

ORDINANCE NO. 674

AN ORDINANCE OF THE CITY OF BLANCHARD, OKLAHOMA, REPEALING SECTION 7-301 OF ARTICLE 3, CHAPTER 7 OF THE BLANCHARD CODE OF ORDINANCES, ENTITLED SALE, POSSESSION OR DISCHARGE OF FIREWORKS; AND ADDING ARTICLE 9 TO CHAPTER 5, ENTITLED FIREWORKS REGULATIONS; PROVIDING FOR SEVERABILITY; DECLARING REPEALER; AND DECLARING AN EMERGENCY.

WHEREAS, O.S. 68 §§1621-1643 establishes the orderly sales, use and storage of fireworks, to specify conditions of sales and licensing provisions, to prohibit certain fireworks, to provide for seizure and disposition of illegal fireworks and to establish penalties for violations; and

WHEREAS, O.S. 11 §22-110(A) authorizes a municipality to regulate, punish, and prevent the discharge of firearms, rockets, powder, fireworks, or other dangerously combustible material in the streets, lots, grounds, alleys or about, or in the vicinity of any buildings; and

WHEREAS, O.S. 68 §1631 authorizes cities or towns to impose more stringent criteria to include prohibiting the sale and use of fireworks within its corporate limits.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLANCHARD, OKLAHOMA:

SECTION 1. That Section 7-301 is hereby repealed and fireworks regulations to be recodified under Chapter 5 of the Code of Ordinances.

SECTION 2. That Section 5-901 of Chapter 5 is hereby added to read as follows:

SECTION 5-901. ADOPTION OF STATE FIREWORKS LAWS.

The Oklahoma Fireworks laws (Title 68 of the Oklahoma Statutes, as amended, and every ten (10) years recodified thereof) is hereby adopted and incorporated in the Code of Ordinances of the City of Blanchard, Oklahoma, by reference, for the purposes of establishing locally appropriate rules and regulations for the sales, use and storage of fireworks, to specify conditions of sales and licensing provisions, to prohibit certain fireworks, to provide for seizure and disposition of illegal fireworks and to establish penalties for violations. The adoption of this code shall not repeal any existing portion of this Chapter but shall be in addition thereto.

State Law Reference: Fireworks Laws, Title 68 O.S. §§1621 - 1643.

SECTION 3. That Section 5-902 of Chapter 5 is hereby added to read as follows:

SECTION 5-902. APPLICATION.

A. Any resident or organization as defined in §5-903(A) seeking a permit to sell fireworks must apply between May 1 through June 1 of the license year to the city clerk by filing a written application in such form and content as the city manager may prescribe.

B. The applicant must attach or submit with the application, the following documents:

1. a copy of the state's retail fireworks license issued by a licensed wholesaler, manufacturer, or distributor prior to stand opening; and any and all other licenses required by the state of Oklahoma.

2. A copy of a certificate of insurance showing liability and naming the City of Blanchard as a "Certificate Holder" prior to stand opening.

3. A copy of a plot plan as approved by the Fire Chief.

4. Pay any and all fees, as set forth in Section 5-904, as adopted by the city council by motion or resolution, on or before June 1.

SECTION 4. That Section 5-903 of Chapter 5 is hereby added to read as follows:

SECTION 5-903. ELIGIBILITY.

A. Any new citizen or non-profit, civic, charitable, educational, or religious organization or for profit organization located and domiciled within the corporate limits of the city may be permitted by the city clerk to sell Class C (common) fireworks and related items as set forth below.

B. All applicants previously permitted by the City as of June 1, 2017, are hereby grandfathered to make application again. However, if applicant fails to apply for an application, then the grandfather clause shall cease to exist.

C. Any and all applicants must be at least twenty-one (21) years of age, at the time of application, to be eligible for a permit.

D. All fireworks must be invoiced from a licensed distributor or wholesaler licensed to do business in Oklahoma. The original (not photocopy) invoice must be in applicants name and be available at all times upon request.

F. Further requirements for a non-profit organization are as follows:

1. A letter from the Oklahoma Tax Commission stating that the organization is a non-profit must be provided with the application.

G. Appeals. Should a question arise concerning the eligibility of an individual or an organization to qualify for a license under this article or if the plot plan is not approved by city staff, or the application is denied for any other reason, the matter may be timely submitted to the city council for a final decision at the request of the applicant.

SECTION 5. That Section 5-904 of Chapter 5 is hereby added to read as follows:

SECTION 5-904. FEES.

A. The permit for the sale of fireworks within the corporate limits of the city shall be obtained by filing a written application for each location with the city clerk and paying a fee, as set by motion or resolution adopted by the city council, for each location no later than June 1 of each year:

1. A permit fee, as set by motion or resolution by the city council, is required for each fireworks stand that a permit is issued.

Prior Permit Fee: \$25.00

SECTION 6. That Section 5-905 of Chapter 5 is hereby added to read as follows:

SECTION 5-905. CONSUMER FIREWORKS RETAIL SALES FACILITIES REQUIREMENTS.

A. The fireworks retail sales facilities must be located on private property zoned commercial, with written permission from the property owner and filed with the application.

B. Fireworks retail sales facilities cannot be placed on the approved site until June 1st or December 1st and shall be removed from their location within fifteen (15) days after July 6 or January 2nd of the same licensed year.

C. Final approval. An inspection shall be performed by the code enforcement officer, city inspector or fire chief (combination thereof) to insure compliance with the Oklahoma State Fire Marshal's rules and regulations by using the state's inspection form. If the applicant meets the requirements set forth above, a permit shall be issued by the city clerk and shall be evidenced by the signature of the city manager, or his designee, upon the application.

SECTION 7. That Section 5-906 of Chapter 5 is hereby added to read as follows:

SECTION 5-906. GENERAL OPERATIONAL REQUIREMENTS.

A. Any retail sales facility selling consumer fireworks commonly referred to as Class "C", shall meet the minimum requirements as mandated by O.S. Title 68, Article 16 §1621-1634 and the Oklahoma State Fire Marshal Commission rules established in accordance with O.S. Title 68 §1633.

1. Fireworks retail sales facilities may open for sale from the 15th day of June through the 6th day of July of the same licensed year or December 15th through January 2nd.

SECTION 8. That Section 5-907 of Chapter 5 is hereby added to read as follows:

SECTION 5-907. RESTRICTIONS ON THE DISCHARGE OF FIREWORKS.

A. No fireworks shall be discharged, exploded or ignited within five-hundred (500') feet of any fireworks stand, church, hospital, asylum, unharvested flammable agricultural crops, public schools or public property.

B. The discharge of fireworks shall be allowed only on private property during the following times:

1. June 27 through July 3 between the hours of 3:00 p.m. and 11:00 p.m., except that on Fridays and Saturdays during such period, fireworks may be discharged between the hours of 3:00 p.m. and 1:00 a.m.;
2. July 4 between the hours of 8:00 a.m. to 12:00 midnight, except that if July 4 falls on a Friday or a Saturday, fireworks may be discharged between the hours of 3:00 p.m. and 1:00 a.m.;
3. July 5 through July 6 between the hours of 3:00 p.m. and 11:00 p.m., except that on any July 5 or July 6 that falls on a Friday or a Saturday, fireworks may be discharged between the hours of 3:00 p.m. and 1:00 a.m. on the day or days that fall on a Friday or a Saturday;
4. December 31 between the hours of 12:00 Noon to 12:00 midnight; and
5. January 1 from 12:01 a.m. to 12:30 a.m.

C. Consumers must have written permission from property owner to discharge fireworks upon another private property.

D. In the event of a county-wide or state-wide burn ban, the city council may ban all sales and/or place additional restrictions on the discharge of fireworks as it deems appropriate.

E. 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 motor vehicle or at or near any group of people.

SECTION 9. That Section 5-908 of Chapter 5 is hereby added to read as follows:

SECTION 5-908. Display Permit Required.

A. Special Events Permit. The discharge of fireworks is totally prohibited at all other times, unless permitted by special events issued by the city manager within the week that the Fourth of July occurs. Applicants must file an application for such special events permit and pay a fee as set by the city council adopted by motion or resolution.

B. It is unlawful to discharge any fireworks, except as otherwise provided by this article, at any public display, including but not limited to any public display at any public park. The city manager shall permit the use of fireworks for public or private displays only when the following requirements are met:

1. Applications for such special events permit must be filed with the city clerk and must give the location of the proposed display and complete description of the nature and size of the fireworks to be used. A fee as adopted by the city council by motion or resolution shall be paid upon the filing of the application.

Note: Prior fee \$25.00.

2. A copy of federal form ATF F5400.4, Bureau of Alcohol, Tobacco and Firearms, must be submitted with the application.

3. All the provisions of NFPA 1123 must be met. NFPA 1123 refers to the National Fire Protection Association's Standard for Public Display of Fireworks, as it existed on 12/17/96. This subsection does not apply to the use of Class C (common) fireworks by the general public.

4. Every display requiring a permit shall be handled by a properly trained operator and approved by the city manager. Such fireworks shall be discharged or fired so as not to be hazardous to property or endanger any person.

C. Any permit issued by the city of Blanchard may be subject to any other restrictions and conditions as the city may find necessary.

D. Qualifications of Operators of Public Displays. The operator of any public display of fireworks must be bonded by sureties licensed to do business in the state in a sum sufficient to satisfy the city council, and must possess any and all licenses required by the state of Oklahoma.

SECTION 10. That Section 5-909 of Chapter 5 is hereby added to read as follows:

SECTION 5-909. ENFORCEMENT.

A. The police department, code enforcement officer, code administrator, city inspector and all members of the fire department, are hereby authorized to issue citations for violations of any part of this article.

B. All applicants must further comply with the fireworks' laws of the state, attached to this article and made a part hereof.

C. The site for the fireworks stand must be inspected by the code enforcement officer, fire chief or city inspector to verify that all requirements for zoning have been met.

D. The site for the fireworks stand must be inspected by the fire department for safety and ordinance compliance.

E. Annual payment of sales tax as required by the Oklahoma Tax Commission.

F. Failure to comply is subject to a penalty as set forth in §5-910 of this code and/or denial of permit for next licensed year.

SECTION 11. That Section 5-910 of Chapter 5 is hereby added to read as follows:

SECTION 5-910. TRANSFERABILITY.

All licenses granted will be strictly and absolutely non-transferable.

SECTION 12. That Section 5-911 of Chapter 5 is hereby added to read as follows:

SECTION 5-911. SIGNS.

All signs advertising a retail fireworks stand and location shall be in compliance with the Blanchard Municipal Code §§4-301 et al.

SECTION 13. That Section 5-912 of Chapter 5 is hereby added to read as follows:

SECTION 5-912. PENALTY.

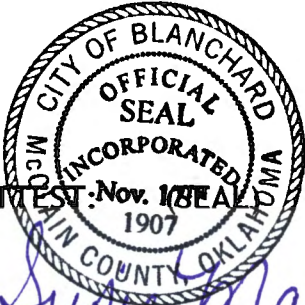
Any person, firm or corporation or other legal entity which shall violate any of the provisions of this chapter or fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of an offense punishable as provided in Article 6 of this Chapter. Each day or part of a day during which such violation is continued or repeated shall constitute a separate offense.

SECTION 14. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 15. REPEALER. All former ordinances and/or parts of ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 16. EMERGENCY. Whereas, it being immediately necessary for the preservation of the public health, peace and safety of the City of Blanchard and the inhabitants thereof, an emergency is hereby declared to exist, by reason whereof, this Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

PASSED and APPROVED and the Emergency Clause voted upon separately by the City Council of the City of Blanchard, Oklahoma on this 22nd day of May, 2018.


Jessie Maeder
City Clerk

Eddie Odeh
Mayor

APPROVED AS TO FORM on this 15th day of May, 2018.

Adrian
City Attorney