

# **FIREWORKS ORDINANCE**

- 5-5-1 TITLE**
- 5-5-2 PURPOSE**
- 5-5-3 DEFINITIONS**
- 5-5-4 APPLICATIONS AND PERMIT**
- 5-5-5 RESTRICTIONS**
- 5-5-6 INSPECTION**
- 5-5-7 PERMITTED DEVICES**
- 5-5-8 TESTING PROCEDURE**
- 5-5-9 SEIZURE OF FIREWORKS**
- 5-5-10 PENALTY**
- 5-5-11 SEVERABILITY**

**5-5-1           TITLE.**

This ordinance shall be know and cited as the Bosque Farms Fireworks Ordinance.

**5-5-2           PURPOSE.**

To assist in protecting the public health, welfare, and safety of the people of the Village of Bosque Farms by regulating the retail sales of fireworks.

**5-5-3           DEFINITIONS.**

1.     Applicant:     The person issued permit and the person responsible to the Village of Bosque Farms as provided for in this ordinance.
  
2.     Fireworks:     As used in this Ordinance, “Fireworks” is any combustible or explosive composition or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation and shall include but not be limited to blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, firecrackers, torpedoes, sky rockets, Roman candles, Daygo Bombs, sparklers, or other devises of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive substance.

The term “fireworks” shall not include any auto flares, paper caps, containing not in excess of an average of twenty-five one-hundredths of a grain of explosive content per cap and toy pistols, toy canes, toy guns or other devices for the use of such caps, the sale and use of which shall be permitted at all times.

3.     Clerk is the Clerk of the Village of Bosque Farms.
  
4.     Council is the Governing Body of the Village of Bosque Farms.

5. Fire Chief is the Bosque Farms Fire Chief or his designated representative.
6. Licensed Business: Those businesses, which are currently licensed by the Village of Bosque Farms as provided by the Village Ordinance.
7. Permitted devices are fireworks as described in Section 5-5-7.
8. Portable Buildings: Any structure, trailer or vehicle, which is of temporary nature or design, used which has been approved for the retail sale of fireworks to public.
9. Retail Sales: The sale of fireworks to the public excluding the wholesale business of sales between merchants.
10. Signs: Any outdoor advertising device.
11. Vendor: Any person or business engaged in the retail sale of fireworks to the public. All personnel involved in sales or dispensing of fireworks shall be 18 years of age or older.
12. Village: The geographic area within the boundaries of the Village of Bosque Farms.

#### **5-5-4 APPLICATION AND PERMIT.**

Applications for retail sales permits may be obtained in the office of the Village Clerk. A permit shall be completed for each location. A vendor must present at the time of application for permit, a notarized agreement for use, rent or lease of land intended for location. A plot plan of location of building on property and parking provided must be presented and approved by the Village Planning & Zoning Administrator/Officer before the permit will be issued. The Planning & Zoning Administrator/Officer shall inspect the place of business for compliance with this ordinance.

- (a) Permit must be prominently displayed on each place of business at all times.
- (b) All State and Fire regulations must be adhered to.
- (c) Vendor must possess a current revenue division taxpayer identification number.
- (d) Applications will be accepted between June 1 & June 10 of each year. Vendors and/or businesses shall provide the Clerk with a copy of the State issued license or permit for the sale of fireworks with the application.
- (e) Vendors who sell fireworks shall pay \$25.00 with the exception of retail businesses which are currently licensed.

(f) Businesses, which are currently licensed to the Village, shall obtain a permit to sell fireworks and shall abide by all restrictions as indicated in this ordinance.

(g) Fireworks shall not be sold in any area other than that which is zoned C-1. Fireworks shall only be sold between June 20<sup>th</sup> and July 6<sup>th</sup> 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, and sold only between the hours of 8:00 A.M. and 10:00 P.M. each and every day.

(h) Portable buildings must have a minimum set back of thirty (30) feet from the property line. No more than 1 portable building per permit will be allowed and shall contain no more than 250 square feet in size. Portable buildings must be removed within 24 hours after permit expires at 10:00 P.M. If not removed by 10:00 P.M., a \$25.00 fee per day may be imposed on the vendor.

(i) A vendor must provide a minimum of 4 designated parking spaces on the premises; such spaces shall not obstruct public right of way.

(j) No fireworks shall be stored, kept, or displayed within fifty (50) feet from any gasoline pump, refilling station, or any building in which gasoline or volatile liquids are stored or sold.

(k) No more than one- (1) fireworks stand shall be allowed within 1,000 feet of another fireworks stand. Permanent retail outlets are exempt from this requirement.

(l) Notwithstanding the provisions of the Village sign Ordinance Section 10-1-14 et. Seq. one four foot by four-foot sign will be allowed for each vendor permit, which shall be attached to the business structure.

(m) At all place where fireworks are sold or displayed, the words "No Smoking" shall be printed in letters at least four inches in height.

(n) Posting of sales and usage of fireworks: Each person who has obtained a vendor permit shall post in letters at least 2 inches high in a prominent place the words "Private use of legal fireworks shall be limited to the period from June 20 to July 6, 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.

(o) Structures where permitted devices are sold shall be protected by at least one five-gallon bucket of water and an approved fire extinguisher with at least a 10-pound ABC classification.

(p) All waste, boxes, etc. must be disposed of properly and shall not be allowed to be stored outside the building.

Public Display:

Nothing herein shall prohibit the public display of fireworks, except that any individual association, partnership, corporation, organization, county or municipality, shall secure a written permit from the Governing Body of the county or Municipality where the public display is to be fired 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.

#### **5-5-5            RESTRICTIONS.**

If the Governing Body issues a proclamation declaring a condition of extreme or severe drought, the procedures established in NMSA 1978 SS 60-2C-8.1 shall be followed.

1. No private individual shall transport, store, detonate, or purchase any devices within the boundaries of the Village of Bosque Farms other than permitted devices specified in Section 5-5-7 of this Ordinance.
2. No person under the age of sixteen (16) or any person under the influence of drugs or alcohol shall purchase, detonate, store, or transport permitted devices. Proof of buyer's age shall be required by the seller.
3. All persons under the age of sixteen (16) shall be supervised by a parent or guardian over the age of 18 when permitted devices are being properly detonated.
4. Detonation or ignition of fireworks from a moving or stationary vehicle is prohibited.
5. Private individual shall be subject to the penalties in Section 5-5-10 of this ordinance for violation of this ordinance.
6. All persons using fireworks or any kind shall be liable for any personal injury or any loss of property resulting from the use of fireworks.
7. No fireworks may be discharged within the Village limits prior to or after the allowable sale dates and only between the hours of 8:00 A.M. and 10:00 P.M. with the exception of actual holiday which hours have been extended until midnight.

#### **5-5-6            INSPECTION.**

The Village Fire Chief or any certified law enforcement officer may at any reasonable hour, enter and inspect the premises, building or any structure temporarily or permanently located at the site designated for the sale, packaging or handling of permitted devices.

#### **5-5-7            PERMITTED DEVICES.**

A. Permissible items shall include:

1. Snake, total pyrotechnic composition not to exceed twenty (20) grams each in weight.

2. Smoke devices and spray balls, total pyrotechnic composition not to exceed twenty-five (25) grams each in weight.
3. Wheels, total pyrotechnic composition not to exceed sixty (60) grams in weight per driver unit, but any number of drivers may be on any one wheel. The inside bore of driver tubes shall not be over one-half inch.
4. Illuminating torches and colored fire in any form, total pyrotechnic composition of illuminating torches not to exceed one hundred (100) grams each in weight.
5. Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred (100) grams each in weight. Pyrotechnic composition containing any chlorate or perchlorate shall not exceed five (5) grams.
6. Cone shaped and cylindrical fountains, total pyrotechnic composition not to exceed seventy-five (75) grams each in weight. The inside tube diameter of cylindrical fountains shall not exceed three-fourths (3/4) inch.
7. Firecracker. Small paper wrapped or cardtube containing not more than fifty (50) milligrams of explosive composition.
8. Railway fuses, highway flares, distress signals, smoke candles, smoke signals and smoke pots are permitted for emergency use only.

#### **5-5-8 TESTING PROCEDURE.**

A testing committee comprised of the Fire Chief or his designee from the Village of Bosque Farms, Village of Los Lunas, City of Belen and Valencia County shall test all fireworks submitted to be sold within that year. Testing will take place prior to May 15<sup>th</sup> of each year.

An approved list of permissible fireworks will be available for permittees prior to June 1 of that year. Only fireworks on the approved list can be sold.

#### **5-5-9 SEIZURE OF FIREWORKS AND REVOCATION OF PERMITS.**

##### **A. Seizure**

The Fire Chief or his designee shall inspect the fireworks stands for conformance to this ordinance.

1. The Village Fire Chief or his designee shall seize, take, remove, or cause to be removed at the expense of the permit holder all stocks of fireworks offered or exposed for sale, stored or held in violation of this ordinance.

Any vendor convicted of violating this ordinance will not be issued a new permit for a period of 2 years from the date of revocation of the previous permit.

**5-5-10            CRIMINAL VIOLATION.**

Any person found guilty of violating any provisions of this ordinance shall be found guilty of a misdemeanor and be fined not more than five hundred dollars (\$500.00) or imprisoned for a period of not more than ninety (90) days, or both fine and imprisonment.

**5-5-11            SEVERABILITY.**

If any action, sub-section, paragraph, phrase, or other portion of this ordinance shall be declared invalid for any reason whatsoever by a court of competent jurisdiction, then such decision shall not affect the validity or enforceability of the remaining portions of this ordinance.