

ORDINANCE NO. 2020-17

AN ORDINANCE OF THE CITY OF BLACKWELL, OKLAHOMA, AMENDING PART II, CHAPTER 12, ARTICLE II OF THE BLACKWELL MUNICIPAL CODE 2019, BY THE AMENDMENT OF 12-29 ENTITLED DEFINITIONS, PROVIDING FOR THE ADDITION OF THE DEFINITIONS OF PERMISSIBLE FIREWORKS AND NON-PERMISSIBLE FIREWORKS; BY THE AMENDMENT OF SECTION 12-30 ENTITLED “MANUFACTURE, STORAGE AND SALE; RESTRICTIONS”; PROHIBITING THE DISCHARGE, FIRING OR USE OF NON-PERMISSIBLE FIREWORKS WITHIN THE CORPORATE LIMITS OF THE CITY OF BLACKWELL, OKLAHOMA, EXCEPT AS OTHERWISE PERMITTED IN THE ARTICLE; PERMITTING THE DISCHARGE, FIRING OF USE OF PERMISSIBLE FIREWORKS WITHIN THE CORPORATE LIMITS OF THE CITY OF BLACKWELL; REQUIRING A POSTED AND DELIVERED WRITTEN NOTICE RELATED TO THE SALE OF NON-PERMISSIBLE FIREWORKS; PROVIDING FOR REPEALER; SAVINGS; CODIFICATION; SEVERABILITY; PENALTY; AND DECLARING AN EMERGENCY.

EMERGENCY ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACKWELL, OKLAHOMA:

WHEREAS, in 2020, two residential home fires were started by the use of fireworks;

WHEREAS, the City must prohibit the uncontrolled discharge and use of fireworks within the corporate limits of the City of Blackwell to protect the health, safety and welfare of the residents of City of Blackwell.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLACKWELL, OKLAHOMA THAT:

Section I. Part II, Chapter 12, Article II of the Blackwell Municipal Code 2019 is hereby amended by the amendment of Section 12-29 and Section 12-30 which shall read as follows:

Sec. 12-29. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Distributor means any person who sells fireworks to other distributors, wholesalers or retailers for resale.

Fireworks means and includes 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 U.S. Department of Transportation (DOT).

Fireworks are further classified in this law as class C or class B. The term "fireworks" shall not include toy cap pistols and caps, blank cartridges, railroad flares or model rockets.

- (1) *Class C fireworks (DOT common fireworks)* means any devices suitable for use by the public that conform with the requirements of the U.S. 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 B display fireworks (DOT special fireworks)* means all articles of larger fireworks designed primarily to produce visible or audible effects by combustion or explosion. Class B 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 as class C fireworks according to the department of transportation.

Manufacturer means any person engaged in the making or constructing of fireworks.

Non-permissible fireworks means:

1. All fireworks, the sale of which is prohibited in the State of Oklahoma

2. The following aerial devices:

- a. Aerial shell kit-reloadable tubes
- b. Aerial spinners
- c. Helicopters
- d. Mines
- e. Missile-type rockets
- f. Multiple tube devices
- g. Roman Candles
- h. Shells
- i. Stick-type rockets
- j. Bottle rockets

3. Ground audible devices, including:

- a. Chasers
- b. Firecrackers larger than two inch (2") Black Cat or similar firecracker

Permissible fireworks means ground and hand-held sparkling devices, including:

1. Cone fountains
2. Crackling devices
3. Cylindrical fountains
4. Flitter sparklers
5. Ground spinners
6. Illuminating torches
7. Wheels
8. Two inch (2") or smaller Black Cat or similar firecracker
9. Novelty items

Retailer means any person who purchases fireworks for resale to consumers only. A retailer who sells to the consumer buys only a state retail license and may purchase merchandise in or out of the state as long as the retailer buys from a person that has a legal license to do business in the state.

Wholesaler means any person who purchases fireworks for resale only to retailers and consumers.

Sec. 12-30. Manufacture, storage and sale; restrictions.

The manufacture, storage, sale, use or display of fireworks for sale other than as permitted herein, within the city is unlawful.

- (1) *Sales.* Sales of Class C fireworks shall be permitted when licensed by the city. All areas displaying for sale non-permissible fireworks shall include a sign which shall state "These fireworks may not be discharged within the corporate limits of the City of Blackwell." A written notice providing such same message concerning non-permissible fireworks shall be delivered to the customer upon the purchase of non-permissible fireworks. The license shall be issued to a retailer upon the completion of an application and the payment of a fee in the sum of \$25.00. The fee may be amended from time to time by resolution of the city. In order to obtain a license, the applicant must present a license issued by the State of Oklahoma and shall agree to operate pursuant to all the rules and laws of the state, violation of those regulations shall be an offense, and in addition to assessing a fine upon conviction, the fire chief or code enforcement officer shall have the authority to withdraw the license and shut the place of sales.
- (2) *Manufacture.* Manufacture of fireworks of any kind is unlawful.
- (3) *Prohibited fireworks.* Only Class C fireworks may be sold, stored, possessed or used. Fireworks not labeled as Division 1.4, UN0336 or Class C shall be confiscated.
- (4) *Period of sale.* Fireworks may be sold only between June 22 and July 4 and on the days of December 31 and January 1.

- (5) *Period of possession/discharge/cleanup/burn ban.* Residents of the city and their guests may discharge, ignite or in any manner aid, assist or abet in the discharging or igniting of any permissible fireworks at their residences or businesses, to include on the streets and sidewalks immediately contiguous and adjacent to such residences or businesses, within the corporate limits of the city on the second and third day of July, between the hours of 10:00 a.m. and 10:00 p.m., and on the fourth day of July and the 31st day of December, between the hours of 10:00 a.m. and 1:00 a.m. of the following day. Possession of fireworks shall be permitted anywhere in the city on the days that sales are permitted. No person who discharges permissible fireworks as authorized by this section or is the owner or person in lawful possession of the real property upon which the fireworks were discharged, to include on the streets and sidewalks immediately contiguous and adjacent to such real property, shall fail to clean up, and dispose of, in a proper trash container, all trash and residue of the expended fireworks within one hour of the completion of such firework discharge event. Notwithstanding any other provision in this municipal Code to the contrary, no fireworks may be discharged in the city during a state or local burn ban. Except as otherwise permitted by this Article, the discharge, firing or use of non-permissible fireworks within the corporate limits of the city is hereby prohibited. Provided however, the transportation of fireworks in their unopened original packaging in a motor vehicle within the corporate limits of the City is not prohibited. Except as otherwise permitted by this Article, no person shall discharge, fire or use any non-permissible fireworks within the corporate limits of the City. Any person convicted of a violation of this subsection, shall be fined a maximum of One Hundred Dollars (\$100.00), plus court costs, fees and state assessments.
- (6) Reserved.
- (7) *No sales to children.* The offer to sell, or sale of fireworks to children under the age of 12 years is an offense.
- (8) [*Property owned or leased by the city.*] No fireworks may be discharged on any real property owned or leased by the city or its public trust authorities, except with the express written approval of the governing bodies with rights to such real property.
- (9) [*Violation.*] Violation of this section shall be a Class A offense.

Section II. REPEALER. All ordinances or parts thereof which are inconsistent with this ordinance are hereby repealed.

Section III. SAVINGS CLAUSE. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section IV. CODIFICATION. This ordinance shall be codified as herein provided.

Section V. SEVERABILITY. If any one or more of the sections, sentences, clauses or parts of this ordinance, chapter or section shall for any reason be held invalid, the

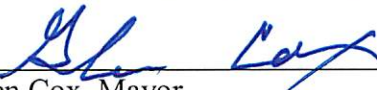
invalidity of such section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the City Council of the City of Blackwell that this section of the Blackwell Municipal Code would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section VI. PENALTY. Any person who shall be convicted of a violation of this ordinance shall be subject to a maximum fine of One Hundred Dollars (\$100.00), plus court costs, fees and state assessments.

Section VII. EMERGENCY. WHEREAS, it being immediately necessary for the preservation of the peace, health, safety and public good of the City and the inhabitants thereof that the provisions of this Ordinance be put into full force and effect in order to provide for amended regulations regarding the sale, discharge, firing or use of fireworks; By reason whereof, this Ordinance shall take effect and be in full force and effect after its passage, as provided by law.

Approved and executed this 6th day of August 2020.

THE CITY OF BLACKWELL, OKLAHOMA



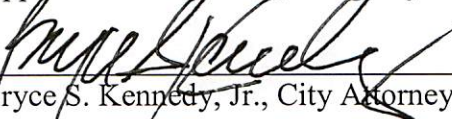
Glen Cox, Mayor

Approved as to Content:



Janet Smith, City Manager

Approved as to Form and Legality:




Bryce S. Kennedy, Jr., City Attorney



(Seal)

ATTEST:



Traci Hanebrink, City Clerk