

GRANT COUNTY FIREWORKS ORDINANCE

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, DISCHARGE GUIDELINES, AND RESTRICTIONS, ESTABLISHING REGULATIONS FOR ANNUAL EXCEPTIONS, AND PROVIDING FOR INSPECTION, ENFORCEMENT, PENALTIES 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 the municipality to regulate and prohibit the use of fireworks pursuant to: 60-2C-1 et seq, NMSA, 1978 Compilation, (1997 Supp), hereinafter referred as the "Fireworks Licensing and Safety Act" or "the Act."

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 1. SHORT TITLE. This ordinance shall be cited as the Grant County fireworks Ordinance.

SECTION 2. DEFINITIONS. Grant County hereby adopts the "Definitions" outlined in the State Fireworks Licensing and Safety Act: 60-2C-2. "Permissible Fireworks" as defined in 60-2C-7 are:

- (1) ground and hand-held sparkling and smoke devices:
 - (a) cone fountains;
 - (b) crackling devices;
 - (c) cylindrical fountains;
 - (d) flutter sparklers;
 - (e) ground spinners;
 - (f) illuminating torches;
 - (g) toy smoke devices; and
 - (h) wheels;
- (2) aerial devices;
 - (a) aerial spinners;
 - (b) helicopters;
 - (c) mines;
 - (d) missile-type rockets; and
 - (e) roman candles;
 - (f) shells;
 - (g) stick-type rockets, (except those with a tube less than 1/4 inch inside diameter which are not permissible fireworks)
- (3) ground audible devices:
 - (a) chasers; and
 - (b) firecrackers

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ay of Grant
reby certify that this instrument
filed for record on the 12
of May A.D., 2000
1130 o'clock P M. and duly
died in book 054 of the records
MSC
4496-6561

Witness my hand and seal of office
the 07th day of
CLERK, GRANT CO., N.M.
Deputy

SECTION 3. SALE, OR DISCHARGE OF FIREWORKS ILLEGAL; ANNUAL EXCEPTIONS

A. The sale of "Permissible Fireworks" (except for aerial devices); and the discharge of ground audible devices shall be allowed within the unincorporated areas of Grant County, New Mexico, on an annual basis as follows:

1. Between June 20th and July 6th of each year and six days preceding and including New Year's Day, and three days preceding and including Chinese New Year, the Sixteenth of September and Cinco de Mayo of each year.
2. The sale, display for sale, possession, or discharge of aerial devices is prohibited at all times.
3. Additionally, the sale of "Permissible Fireworks," except aerials, are allowed all year long, by "Specialty Retailers" whose primary business is tourism.
4. The prohibition of this Section does not apply to the following items which are not considered Fireworks under the Rules and Regulations of the State Fireworks Licensing and Safety Act: model rockets, toy pistol caps, emergency signal flares, matches and other devices exempted from the definitions of Fireworks in the Fireworks Licensing and Safety Act.
5. The prohibition of this Section does not apply to the discharge of Fireworks for public display whenever a valid permit has been obtained in compliance with this Ordinance.

SECTION 4. APPLICATION AND PERMIT FOR RETAIL AND WHOLESALE SALES

A. All vendors of fireworks within the unincorporated areas of Grant County must obtain a local Fireworks Sales Permit from the County Clerk.

B. Applications for retail and wholesale fireworks sales permits 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, and type of fireworks to be sold, the proposed period of sale, the location of the fireworks stand and the name, address, and telephone number of the supplier. Each permit shall be valid for the fireworks stand named on the application, and only one business and one stand shall be named on each application and permit.

C. Vendors must present at the time of application for permit, a copy of the state issued license, and a copy of a written agreement for use, rent or lease of land intended for the vendor's sales location, unless the vendor is located within a permanent structure. Such written agreements for use, rent or lease of land for use as a fireworks sales location shall be signed by the owner, property manager or tenant having authority to execute such documents.

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- D. Wholesale handling and storage 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 FEDERAL GOVERNMENT.
- E. Retail and wholesale license applications shall be accompanied by a non-refundable fee of twenty-five dollars (\$25.00).
- F. Vendors are responsible for the applicable gross receipts taxes.

SECTION 5. PUBLIC DISPLAY FIREWORKS

- 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 and the State Fireworks Licensing and Safety Act.
- B. Applications for public display permits shall be filed with the County Manager not less than thirty (30) days prior to the display.
- C. A non-refundable fee of one hundred dollars (\$100) 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) effective during the period of the display.
- D. Permits issued pursuant to this Section shall not be transferable.

SECTION 6. FIREWORKS SALES, GUIDELINES AND RESTRICTIONS

- A. 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 State Fireworks Licensing and Safety Act. This description list shall be available for inspection during business hours at all places where fireworks are sold.
- B. Temporary (not mobile) fireworks stands must be set back a reasonable distance from the roadway and shall not obstruct the public right of way; and shall be erected a minimum distance of twenty five (25) feet from any permanent structure.

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- C. No fireworks shall be stored, kept, sold or discharged within fifty feet of any gasoline pump or gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.
- D. It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen years or to any intoxicated person
- E. Persons who sell fireworks must be at least 16 years of age.
- F. Fireworks stands and storage building or containers shall conform to the following requirements:
 - 1. Any stand where fireworks are sold shall be equipped with at least one (1) fire extinguisher bearing an Underwriters Laboratories Inc rated capacity of at least five pound ABC per 500 ft of space used for fireworks sales or storage.
 - 2. Discharge of fireworks shall be prohibited within one hundred and fifty (150) feet of any fireworks stand.
 - 3. Smoking, open flames and any ignition source are prohibited within twenty five (25) feet of any fireworks stand.
 - 4. "NO SMOKING" signs (in English and Spanish) shall be conspicuously posted throughout areas where fireworks are stored, sold or possessed for sale. All signs shall have letters at least four (4) inches in height.
 - 5. State and County permits must be displayed at each location at all times.
 - 6. 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.
 - 7. All temporary fireworks stands shall be dismantled and/or removed from their location by July 11th, each year

SECTION 7. DISCHARGE OF FIREWORKS

- A. Discharge of ground audible fireworks is only allowed on the following days: June 20th through July 6th, six (6) days preceding and including New Year's Day, three (3) days preceding and including Chinese New Year, September 16th, and Cinco de Mayo, of each year (NOTE: discharge of aerial devices is prohibited all year long).
- B. The discharge or use of fireworks under the annual exceptions shall be prohibited if, in the opinion of designated agents of the State Fire Marshal, any on duty peace

officer, or the chief of any county rural fire department, the fireworks are being used in such a manner as to constitute a threat to any person or property.

- C. No person shall ignite any fireworks within a motor vehicle or throw fireworks from a motor vehicle, nor shall any person place or throw any ignited article of fireworks into or at a motor vehicle or at or near any person or group of people.

SECTION 8. EXTREME DROUGHT CONDITIONS; RESTRICTED SALES AND USE

- A. The County may hold a hearing to determine if fireworks restrictions should be imposed. The County shall conduct such process in accordance with 60-2C-8.1 of "The Act," and shall issue a proclamation declaring an extreme drought condition in all or a portion of the County.
- B. The proclamation shall give the County power to:
 1. Ban the sale and use of ground audible devices, within the effected area.
 2. Limit the use of any permissible fireworks to areas that are barren or that have a readily accessible source of water for use;
 3. Ban or restrict the sale or use of display fireworks;
 4. Ban the use of all fireworks within wildlands in its jurisdiction, after consultation with the State Forester, and the USFS.

SECTION 9. ENFORCEMENT AND PENALTIES

- A. Grant County hereby adopts Department of Transportation Regulations covering fireworks.
- B. The Fire Marshal or his designated agent may at any reasonable hour enter the premises, portable building or any structure temporarily or permanently located at the site designated for the sale, packaging or handling of permissible fireworks for the purpose of inspecting the stand, permits, description lists and the fireworks to be offered to the public.
- C. The Fire Marshal or his designated agent shall compare the appearance and label of any firework to the Grant County fireworks regulations. He/she may seize or, by order, stop the sale of any non-permitted fireworks as provided in this ordinance.
- D. Failure of the seller of fireworks, whether retail or wholesale, to maintain a complete description of such fireworks as set forth in Section 6.A. 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.
- E. Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and shall be fined not more than three hundred dollars (\$300.00) or be imprisoned in the County Jail for not more than ninety (90) days, or both.

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F. In addition to any other criminal penalties that may be imposed, any individual, firm, partnership or corporation found guilty by a court of competent jurisdiction of violating this ordinance two or more times within a five year period shall, after notice and hearing, have its permit revoked for a period of one year.

SECTION 10 SAVINGS CLAUSE AND REPEALER

A. **SAVINGS Clause:** 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.

B. **REPEALER:** This Ordinance hereby repeals and supercedes all previous Grant County Ordinances and/or parts thereof dealing with the same subject matter included herein to the extent the previous Ordinance is in conflict herein.

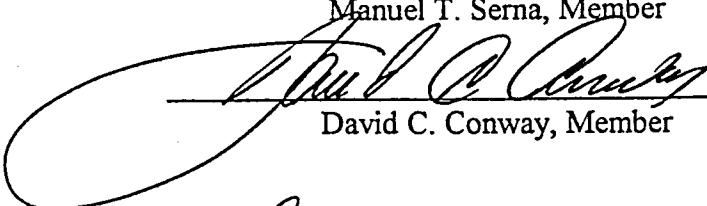
PASSED, APPROVED AND ADOPTED at a hearing in the regular meeting of the Board of County Commissioners of the County of Grant, State of New Mexico, this 11th Day of May, 2000.

GRANT COUNTY BOARD OF COMMISSIONERS



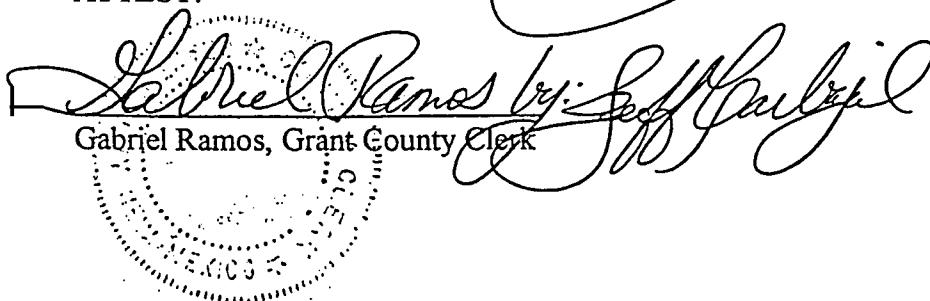
Carl W. Scholl, Chairman

Manuel T. Serna, Member



David C. Conway, Member

ATTEST:



Gabriel Ramos, Grant County Clerk

