

ORDINANCE NO. 3535-CORRECTED

AN ORDINANCE AMENDING CHAPTER 10, FIRE PREVENTION AND PROTECTION ARTICLE I, IN GENERAL, SECTION 10-3, MANUFACTURE, SALE, USE, ETC., OF FIREWORKS, CREATED, OF THE BROKEN ARROW CODE OF ORDINANCES; SPECIFICALLY REFERENCING THE MANUAL OF FEES; REPEALING ALL ORDINANCES TO THE CONTRARY; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:

SECTION I. That Chapter 10, Article I, In General, Section 10-3, is hereby amended to read as follows:

Sec. 10-3. - Manufacture, sale, use, etc., of fireworks.

- (a) The sale or discharge of fireworks shall be unlawful within the city unless the appropriate fireworks permit is obtained. Supervised public displays utilizing either IAG or 1.3G fireworks shall be permitted with a permit and be in compliance with the requirements of the Broken Arrow Fire Department and National Fire Protection Association (NFPA 1123.) These requirements include: Bond for display, the permit holder shall furnish a bond for a minimum of \$1,000,000.00 for the payment of all potential damage caused either to the person or property due to the permitted display. The permit holder shall furnish a diagram of the site for the display; the diagram shall show the location of the firing site, spectator seating, and spectator parking area and shall meet the requirements of NFPA 1123 table 5-1.3.1. No spectators or spectator parking shall be located within the minimum secured area determined by table 5-1.3.1. The fireworks company or operator shall furnish an inventory list of the proposed fireworks to be fired at the site. The operator shall conform to all requirements of NFPA 1123. Residents living within one-half mile of the site shall be given written notification of the proposed display and date. Display sites using IAG[1.4G] fireworks during the allotted times allowed for residential fireworks shall not be required to make notification but shall conform to all other requirements. The operator of the display site shall obtain a site inspection prior to the operation of the display. All public displays including displays utilizing IAG[1.4G] fireworks outside the allotted days of permitted use of consumer fireworks shall make public notification and provide public notice in area newspapers and other public media sources. Any company performing fireworks displays utilizing 1.3G fireworks shall have on file with the City of Broken Arrow a copy of their state license. Every public fireworks display shall obtain the commercial fireworks permit.
- (b) The possession or the sale of any fireworks to or by any individual under the age of 12 years shall be unlawful within the city, unless under the immediate and direct supervision of a parent, guardian, or other responsible adult in possession of a current permit.
- (c) Permissible fireworks shall mean: 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 Class 1.3G or Class IAG[1.4G]. The term "fireworks" shall not include toy cap pistols and caps, blank cartridges, railroad flares and model rockets.

(1) *Class 1.4G fireworks* (DOT common fireworks) shall mean any devices suitable for use by the public that conform with requirements of the United States Consumer Products Safety Commission (CPSC) and are designed primarily to produce visible effects by combustion, and some small devices designed to produce an audible effect.

(2) *Class 1.3G display fireworks* (DOT special fireworks) shall mean all articles of larger fireworks designed primarily to produce visible or audible effects by combustion or explosion. Class 1.3G fireworks include, but are not limited to, firecrackers and salutes containing more than two grains (130 mg) of explosive composition and other exhibition display items that exceed the limits for classification of Class IAG[1.4G] fireworks according to the department of transportation.

(d) While the sale or display for sale of fireworks shall be unlawful within the city as set forth in subsection (a) above, the city council may waive that subsection for no more than one year at a time, and for a total of no more than two seasons following annexation, where the following conditions are met:

(1) The land involved in the proposed waiver was annexed pursuant to 11 O.S. § 21-103, 21-105 or 21-114;

(2) A written lease pre-existed the ordinance of annexation under which the landowner was obligated to lease all or a portion of the land for fireworks sales;

(3) There have been no significant accidents reported to the city from previous operations at the stand at that location;

(4) The property has direct access on an arterial street and adequate on-site parking so that the operation of the stand can be conducted without interference with travel on the paved surface of the artery;

(5) Only Class "IAG[1.4G]" fireworks, as defined by the United States Department of Transportation, are sold on the premises;

(6) The "season" for fireworks sales shall be limited to be only from June 15 until July 4 of each year;

(7) The vendor shall post and distribute a notice of Broken Arrow Fireworks Ordinances to each purchaser of fireworks, said notice to be provided by the city;

(8) The vendor at each stand must obtain an annual license from the city inspections department at a cost of \$750.00, providing a copy of the state sales tax permit; and

(9) Owner or vendor shall maintain liability insurance on each location.

(e) Persons within the city limits may use or otherwise discharge permissible fireworks only from 3:00 p.m. to 11:00 p.m. on July 3 and July 4, provided the following conditions are met:

(1) 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.

(2) An adult person must obtain a permit from the city at a cost as set forth in the manual of fees. 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.

(3) 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 the same day the fireworks are discharged. Failure to remove the debris shall be punished by a fine of \$225.00 plus costs.

(4) Private persons may not use or discharge fireworks within any city 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.

(f) Any sale or use of fireworks in violation of this section shall be punished by a fine of \$225.00 plus costs. Any use of fireworks between the hours of 11:00 p.m. and 7:00 a.m. shall be punished upon conviction by a fine that is double the fine normally imposed for a violation of this section. Possession of any fireworks other than allowed by this ordinance shall be punished by a fine of \$500.00 plus costs.

(g) In the event that the Governor of the State of Oklahoma calls a red flag fire alert or burn ban for the area encompassing the City of Broken Arrow and/or the City of Broken Arrow Fire Department determines that the City of Broken Arrow is in fire danger due to the weather conditions, the mayor of the city 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 and shall be punished by a fine of \$500.00 plus costs.

SECTION II. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

PASSED AND APPROVED and the emergency clause ruled upon separately this 21st day of August, 2018.

ATTEST:

MAYOR

(Seal) CITY CLERK

APPROVED:

ASSISTANT CITY ATTORNEY