

FIREWORKS

§ 130.155 DEFINITIONS.

For the purpose of §§ [130.155](#) *et seq.*, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AERIAL SPINNER. A tube venting out the fuse end of the tube that contains chemical composition with a propeller or blade attached that spins rapidly as it rises into the air with a visible or audible effect sometimes produced at or near the height of flight.

APPLICANT. The person issued a permit and the person responsible to the City of Raton as provided for in §§ [130.155](#) *et seq.*

CHASER. A paper or cardboard tube venting out the fuse end of the tube that contains no more than 20 grams of chemical combustion and travels along the ground, often producing a whistling effect or other noise; an explosive composition not to exceed 50 milligrams may be included to produce a report.

CHEMICAL COMPOSITION. Includes all pyrotechnic and explosive composition contained in a fireworks device, but does not include inert materials such as clay used for plugs or organic material such as rice hulls used for density control.

CLERK. The Municipal Clerk/Treasurer of the City of Raton.

COMMISSION. The Commission of the City of Raton.

CONE FOUNTAIN. A cardboard or heavy paper cone containing no more than 50 grams of pyrotechnic composition that has the same effect as a cylindrical fountain; and when more than 1 cone is mounted on a common base, total pyrotechnic composition shall not exceed 200 grams.

CRACKING DEVICE. A sphere or paper tube that contains no more than 20 grams of pyrotechnic composition that produces a flash of light and a mild, audible crackling effect upon ignition, which effect is not considered to be an explosion; **CRACKLING DEVICES** are not subject to the 50 milligram limit of firecrackers.

CYLINDRICAL FOUNTAIN. A cylindrical tube containing not more than 75 grams of pyrotechnic composition that produces a shower of colored sparks and sometimes a whistling effect or smoke; the device may be provided with a spike for insertion into the ground or a wood or plastic base for placing on the ground on a wood or cardboard handle to be hand held; and when more than 1 tube is mounded on a common base, total pyrotechnic composition shall not exceed 200 grams.

DISPLAY DISTRIBUTOR. Any person, firm, or corporation selling display fireworks.

DISPLAY FIREWORKS. Devices primarily intended for commercial displays that are designed to produce visible or audible effects by combustion, deflagration, or detonation, including salutes containing more than 130 milligrams of explosive composition; aerial shells containing more than 40 grams of chemical composition exclusive of lift charge; and other exhibition display items that exceed the limits for permissible fireworks.

EXPLOSIVE COMPOSITION. Any chemical compound or mixture, the primary purpose of which function by explosion, producing an audible effect in fireworks device.

FIRE CHIEF. The City of Raton Fire Chief or his or her designated representative.

FIRECRACKER. A small, paper-wrapped or cardboard tube containing no more than 50 milligrams of explosive composition that produces noise and a flash of light. **FIRECRACKERS** used in aerial devices may contain up to 130 milligrams of explosive composition per report.

FIREWORKS. Devices intended to produce a visible or audible effect by combustion, deflagration, or detonation and are categorized as “permissible fireworks,” “prohibited fireworks,” or “display fireworks.”

FLITTER SPARKLER. A narrow paper tube attached to a stick or wire and filled with no more than 5 grams of pyrotechnic composition that produces color and sparks with no more than 5 grams of pyrotechnic composition that produces color and sparks upon ignition and the paper at 1 end of the tube is ignited to make the device function.

GROUND SPINNER. A small, rapidly spinning device containing no more than 20 grams of pyrotechnic composition venting out an orifice usually on the side of the tube that when ignited produces a shower of sparks and color. **GROUND SPINNER** is similar in operation to wheel, but is intended to be placed flat on the ground and ignited.

HELICOPTER. A tube containing chemical composition with a propeller or blade attached that spins rapidly as it rises into the air with a visible or audible effect sometimes produced at or near the height of flight.

ILLUMINATING TORCH. A cylindrical tube containing no more than 100 grams of pyrotechnic composition that produces a colored flame upon ignition and may be spiked, based, or hand held; and when more than 1 tube is mounted on a common base, total pyrotechnic composition shall not exceed 200 grams.

MINE; SHELL. A heavy cardboard or paper tube usually attached to a wooden or plastic base containing chemical composition plus lift charge per tube that individually expels pellets of pressed pyrotechnic composition that burn with bright colors in a star effect, or other devices propelled into the air, and that contains components producing reports; a mine may contain more than 1 tube.

MISSILE-TYPE ROCKET. A device similar to a stick-type rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability.

PERMISSIBLE FIREWORKS. Fireworks legal for sale to and use in New Mexico by the general public.

PORTABLE BUILDINGS. Any structure, tent, trailer, or vehicle which is of temporary nature or design which is used separately or together for the retail sale of fireworks to the general public. Any tent intended for use as a sales location shall comply with rules adopted by the State Fire Marshal.

PROHIBITED FIREWORKS. Fireworks which are not legal for sale or possession within the municipality.

PYROTECHNIC COMPOSITION. A chemical mixture that on burning and without explosion produces visible or brilliant displays or bright lights or whistles or motion.

ROMAN CANDLE. A heavy paper or cardboard tube containing chemical composition that individually expels pellets of pressed pyrotechnic composition that burn with bright color in a star effect.

STATUTE. For the purposes of §§ [130.155](#) *et seq.*, refers to the State of New Mexico Fireworks Licensing and Safety Act beginning at NMSA § 60-2C-1.

STICK-TYPE ROCKET. A cylindrical tube containing chemical composition with a wooden stick attached for guidance and stability that rises into the air upon ignition and produces a burst of color or sound at or near the height of flight.

TOY SMOKE DEVICE. A small plastic or paper item containing no more than 100 grams of pyrotechnic composition that produces white or colored smoke as the primary effect.

VENDOR. Any person or business engaged in the retail sale of fireworks to the general public.

WHEEL. A pyrotechnic device that is made to attach to a post or other surface that revolves, producing a shower of color and sparks and sometimes a whistling effect, and that may have 1 or more drivers, each of which contains no more than 60 grams of pyrotechnic composition and the total wheel contains no more than 200 grams total pyrotechnic composition.

(Ord. 884, passed 8-11-1998)

§ 130.156 APPLICATION AND PERMIT.

Requirements for application and permit to sell fireworks shall be as follows.

(A) All vendors of fireworks within the municipality must obtain a local fireworks retail sales permit from the City Clerk/Treasurer. Each sales location within the municipality shall have a separate permit.

(B) A permit may be issued by the municipality and, upon issuance, shall be valid for 1 year unless revoked as otherwise provided in §§ [130.155](#) *et seq.* Vendors must present, at the time of application for permit, 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. The 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 the documents.

(1) Applications will be accepted up to the first day of any selling period. Vendors and/or businesses shall provide the municipality with a copy of the state issued license or permit for the sale of fireworks with the application.

(2) Vendors who sell fireworks shall pay a \$50 Fire Department permit fee, including retail businesses located at permanent locations that possess a current municipal business registration or license.

(3) Vendors are responsible for the applicable municipal gross receipts taxes.

(4) Portable buildings must be set back a reasonable distance from the roadway and shall not obstruct the public right-of-way.

(5) No fireworks shall be stored, kept, sold, or discharged within 50 feet of any gasoline pump or gasoline bulk station in which gasoline or volatile liquids are sold in quantities in excess of 1 gallon, except in stores where cleaners, paints, and oils are handled in sealed containers only.

(6) At all places where fireworks are stored, sold, or displayed, the words "NO SMOKING" shall be posted in letters at least 4 inches in height. Smoking, open flames, and any ignition source are prohibited within 25 feet of any fireworks stock.

(7) Original city and state permits must be prominently displayed at each location at all times.

(8) All fireworks permit holders and licensees shall keep and maintain upon the premises a fire extinguisher bearing an underwrites laboratories incorporated rated capacity of at least 5 pound ABC per 500 square feet of space used for fireworks sales or storage.

(Ord. 884, passed 8-11-1998) [Penalty, see § 130.999](#)

§ 130.157 PUBLIC DISPLAY FIREWORKS.

Nothing herein shall prohibit the public display of fireworks, except that any individual association, partnership, corporation, organization, county, or municipality shall secure a permit from the governing body of the City of Raton where the public display is to be fired. The display fireworks shall be purchased from a distributor or display distributor licensed by the State Fire Marshal and the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury.

(Ord. 884, passed 8-11-1998) [Penalty, see § 130.999](#)

§ 130.158 RESTRICTIONS.

The following restrictions as to the sale and discharge of fireworks shall apply.

(A) It is unlawful to offer for sale or to sell any fireworks to children under the age of 16 years or to any intoxicated person.

(B) No fireworks shall be discharged within 150 feet of any fireworks retail sales location.

(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.

(D) No person shall discharge any fireworks within 100 feet of combustible vegetation.

(E) In addition to the requirements of §§ [130.155](#) *et seq.*, vendors will comply with all applicable requirements imposed under the Fireworks Licensing and Safety Act.

(Ord. 884, passed 8-11-1998) [Penalty, see § 130.999](#)

§ 130.159 INSPECTION.

The Fire Chief may at any reasonable hour enter and inspect the premises, portable building, or any structure temporarily or permanently located at the site designated for the sale, packaging, or handling of permissible fireworks and may seize nonpermitted fireworks as provided in the section referring to the seizure of fireworks.

(Ord. 884, passed 8-11-1998)

§ 130.160 PERMISSIBLE FIREWORKS.

The following are permissible fireworks within the City of Raton:

- (A) Cone fountains;
- (B) Crackling devices;
- (C) Cylindrical fountains;
- (D) Fitter sparklers;
- (E) Ground spinners;
- (F) Illuminating torches; and
- (G) Toy smoke devices and wheels.

(Ord. 884, passed 8-11-1998)

§ 130.161 PROHIBITED FIREWORKS.

(A) It shall be illegal to possess or sell or offer to sell any firework prohibited by §§ [130.155](#) *et seq.*

(B) The following are prohibited fireworks within the City of Raton:

- (1) Aerial spinners;
- (2) Helicopters;
- (3) Mines;
- (4) Missile-type rockets;
- (5) Roman candles;
- (6) Shells; and
- (7) Stick-type rockets.

(C) The ignition of the following devices is prohibited except for the period between June 20 and July 6 of each year. In addition, the following devices may be ignited only between the hours of 9:00 a.m. and 10:00 p.m. during the allowed period. Exceptions may be granted only by written permit from the City Manager:

- (1) Chasers; and
- (2) Firecrackers.

(Ord. 884, passed 8-11-1998) [Penalty, see § 130.999](#)

§ 130.162 SEIZURE OF FIREWORKS.

The Fire Chief may inspect the fireworks stands for conformance to the sections that reference permissible fireworks and the prohibited fireworks in the City of Raton.

(A) The Fire Chief 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 in violation of so named prohibited fireworks of §§ [130.155](#) *et seq.*

(B) The Fire Chief shall seize, take, remove, or cause to be removed at the expense of the person in possession all fireworks possessed by the person in violation of the so named prohibited fireworks of §§ [130.155](#) *et seq.*

(Ord. 884, passed 8-11-1998)

§ 130.999 PENALTY.

(A) (1) It shall be unlawful and a violation of this chapter and of this Code of Ordinances to violate any subchapter, section, division, or provision of this chapter. Any person convicted of a violation of this chapter shall be punishable by a fine of not more than \$500 or by imprisonment not exceeding 90 days or both.

(2) Upon conviction of a violation of §§ [130.136](#), [130.137](#), [130.138](#), or [130.139](#), in addition to any other penalties, the weapon or weapons shall be forfeited to the city upon order of the court.

(3) Any fireworks, gambling devices, or other equipment of any kind used in gambling, and any money seized in connection with any gambling or gambling equipment, shall be retained by the City Manager until the property is disposed of by order of the court.

(4) The court may sentence any corporation, club, organization, or unincorporated association which has been convicted of a violation of this chapter to pay a fine imposed by this chapter.

(1981 Code, § 16-5) (Ord. 579, passed 1-28-1969; Am. Ord. 809, passed 10-10-1989)

(B) Any person who is guilty of violating § 130.006 with respect to 1 ounce or less of marijuana shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment for not more than 15 days, or both, and, for the second and subsequent offenses, is guilty of a misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment for not more than 90

days, or both. More than 1 ounce and less than 8 ounces of marijuana is guilty of a misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment for not more than 90 days, or both.

(1981 Code, § 16-7) (Ord. 803, passed 5-23-1972; Am. Ord. 777, passed 6-28-1988; Am. Ord. 783, passed 10-25-1988; Am. Ord. 783-A, passed 10-25-1988; Am. Ord. 809, passed 10-10-1989)

(C) Every person convicted of a violation of any provision of § [130.013](#) shall be punished by a fine of not more than \$300, or by imprisonment for not more than 90 days, or by both the fine and imprisonment.

(1981 Code, § 16-183) (Ord. 847, passed 8-8-1995)

(D) Any person convicted of a violation of § [130.031](#) shall be fined \$100 for the first offense and \$200 for the second offense if within 1 year of the first. A third conviction within 2 years shall result in initiation of confiscation and seizure proceedings against all the equipment used to produce the unreasonable noise.

(1981 Code, § 16-35) (Ord. 579, passed 1-28-1969; Am. Ord. 874, passed 10-14-1997)

(E) (1) Any individual, firm, partnership, or corporation that violates any provision of §§ [130.155](#) is guilty of a petty misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500, or imprisonment for a period of not more than 90 days, or both fine and imprisonment.

(2) 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 §§ [130.155](#) *et seq.* or the Fireworks Licensing and Safety Act 2, NMSA Chapter 60, Art. 2C, or more times within a 5-year period shall, after notice and hearing, have its permit revoked for a period of 1 year.

(Ord. 884, passed 8-11-1998)