roman Candle, Skyrocket, Torpedo, Bomb, Blank Cartridge, Sparkler or any other type or form of explosive commonly known as Fireworks as defined by the Rules and Regulations of the State Fire Marshal, except as set forth herein.
- B. The sale, display for sale, possession or discharge of Fireworks as approved by the State Fire Marshal, except

for aerial devices, shall be allowed within the unincorporated areas of Grant County, New Mexico, on an annual basis as follows:

1. Between 8:00 a.m., June 24th and 12 midnight July 5th during which daily sales shall be permitted from 8:00 a.m. to 12 midnight only.
 2. The sale, display for sale, possession, or discharge of aerial devices is prohibited at all times.
- C. The discharge of Fireworks in public streets or in public rights-of-way is prohibited at all times..

SECTION II. OTHER EXCEPTIONS.

- A. The prohibition of Section I does not apply to the following items which are not considered Fireworks under the Rules and Regulations of the State Fire Marshal: model rockets, toy pistol caps, emergency signal flares, matches and other devices exempted from the definition of Fireworks in Section 30-17-4, N.M.S.A., 1978 Compilation.
- B. The prohibition of Section I does not apply to the discharge of Fireworks for public display whenever a valid permit has been obtained in compliance with this Ordinance.

SECTION III. PUBLIC DISPLAYS - - GENERAL

- A. Nothing herein shall be held to prohibit the County, any civic or governmental organization, public school, amusement park or any other recognized organization from sponsoring or conducting an officially supervised Fireworks display in accordance with this Ordinance.
- B. Applications for public display permits shall be filed with the County Manager not less than thirty (30) days prior to the display. A non-refundable fee of one hundred dollars (\$100.00) shall accompany the application, and the applicant shall furnish a certificate evidencing Comprehensive Liability Insurance in the amount of five hundred thousand dollars (\$500,000.00) effective during the period of the display.
- C. Permits issued pursuant to this Section shall not be transferable.

SECTION IV. ORDINANCE APPLICABLE TO WHOLESALE DEALERS.

This Ordinance shall be held to apply to bonafide wholesale handling and storage which must be in compliance with all other applicable fire codes and County, State and Federal regulations as to labeling, placarding, storage and marking of such fireworks in an approved manner. (NOTE: ALL FIREWORKS MUST COMPLY WITH LABELING SPECIFICATIONS OF THE PURE FOOD AND DRUG ADMINISTRATION AND THE CONSUMER PRODUCTS SAFETY COMMISSION OF THE UNITED STATES GOVERNMENT.)

SECTION V. MANUFACTURING PROHIBITED.

The manufacturing of fireworks is prohibited within the boundaries of Grant County.

SECTION VI. FIREWORKS SALES, APPLICATIONS, GUIDELINES AND RESTRICTIONS.

- A. No fireworks shall be sold except through permanently established businesses and in accordance with this Ordinance. In order to protect life and property, it shall be required for all such businesses to conduct all retail fireworks sales outside and away from all commercial, residential and industrial occupancies. Variances will be considered on a case by case basis.
- B. For purposes of retail sales of fireworks, a suitable, temporary stand (not mobile) shall be erected at a minimum distance of twenty-five (25) feet from any permanent structure. Fireworks stands and storage buildings or containers shall conform to the following requirements:
 - 1. The stand where fireworks are sold shall be equipped with at least one (1) shovel and one (1) five-gallon bucket of water, or one (1) five-pound class ABC fire extinguisher.
 - 2. Smoking shall be prohibited within twenty-five (25) feet of any such fireworks stand.
 - 3. "NO SMOKING" signs (in English and Spanish) shall be conspicuously posted throughout areas where fireworks are stored, sold or possessed for sale. Fireworks sales buildings and storage buildings or containers shall be conspicuously marked with signs (in English and Spanish) indicating "EXPLOSIVES" and "KEEP OPEN FLAMES AWAY." All such signs shall be composed of letters with a minimum height of two (2) inches and shall measure no less than 12 inches high by 24 inches wide.

4. A copy of this Ordinance shall be conspicuously posted in buildings or stands where fireworks are sold or stored.
5. All areas immediately adjacent to fireworks stands and fireworks storage buildings and containers shall be maintained free of all trash, weeds and other readily combustible materials at all times.
6. All temporary fireworks sales stands used solely as fireworks sales stands shall be dismantled and/or removed from their location by July 11th each year.

C. IDENTIFICATION OF FIREWORKS OFFERED FOR SALE.

Each seller of fireworks, whether wholesale or retail, shall maintain a current, complete description of all fireworks offered for sale. This description shall be on either the supplier's or the seller's letterhead and shall specify, but not be limited to, the amount of pyrotechnics in each item inside and outside diameters of shells, whether the item is a ground or aerial device and type of firework as listed in the Rules and Regulations of the State Fire Marshal. This description shall be available for inspection during business hours at all places where fireworks are sold.

D. FIREWORKS SALES PERMITS.

1. Applications for retail fireworks sales permits shall be made to the County Clerk in writing at least thirty (30) days prior to any sale of fireworks. Each applications shall include the applicant's name, address, telephone number, and type of fireworks to be sold, the proposed period of sale, the permanently established business through which the fireworks will be sold, the location of the fireworks stand and the name, address and telephone number of the supplier. Each permit shall be valid for use only by the permanently established business and fireworks stand named on the application and permit; and only one business and one stand shall be named on each application and permit.
2. Each retail license application shall be accompanied by a non-refundable fee of twenty-five dollars (\$25.00).
3. Applications for wholesale dealer sales in Grant County shall be made to the County Clerk in writing at least thirty (30) days prior to any sale

of fireworks. Each application shall include the applicant's name, address, telephone number, quantity and type of fireworks to be sold, the proposed period of sale, and the name, address and telephone number of the supplier. Each wholesale permit application shall be accompanied by a non-refundable fee of one hundred and fifty dollars (\$150.00).

SECTION VII. REGULATIONS FOR ANNUAL EXCEPTION JUNE 24TH - JULY 5TH.

A. SALES.

1. Persons who sell fireworks under the Annual Exception (Section I, (B) June 24th - July 5th) must be at least sixteen (16) years of age.
2. Sales of fireworks by persons under eighteen (18) years of age shall be permitted only when such sales are directly supervised by a person twenty-one (21) years of age or older.

B. PURCHASE.

1. Purchasers of fireworks under the Annual Exception (Section I (B), June 24th - July 5th) must be at least sixteen (16) years of age.
2. Purchase of fireworks by persons under sixteen (16) years of age shall be under the immediate and direct supervision of the purchaser's parent or legal guardian.

C. DISCHARGE/POSSESSION.

1. Persons who discharge, possess, or use fireworks under the Annual Exception (Section I (B), June 24th - July 5th) must be at least sixteen (16) years of age.
2. Discharge, possession, or use of fireworks by persons under sixteen (16) years of age shall be under the immediate and direct supervision of the user's parent or legal guardian.

D. OTHER RESTRICTIONS.

1. The sale or discharge of fireworks under the Annual Exception (Section I (B), June 24th - July 5th) shall be prohibited within one hundred (100) feet of any flammable or combustible liquid dispensing or storage facility, commercial or institutional occupancy and place of public assembly.
2. The discharge or use of fireworks under the Annual Exception (Section I (B), June 24th - July 5th) shall be prohibited if, in the opinion of the

County Fire Marshal, his designated agent, any on-duty peace officer or the Chief of any County Fire Department or his designated agent, the fireworks are being used in such a manner as to constitute a threat to any person or property.

SECTION VIII. PENALTIES AND ENFORCEMENT.

- A. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be fined not less than three hundred dollars (\$300.00) or be imprisoned in the County jail for not more than ninety (90) days, or both.
- B. The County Sheriff, his designated deputy, any on-duty peace officer and the Chief of any County Fire Department and his designated agent are authorized to take, seize, remove or cause to be removed, at the owner's expense, any and all illegal fireworks deemed to be in violation of this Ordinance and which are offered or displayed for sale or otherwise possessed in violation of this Ordinance.
- C. Failure of the seller of fireworks, whether retail or wholesale, to maintain a complete description of such fireworks as set forth in Section VI (C) shall be cause for the immediate issuance of a "Cease and Desist Order" against the seller and for immediate closure of the premises where the fireworks are being sold or offered for sale.

SECTION IX. SEVERABILITY.

The provisions of this Ordinance are severable, and if any provision, sentence, clause, section, or any part thereof is found to be illegal, invalid, unconstitutional or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any remaining provision, sentence, clause, section or part of this Ordinance or its application to other persons or circumstances. It is hereby declared to be the intent of the County Commission that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included and if the person or circumstance to which the Ordinance or any part thereof is held inapplicable had been specifically exempted.

ADOPTED THIS 20th DAY OF December, 1988.

BOARD OF COUNTY COMMISSIONERS
OF GRANT COUNTY, NEW MEXICO

Armando D. Galindo
Armando D. Galindo, Chairman

Zeke P. Santa Maria
Zeke P. Santa Maria, Member

Conn W. Brown
Conn W. Brown, Member

ATTEST:

Carol Baca
Carol Baca, Co. Clerk