

**TOWN OF SKIATOOK
ORDINANCE 2012-07**

AN ORDINANCE RELATING TO TITLE 6 PUBLIC SAFETY AND NUISANCES, CHAPTER 4 OFFENSES AND NUISANCES; ARTICLE G. NUISANCES; 7, FIREWORKS; (6-4G-7) OF THE TOWN OF SKIATOOK CODE; AND DECLARING AN EMERGENCY.

WHEREAS, activities involving the sale and use of fireworks within the town limits of Skiatook create public health, safety and welfare risks and issues for citizens and the public;

WHEREAS, requiring sellers and users of fireworks to obtain a license before doing business selling fireworks or using fireworks within the Town is in the best interest for the citizens of Skiatook and the public;

THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SKIATOOK, OKLAHOMA:

Section 1. Amendment to Section 6-4G-7. Title 6 "Public Safety and Nuisances", Chapter 4 "Offenses and Nuisances", Article G. Nuisances, Section 7, Fireworks of the Skiatook Code, is hereby amended to read as follows:

6-4G-7: FIREWORKS:

A. Definitions: As used in this section, the following terms shall have the meanings specified below:

DISTRIBUTOR: Any person who sells fireworks to other distributors, wholesalers or retailers for resale.

FIREWORKS: Shall mean and include any composition or device for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation and which is defined as common or special fireworks by the United States department of transportation (DOT). Fireworks are further classified in this law as 1.4 G, UN0336 consumer fireworks (formerly "class C") or 1.3G, UN0335 display fireworks (formerly "class B"). The term "fireworks" shall not include toy cap pistols and caps, blank cartridges, railroad flares and model rockets.

1.4 G, UN0336 consumer fireworks (formerly "Class C" Fireworks or DOT Common Fireworks) [hereinafter "1.4G"]: Any devices suitable for use by the public that conform with the requirements of the United States Consumer Products Safety Commission and are designed primarily to produce visible effects by combustion, and some small devices designed to produce an audible effect.

1.3 G, UN 0335 display fireworks (formerly Class B Display Fireworks or DOT Special Fireworks) [hereinafter "1.3 G"]: All articles of larger fireworks designed primarily to

produce visible or audible effects by combustion or explosion. "1.3G, (class B) fireworks" include, but are not limited to, firecrackers and salutes containing more than two (2) grains (130 mg) of explosive composition and other exhibition display items that exceed the limits for classification as 1.4G, (Class C) fireworks according to the department of transportation.

MANUFACTURER: Any person engaged in the making or construction of fireworks.

PERSON: Shall include any corporation, association, partnership or one or more individuals.

RETAILER: Any person who purchases fireworks for resale to consumers only.

WHOLESALER: Any person who purchases fireworks for resale only to retailers and consumers.

B. Storage Of Fireworks: 1.4G, (Class C) common fireworks may be legally stored and sold in the town with the exception and conditions specified under the provisions of this section. No other type of fireworks may be possessed, stored, sold or used within the town, unless specifically authorized herein.

C. Sale Of Fireworks; Regulations, License And Fee:

1. License Required; Fee; Location Approval: The following license fees shall be due and payable to the town on or before June 1 of each year:

Any person operating a retail location where fireworks are sold shall be required to purchase a retail fireworks license. The retail license fee shall be fifty dollars (\$50.00) annually and must be purchased from the town clerk-treasurer prior to June 1 of that year, after approval of the proposed location by the fire chief. Upon application for the license, the applicant shall provide the fire chief with the location of the retail outlet, proof of age of applicant, and evidence of all licenses required under state law. The fire chief shall refuse to approve any proposed location if, using accepted standards, he determines the location because of its proximity to other activities or structures would create a significant risk of harm to persons or property.

2. Retail License Holder And Sales Clerk Requirements:

a. The retail license holder shall be responsible for the safe operation of retail sales to the public. The retail license holder shall be at least sixteen (16) years of age.

b. A sales clerk over sixteen (16) years of age must be on duty to serve the consumer at the time of purchase. All fireworks offered for retail sale must be protected from direct contact and handling by the public at all times. Entry within that structure from which sales are made shall be forbidden to the public.

3. Direct Contact And Handling By Public: Fireworks offered for retail sale must be protected from direct contact and handling by the public at all times. Self serve or marketing where retail customers are allowed to move among stocks of fireworks or serve themselves from fireworks stocks or displays is strictly prohibited. Mail order sales to consumers are prohibited through any medium of either interstate or intrastate commerce. Sales of fireworks may only be made at properly licensed retail locations within the town. A sales clerk must be on duty to serve the consumer at the time of purchase.

4. Sales Within Buildings; Public Access: Fireworks shall not be sold or displayed to the public within any building or portion thereof or within any vehicle that allows entry by any persons other than employees within such building or vehicle unless the fireworks are kept where they cannot be reached or handled by those persons. An enclosed building used for sale of fireworks to the public shall have adequate exits as determined by the fire chief. The use of tents or nonrigid shelters for the sale or storage of fireworks where the public may move about under or within the confines of a shelter is prohibited.

5. Sales Permitted In Certain Zoning Districts: The retail sale of 1.4 G, (Class C) fireworks shall be permitted only in those portions of the town which have been zoned agricultural and commercial. Sales elsewhere are prohibited.

6. No Smoking Signs: All fireworks storage and sales areas shall be conspicuously posted with signs reading "Fireworks - No Smoking".

7. Dates When Sales Allowed: No person shall offer fireworks for sale to residents of the town at retail before June 15 or after July 6, and before December 15 or after January 2 in each year.

8. Bottle Rockets And Stick Rockets Prohibited: The sale, gift, distribution or use of skyrockets with sticks as defined by the United States department of transportation is hereby prohibited within the town. This prohibition shall include, but not be limited to, explosive devices commonly known as "bottle rockets" or "stick rockets".

9. Proper Labeling Required: Any and all items of 1.4G, (class C) common fireworks not properly labeled according to the United States consumer product safety commission and identified with the "DOT" 1.4 G, (class C) common fireworks marking on each retail sale unit is prohibited under the provisions of this section.

10. Freestanding Structure: The sale of fireworks shall be made only from a freestanding structure which in all cases shall be located no less than one hundred feet (100') from any permanent structure and one hundred feet (100') from any roadway. Said structure shall be a rigid structure, the sale of fireworks from tents and/or nonrigid structures being expressly forbidden.

D. Discharge Of Fireworks Prohibited; Exceptions: The discharge, firing or use of firecrackers, rockets, torpedoes, Roman candles, or other fireworks or substances designed and intended for pyrotechnic display and of pistols, canes, cannons, or other appliances, using blank cartridges or caps containing chlorate of potash mixture, is hereby prohibited, unless any of the following exceptions apply:

1. The board of trustees may, by order or resolution, authorize display and discharge of fireworks, including 1.3G, (class B) display fireworks, by properly qualified individuals or organizations when such display is deemed for the enjoyment of the populace at large and is conducted and located in such a manner and under circumstances that the board is satisfied that the discharge or firing thereof will not be hazardous to surrounding property or endanger any person or persons;
2. Persons within the town limits may use or otherwise discharge permissible 1.4 G consumer fireworks (class c) only from 3:00 p.m. to 11:00 p.m. on July 3 and July 4, provided the following conditions are met:
 - (i.) Such fireworks must be discharged on a noncombustible surface of sufficient size to contain the entire ground portion of the display and not closer than 25 feet to any permanent structure. Except: It shall be unlawful to explode or ignite fireworks within 500 feet of any church, hospital, asylum, unharvested flammable agricultural crop, public school or where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle; nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle or at or near any group of people.
 - (ii.) An adult person (age 18 or over) must obtain a permit from the town at a cost of \$20.00. Said permit must identify the adult in charge of this use by name and address, and also identify the proposed location on or near the permit holder's property. Applications for said permits shall be made available during normal business hours (excluding holidays) from April 1 through July 3 of any given year and permits are valid only for the year of issuance.
 - (iii.) The possession or the sale of any fireworks to or by any individual under the age of 12 years shall be unlawful within the town, unless under the immediate and direct supervision of a parent, guardian, or other responsible adult in possession of a current permit.
 - (iv.) The adult permit holder in charge of the use must be physically present for any household member to use the fireworks and said use shall be within 60 feet of the front door of the permitted residence. The permit shall be accessible for examination by any law enforcement officer. The permit holder is further responsible for cleaning up any debris caused by any person discharging fireworks under the permit holder and such debris must be cleaned up and removed within twenty-four (24) hours of the same day the fireworks are discharged. Failure to remove the debris shall be punished by a fine of \$225.00 plus costs.

(v.) Private persons may not use or discharge fireworks within any town or county park, nor on any highway, turnpike, or any street that has paving in excess of 26 feet wide, such as an arterial street, or collector street.

E. In the event that the Governor of the State of Oklahoma, or the Board of County Commissioners of Tulsa, Osage, and/or Washington Counties calls a red flag fire alert or burn ban for the area encompassing the Town of Skiatook and/or the Town of Skiatook Fire Department determines that the Town of Skiatook is in fire danger due to the weather conditions, the Board of Trustees may declare an emergency and cause the use of fireworks to be terminated and declare them to be illegal during the emergency period. Any fireworks used during this emergency is a violation of the ordinance.

F. Violation: Any person violating any of the provisions of this chapter shall be guilty of an offense and upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code. Violation of this chapter shall also be grounds for revocation or suspension of any license granted. Each violation shall be deemed as a separate offense.

Section 2. Repealer

The former Title 6, Chapter 4G-7 of the Town Code is hereby amended, repealed and replaced with Section 1 of this Ordinance.

Section 3. Codification

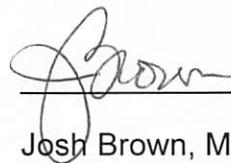
Section 1 of this Ordinance shall be codified as Title 6, Chapter 4G-7 of the Skiatook Code as set forth above.

Section 4. Emergency

It being necessary for the health, safety, and welfare of the inhabitants of the Town of Skiatook, this ordinance shall become effective immediately upon its passage and an emergency is hereby declared.

PASSED AND APPROVED BY THE BOARD OF TRUSTEES ON THIS 29th DAY OF May, 2012; with the Emergency Clause passed upon and approved separately.

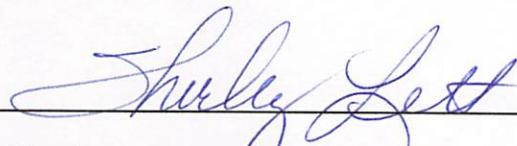
TOWN OF SKIATOOK, OKLAHOMA:



Josh Brown, Mayor

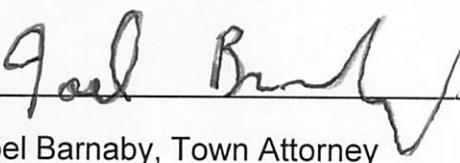
ATTEST:





Shirley Lett, Town Clerk/Treasurer

APPROVED AS TO FORM:



Joel Barnaby, Town Attorney