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ORDINANCE NO. 1037

AN ORDINANCE PROVIDING FOR REGISTRATION OF PERSONS SELLING FIREWORKS IN THE CITY OF ROSWELL; PROVIDING FOR LIMITATIONS ON THE TYPES OF FIREWORKS OFFERED FOR SALE OR POSSESSED WITHIN THE CITY OF ROSWELL, PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND FIXING THE EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE GOVERNING BODY, THE CITY COUNCIL, OF THE CITY OF ROSWELL, NEW MEXICO:

Section 1. Section 14-3 of the Roswell City Code, as adopted from Ordinances No. 670, Section 1 and No. 898, Section 36 is hereby amended to read:

Section 14-3. Possession of fireworks. It shall be unlawful for any person to commit possession of fireworks, consisting of either selling, offering to sell, owning, possessing, or discharging, any firecracker, roman candle, sky-rocket, torpedo, bomb, blank cartridge or any other type or form of explosive commonly known as "fireworks," unless such item has been declared by the state fire marshal as not dangerous to persons or property. Provided, however, that even if approved by the state fire marshal the following items are prohibited and shall not be possessed, as defined above, within the City:

- (a) Firecrackers -- defined as pyrotechnic devices consisting of small paper-wrapped or cardboard tubes producing noise accompanied by a flash of light upon ignition.
- (b) Stick-type rockets -- defined as pyrotechnic devices less than $\frac{1}{2}$ inch in diameter containing a wooden stick for guidance and stability and rising into the air upon ignition. A burst of color or noise or both is produced at the height of flight or anytime after ignition.

Persons engaging in the retail or wholesale sale of fireworks within the City shall first register with the City Fire Department and shall engage in such sale only in conformity with the restrictions contained herein and all other applicable city, state or federal regulations. Such retail or wholesale sellers shall permit inspection by agents of the City Fire Department at all reasonable times, with or without notice, for the purpose of ascertaining the seller's compliance with these provisions.

The term "fireworks" shall not include toy pistols, toy canes, toy guns or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times.

Nothing herein contained shall be held to apply to or prohibit any employees of the state game and fish department or the United States Fish and Wildlife Service from possessing fireworks for control of game birds and animals, or to prohibit any municipality or civic organization therein, from sponsoring and conducting, in connection with any public celebration, an officially supervised and controlled fireworks display.

Section 2. Repealer. All ordinances, parts of ordinances or fee schedules in conflict or inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

Section 3. Severability. That if any section, paragraph, clause, or provision of this ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any other part of this ordinance.

Section 4. Effective Date. This ordinance shall be and become effective five days after its publication.

PASSED, ADOPTED, SIGNED AND APPROVED on May 13, 1980.



L. C. Stiles
L. C. STILES, Mayor

Sarah L. Carter
Sarah L. Carter, City Clerk