

ORDINANCE RESTRICTING THE SALE OR USE OF FIREWORKS  
(EXCEPT AS EXPRESSLY PROVIDED HEREIN)

BE IT ORDAINED BY THE GOVERNING BODY OF  
ROOSEVELT COUNTY, WHICH IS THE COUNTY COMMISSION OF THE COUNTY OF  
ROOSEVELT, NEW MEXICO

**Section 1. Short Title**

This Ordinance may be cited as the "County of Roosevelt restriction on the sale or use of fireworks".

**Section 2. Purpose**

The purpose of this Ordinance is to allow for the sale and use of fireworks, to eliminate the harm to health and property within Roosevelt County and is designed to safeguard the health, safety, and welfare of the citizens and to protect their property.

**Section 3. Conflicts.**

In the event of conflicts with other County of Roosevelt Ordinances, the provisions of this ordinance shall supersede other previously enacted ordinances.

It is the intention of the Commission in enacting this Ordinance to harmonize this Ordinance with existing State law and State regulations.

**Section 4. Definitions**

As used in this Ordinance the following words, terms, phrases shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

*Aerial device* means a fireworks device that upon ignition propels itself or an insert a significant distance into the air, but does not include a firework that produces a shower of sparks. "Aerial device" includes sky rocket and bottle rocket, missile-type rocket, stick-type rocket, helicopter, aerial spinner, roman candle, and mine shell, but does not include model rockets of the type(s) normally sold at or through hobby stores.

*Common fireworks* means any fireworks device suitable for use by the public that complies with the construction, performance, composition, and labeling requirements promulgated by the United States Consumer Product Safety Commission in Title 16, C.F.R., and that is classified as a class C explosive by the United States Department of Transportation.

*County Commission* is the duly elected Board of the Roosevelt County Commission, acting as a body in public meetings.



*Display distributor* means any person, firm, or corporation selling special fireworks.

*Distributor* means any person, firm, corporation or other entity selling fireworks to wholesalers and retailers for resale.

*Firework* means any composition or device for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. "Fireworks" are further classified in this division as common fireworks and special fireworks, as defined by the United States Department of Transportation, C.F.R. Title 49, transportation, parts 173.88(d) and 173.100(r). This definition shall not include model rockets of the type(s) normally sold at or through hobby stores.

*Ground audible device* means a fireworks device intended to function on the ground that produces an audible effect no louder than a class C firework.

*Manufacturer* means any person, firm, or corporation engaged in the manufacture of fireworks.

*Permissible fireworks* means fireworks legal for sale and use in the County of Roosevelt under the provisions of this Ordinance.

*Retailer* means any person, firm, or corporation purchasing fireworks for resale to consumers

*Sheriff* is the Sheriff of the County of Roosevelt.

*Special fireworks* means fireworks devices primarily intended for commercial displays which are designed to produce visible or audible effects by combustion, deflagration or detonation including salutes containing more than one hundred thirty (130) milligrams (two (2) grains) of explosive composition, aerial shells containing more than forty (40) grams of chemical composition exclusive of lift charge and other exhibition display items that exceed the limits contained in this division for common fireworks.

*Specialty retailer* means any person, firm or corporation purchasing fireworks for year-round resale in permanent retail stores whose primary business is tourism.

*Wholesaler* means any person, firm or corporation purchasing fireworks for resale to retailers.

## **Section 5. The Sale or Display of Fireworks Shall be Prohibited**

The sale or display of fireworks shall be prohibited within Roosevelt County except as provided within this Ordinance, the sale or display of fireworks as defined herein shall not be allowed at any location within Roosevelt County except as provided for within the confines of any City, Town, or Village, and only as allowed by duly enacted municipal ordinance. The sale or display of fireworks outside the municipal limits of any municipality which has granted permission for the sale or display of fireworks shall be strictly prohibited.

## **Section 6. Limited Sale of Fireworks—License or Permit Required**

(a) If conditions warrant and subject to the discretion and majority vote of the sitting County Commission, the Commission may by Resolution authorize the use, sale, or display of fireworks within Roosevelt County and outside municipal or village limits for a prescribed period of time.



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(b) In the event the Commission by majority vote approves a resolution allowing for the use, sale, or display of fireworks the following provisions of this Section along with Sections 7 through Section 14 shall apply and shall control the sale of such fireworks.

(c) No person may sell, hold for sale, import, distribute or offer for sale, as specialty retailer or retailer, any fireworks within the County unless such person has first obtained the appropriate license or permit from the State of New Mexico and from the Roosevelt County Commission through its County Manager for each separate location of sale.

(d) The Roosevelt County Sheriff shall enforce the Roosevelt County Ordinance Restricting The Sale Or Use Of Fireworks. All license applications for the sale, import distribution, or offer for sale of fireworks shall be submitted to the Roosevelt County Manager's Office. All retailers shall be required to purchase a retail fireworks permit for each retail location.

(e) An applicant for a license or permit under the Roosevelt County Ordinance Restricting The Sale Or Use Of Fireworks shall pay to the city the following fees, which shall not be refundable:

(1) Fireworks permit, per location ..... \$ 250.00

(f) All applicants for a license or permit must first have or obtain a valid County business license.

(g) Licenses issued under the Roosevelt County Ordinance Restricting The Sale Or Use Of Fireworks, shall not be restricted in number or limited to any person without cause.

#### **Section 7. Possession, Sale Or Use Of Unauthorized Fireworks Unlawful**

No individual, firm, partnership, corporation, or association shall possess for retail sale in Roosevelt County, sell or offer for sale at retail or use or possess any fireworks other than permissible fireworks.

#### **Section 8. Exportation Of Fireworks From The County.**

Nothing in the Roosevelt County Ordinance Restricting The Sale Or Use Of Fireworks, shall prohibit wholesalers, distributors, importers, specialty retailers, or manufacturers from storing, selling, shipping, or otherwise transporting fireworks as defined by the United States Department of Transportation to any person or entity outside the County.

#### **Section 9. Permissible Fireworks.**

Permissible fireworks for sale to the general public as that term issued herein shall be understood to mean those common fireworks legal for sale and use in New Mexico under the provision of the of the Fireworks Safety and Licensing Act in N.M.S.A., 1978 Comp., as amended with the



exception of ground audible devices, and aerial devices, which are prohibited pursuant to this divisions

#### **Section 10. Impermissible Fireworks.**

Impermissible fireworks shall include all aerial devices as defined in Section 4 of this division; also all ground audible devices except as defined in Section 4 of this Ordinance and any firework which does not meet the definition of "common firework" as defined in Section 4 of this division

#### **Section 11. Retail Sales Or Storage Fireworks, Regulated Activities**

(a) No fireworks may be sold at retail without a retail permit. All permits shall be conspicuously displayed at all times at the location where the retail sale takes place.

(b) It is unlawful to offer for sale or to sell any fireworks to children under the age of twelve (12) years or to any intoxicated person.

(c) At all places where fireworks are stored, sold, or displayed the words "no smoking" shall be conspicuously posted in letters at least four (4) inches in height. Smoking is prohibited within twenty-five (25) feet of any fireworks stock.

(d) No fireworks shall be stored, kept, sold or discharged within fifty (50) 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 (1) gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.

(e) All fireworks permittees and licensees shall keep and maintain upon the premises a fire extinguisher bearing an Underwriters Laboratories, Inc., rated-capacity of at least five (5) pounds. ABC per five hundred (500) square feet of space used for fireworks sales or storage

(f) A sales clerk who is at least sixteen (16) years of age shall be on duty to serve consumers at the time of purchase or delivery. All fireworks sold and shipped to consumers within the city shall be sold and shipped only by an individual firm, partnership, or corporation holding the proper State of New Mexico fireworks license or permit.

(g) No fireworks shall be discharged within one hundred fifty (150) feet of any fireworks retail sales location.

(h) 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.

(i) Any fireworks devices that are readily accessible to handling by consumers or purchasers in a retail sales location shall have their exposed fuses protected in a manner to protect against accidental ignition of an item by a spark, cigarette ash, or other ignition source. If the fuse is a thread-wrapped safety fuse which has been coated with a nonflammable coating, only the



outside end of the safety fuse shall be covered. If the fuse is not a safety fuse, then the entire fuse shall be covered.

(j) Fireworks may be sold at retail between June 20 and July 6 of each year and three (3) days preceding and including New Year's Day, Chinese New Year, and Cinco de Mayo of each year except that fireworks may be sold all year in permanent retail stores whose primary business is tourism.

#### **Section 12. Public Display of Fireworks.**

Nothing in this Ordinance shall prohibit the public display of fireworks except that any individual, association, partnership, corporation, or organization shall secure a written permit from the office of the County Manager and the fireworks shall be purchased from a distributor or display distributor licensed by the state fire marshal and the Bureau of Alcohol, Tobacco, and Firearms at the United States Department of the Treasury.

#### **Section 13. Severability**

If any section, paragraph, sentence, clause or word contained in this ordinance or any State or Federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

#### **Section 14. Penalty**

Any person, firm, or corporation, violating any provision of this Ordinance shall be fined not less than \$ 100 nor more than \$ 250 for each offense and a separate offense shall be deemed committed on each day during or which a violation occurs or continues.

ADOPTED BY THE GOVERNING BODY OF ROOSEVELT COUNTY THIS 6<sup>th</sup>  
DAY OF February, 2007.

ATTEST:

E. Janet Collins  
E. Janet Collins, County Clerk

Paul Linder  
Chairperson Roosevelt County Commission



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