

TOWN OF CARLTON LANDING

ORDINANCE NO. 2020-04-03

AN ORDINANCE REGARDING THE USE OF FIREWORKS WITHIN THE TOWN OF CARLTON LANDING, OKLAHOMA; PROVIDING DEFINITIONS; AND SETTING FORTH CONDITIONS REGARDING DISCHARGING OF FIREWORKS, PERMIT REQUIREMENTS TO DISCHARGE FIREWORKS, SALES OF FIREWORKS, LICENSING TO SELL FIREWORKS, INSURANCE REQUIREMENTS; VIOLATION AND PENALTY FOR VIOLATION OF THIS ORDINANCE; AND DECLARING AN EMERGENCY

DEFINITION OF TERMS USED IN THIS ORDINANCE

Distributor:	Any person who sells fireworks and novelties to other distributors, wholesalers, or retailers for resale or provides them as part of a pyrotechnic display service in the state of Oklahoma
Fireworks:	Any composition of device for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and which are further described as consumer fireworks 1.4G, display fireworks 1.3G, articles pyrotechnic 1.4G or 1.4S as defined by the United States Department of Transportation (DOT) title 49, CFR. The term "consumer fireworks" shall not include toy cap pistols and caps, blank cartridges, railroad flares, model rockets, or any novelty.
Local Nonprofit Retailer:	Any group or organization that is domiciled within the corporate limits of the Town of Carlton Landing and is a valid 501(c)(3) with the state of Oklahoma
Novelty:	A device containing small amounts of pyrotechnic and/or explosive composition. Such devices produce limited visible or audible effects.
Retailer:	Any person who purchases fireworks and novelties for resale to consumers only
Wholesaler:	Any person who purchases fireworks and novelties for resale to retailers and consumers only

ORDINANCE

Whereas, The Board of Trustees of the Town of Carlton Landing, Oklahoma wish to provide for the safety and well-being of the Citizens and guests of Carlton Landing; and

Whereas, Discharge of fireworks is a dangerous undertaking; and

Whereas, The Board of Trustees of the Town of Carlton Landing wish to regulate the discharge of fireworks in order to maintain a safe environment for the general public within the boundaries of the Town of Carlton Landing; and

Whereas, The Board of Trustees of Carlton Landing, Oklahoma deems it to be in the best interests and safety of the citizens to establish regulations regarding the use and sale of fireworks within the town of Carlton Landing

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARLTON LANDING, OKLAHOMA:

SECTION 1: DISCHARGING OF FIREWORKS RESTRICTED; EXCEPTIONS

- A. Persons within the corporate limits may use or otherwise discharge only class C fireworks (See DOT regulations), PROVIDED the following conditions are met:

Dates and Times Allowed:

1. Residential Areas

- a. Seventy-two (72) hours before and seventy-two (72) hours after July 4 each year between the hours of Noon (12:00) p.m. and ten thirty o'clock (10:30) p.m.
- b. July 4 of each year between the hours of Ten o'clock (10:00) a.m. and Twelve o'clock (12:00) midnight, and
- c. December 31st of each year between the hours of Nine o'clock (9:00) p.m. and Twelve Thirty o'clock (12:30) a.m. on January 1st of the New Year.

2. Overlook and Town Green Areas

- a. From the Friday prior to July 4 through the Sunday following July 4 between the hours of Noon (12:00) p.m. and ten thirty o'clock (10:30) p.m., except on July 4
- b. July 4 of each year between the hours of Ten o'clock (10:00) a.m. and Twelve o'clock (12:00) midnight, and
- c. December 31st of each year between the hours of Nine o'clock (9:00) p.m. and Twelve Thirty o'clock (12:30) a.m. on January 1st of the New Year.

- B. Fireworks must be discharged on a noncombustible surface of sufficient size to contain the entire ground portion of the display and not closer than one hundred (100) feet from any permanent structure.
- C. An adult person over the age of twenty-one (21) wishing to discharge fireworks shall obtain a permit from the Town of Carlton Landing at a cost of twenty-five dollars (\$25.00). Said permit shall identify the adult in charge of this use by name, address, and also shall identify the proposed location on the permit holder's property where

the fireworks shall be detonated or common area to be used. Applications for said permits shall be made available during normal business hours from May 1st through July 3rd, and from December 15th, through December 30th of any given year. Permits are valid only for the period of issuance.

- D. The adult permit holder in charge of the fireworks use must be physically present for any household member to discharge the fireworks and that adult must be within seventy-five (75) feet of the point of display. The adult supervisor must have the permit posted in a place of prominence during the discharge of the fireworks for examination by any law enforcement officer of the Town of Carlton Landing. The permit holder is further responsible for removing any debris caused by any person discharging fireworks under the permit. Failure to remove the debris shall be punishable by a fine and cost of any repair resulting from the use of the Fireworks.
- E. Private persons may not use or discharge fireworks on any public street, lane, alley, sidewalk, public easement, public property, or property generally used and accessible to the general public.
- F. In the event that the governor of the State of Oklahoma, County Emergency Management Director, or Fire Chief calls a red flag fire alert or burn ban for the area encompassing the Town of Carlton Landing, Oklahoma, and/or the Town of Carlton Landing fire department determines that the Town of Carlton Landing is in fire danger due to the weather conditions, the Town Administrator may declare the use of fireworks illegal and all fireworks permits to be void during the emergency period. Permit fees will be refunded for that period.
- G. Permission for the presentation of public display of fireworks by responsible persons or organizations shall be allowed at any time during the year provided that said person or organization obtains a permit as follows:
 - 1. An adult person over the age of twenty-one (21) shall obtain a permit from the Town of Carlton Landing at a cost of one hundred dollars (\$100.00). Said permit shall identify the company or organization name along with the company's physical and mailing addresses, location of the display, and the name of the contact person responsible for the event with his/her phone number and date of display.
 - 2. All public displays shall be required to comply with the requirements of the Carlton Landing Fire Department and National Fire Protection Act (NFPA) 1123 or 1126 as appropriate.
 - 3. The permit fee may be waived by the Town Administrator of Carlton Landing or his/her designee, upon written request from the company or organization requesting the permit.
 - 4. Permits must be available for inspection by the Town at all times during the display, including setup and teardown of the launch site and staging area.

SECTION 2: SALES

- A. Any sale of fireworks to a consumer by a retailer shall be subject to the levy and collection of state and city sales tax pursuant to the provisions of the Oklahoma state tax code and this code.

- B. The sale or display for sale of fireworks shall be unlawful within the Town of Carlton Landing unless the following conditions are met:
1. The sale of fireworks shall be made from a freestanding structure which complies with the building standard of Carlton Landing. The structure may be on site only from May 1st to July 7th of each calendar year. the structure shall be located no less than one hundred feet (100') from any structure owned by a third party or from any area where combustible material is stored. The structure must be located within a commercial or agricultural district as defined by Town zoning ordinance.
 2. Distributors and wholesalers may sell fireworks to residents and nonresidents of the State of Oklahoma from May 1st until July 7th of each year.
 3. Retailers may only sell fireworks to resident and nonresidents of the State of Oklahoma from June 15th to July 5th of each calendar year.
- C. Conditions of Sales:
1. A salesclerk must be on duty to serve the consumer at the time of purchase.
 2. All fireworks offered for retail sale must at all times be protected from direct contact and handling by the public. Entry within those structures aforementioned shall be forbidden to the public.
 3. Self-serve or marketing where retail customers are allowed to move among stocks of fireworks or serve themselves from fireworks stock or displays is strictly prohibited.
 4. All fireworks storage and sales areas shall be conspicuously posted with signs reading: "FIREWORKS-NO SMOKING".
 5. The owner or vendor shall maintain licenses and insurance on each location as provided in this ordinance.
 6. Mail order sales to consumers are prohibited through any medium of either interstate or intrastate commerce.
 7. Sales of fireworks may only be made at properly licensed retail locations within the Town of Carlton Landing Limits.

SECTION 3: LICENSES AND INSURANCE REQUIRED

- A. State and Local Licenses: Any person operating a retail location where fireworks are sold directly to the consumer shall be required to purchase a retail fireworks license from the state and an itinerant vendor license from the Town of Carlton Landing.
- B. Premises Liability Insurance: The Town of Carlton Landing shall not issue an itinerant vendor license to an applicant without proof of premises liability insurance in the amount of five hundred thousand dollars (\$500,000.00).

- C. Application and Insurance Filed with the Town of Carlton Landing: The license application and proof of insurance shall be kept on file by the Town of Carlton Landing for at least two (2) years.
- D. Posting of Licenses: Both the retail fireworks license and the itinerant vendor license shall be conspicuously posted in the immediate vicinity of the sales operation and shall be immediately available for examination by the public or any enforcement officer.
- E. Licenses Nontransferable: No license provided for herein shall be transferable nor shall any person be permitted to operate under a license granted to another person.
- F. License Fees:
 - 1. Distributors or wholesalers shall be required to pay a license fee of two thousand five hundred dollars (\$2500.00) plus five percent (5%) of the gross sales of fireworks to the Town of Carlton Landing. Sales for the period from June 15th through July 6th shall be exempt from the five percent (5%) fee.
 - 2. Retailers shall be required to pay a license fee of five hundred dollars (\$500.00) which shall be due and payable to the Town of Carlton Landing prior to opening for business for the sale of fireworks. They must also present to the Town an Oklahoma sales tax permit with identification number. All local nonprofit retailers shall be required to pay a license fee of one hundred dollars (\$100.00) to the Town prior to opening for business for the sale of fireworks, and they must also present to the Town a sales tax permit with identification number for Oklahoma tax commission reporting purposes.
- G. Licensing Requirements:
 - 1. Upon application for a license, the applicant shall provide the Clerk of the Town of Carlton Landing (or his/her designee) the location of the proposed retail outlet, proof of the age of the applicant, evidence of all licenses and insurances required by Oklahoma State law, and an affidavit signed by the applicant stating that they have read this Ordinance, will comply with the same, will comply with all applicable Oklahoma state and federal laws and regulations pertaining to the sale of fireworks, and will comply with such regulations as the Carlton Landing building inspector and/or fire chief shall reasonably require for the protection and benefit of the public.
 - 2. Each applicant shall provide written consent from the owner of the property on which he/she will be selling. The consent to operate on such property must be signed and dated within the year of application.
 - 3. The license holder shall be responsible for the safe operation of the retail sales of fireworks to the public and shall be at least twenty-one (21) years of age.

SECTION 4: VIOLATION AND PENALTY

Failure to obey the provisions of this Ordinance shall constitute an offense and be punishable as a misdemeanor. Each violation whether by section, item, or day shall be considered a separate offense and each such offense shall be punishable by a fine of two hundred dollars (\$200.00) plus costs.

EMERGENCY CLAUSE:

It being immediately necessary for the preservation of the public peace, health and safety of the Town of Carlton Landing, Oklahoma, and the inhabitants thereof, an emergency is hereby declared to exist. By reason whereof it is necessary that this ordinance shall go into full effect and be of force immediately upon its passage.

This ordinance shall go into effect on the

PASSED by the Board of Trustees of the Town of Carlton Landing, Oklahoma, on the day of.

SIGNED by the Mayor of the Town of Carlton Landing, Oklahoma, on


Mayor


Town Clerk

ATTEST:
(SEAL)

