

CITY OF STILWELL ORDINANCE NO.338

AN ORDINANCE PROHIBITING MANUFACTURE, SALE AND USE OF FIREWORKS, PERMITTING SALES BY INDIVIDUALS OR ORGANIZATIONS, PROVIDING FOR LICENSING, PERMITS, OPERATION OF STANDS, RESTRICTING DISCHARGE DURING CERTAIN PERIODS, LICENSING AND PERMITS FOR PUBLIC DISPLAYS OF FIREWORKS, PROVIDING FOR SEVERABILITY, REPEALING THE PROVISIONS OF ORDINANCE NO. 139, ORDINANCE NO. 328, ORDINANCE NO. 328A AND ALL OTHER ORDINANCES IN CONFLICT THEREWITH.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF STILWELL, STATE OF OKLAHOMA:

SECTION 1. That Ordinance No. 139, Ordinance No. 328 and Ordinance No. 328A of the Ordinances of the City of Stilwell, Oklahoma, are hereby repealed. and is hereby amended and shall henceforth read as follows:

Sale, Possession or Discharge of Fireworks

A. Appeals. Should a question arise concerning the eligibility of an organization to qualify for a license under this article or if the plot plan is not approved by the City Mayor or his designee, 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.

B. Manufacture, sale and use generally. Except as otherwise provided in this article, it shall be unlawful for any person to manufacture, purchase, offer for sale, sell at retail, or use or discharge or explode any Class C (common) or other firework and related items within the corporate limits of the City, except as provided in this article.

C. Permitted sales. Any individual or organization located and domiciled within the corporate limits of the City may be licensed by the City Clerk to sell Class C (common) fireworks.

D. License for sale.

(1.) Annual licenses 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 the annual license fee in the amount of \$35.00 for each location no later than June 1 of each year. If the applicant meets the requirements of the article, it shall be issued a license by the City Clerk pending approval by the City Mayor of the following requirements:

(2.) A minimum liability insurance policy of \$250,000.00 for bodily injury and property

damage, from an insurance company currently licensed to do business by the State.

(b) A plot plan submitted to the City Clerk for review by staff. The plot plan will show the location, the size of the stand, parking areas, traffic circulation patterns, and the proposed methods of storing fireworks.

(c) Any and all licenses required by State law.

(3.) Final approval of the application will be evidenced by the signature of the City Mayor, or his designee, on the application.

E. Operation of stands; sales to children. All licensed fireworks stands and structures selling fireworks and related items must be staffed and operated by members of the licensed organization. An adult member (18 years or older) of the licensed organization must be present at all times during the operation of the stand. It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of 12 years, unless accompanied by an adult.

F. Removal of stands. All fireworks stands and structures for the sale of fireworks and related items must be taken down and/or removed from their location within 15 days after July 4 of each year. In addition, the area wherein the stand or structure was located shall be returned to its prior condition by picking up all refuse pertaining to the operation of the fireworks stand or structure.

G. Discharge restricted.

(1) The discharge of fireworks shall be allowed only between the hours of 3:00 p.m. and 10:00 p.m. for the period of June 27 through July 3; 8:00 a.m. and 12:00 midnight on July 4; and 12:00 noon on December 31 to 12:30 p.m. on January 1 of each year. Discharge of fireworks is totally prohibited at all other times, unless permitted for special events by the City Mayor.

(2) It shall be unlawful to explode or ignite fireworks within 500 feet of any church, hospital, unharvested flammable agricultural crop, or during the existence of a State burn ban.

(3) No person shall ignite or discharge any article of fireworks within or throw any article of fireworks 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.

H. Storage and handling.

(1) All fireworks and sales areas shall be conspicuously posted with signs reading "FIREWORKS-NO SMOKING".

(2) Fireworks offered for sale must be protected from direct contact and handling by the public at all times. Self-service or marketing where retail customers are allowed to move among stocks of fireworks or serve themselves from fireworks stocks or displays is strictly prohibited.

(3) Fireworks shall not be sold or displayed to the public within any building or portion thereof, or any vehicle, which 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.

(4) An enclosed building used for sale of fireworks to the public shall have adequate exits. The use of tents or other non-rigid shelters for the sale or storage of fireworks where the public may move about, under or within the confines of a shelter is prohibited.

I. Display permit required.

(1) 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 Mayor shall permit the use of fireworks for public or private displays only when the following requirements are met:

(a) Applications for such permits 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 in the amount of \$35.00 shall be paid to upon the filing of the application.

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

(c) All the provisions of NFPA 1123 must be met. MFPA 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.

(d) Every display requiring a permit shall be handled by a properly trained operator and approved by the City Mayor. Such fireworks shall be discharged or fired so as not to be hazardous to property or endanger any person.

(2) Any permit issued by the City of Stilwell may be subject to any other restrictions and conditions as the City may find necessary.

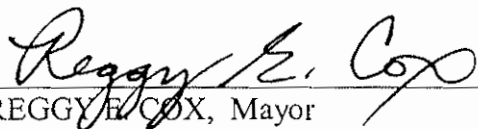
J. Qualifications of operators of public displays. The operator of any public display of fireworks must be bonded by sureties licensed to do business in the State in a sum sufficient to satisfy the City Council, and must possess any and all licenses required by State law."

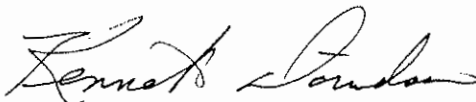
SECTION 2. Any violation of any provision contained in this ordinance is an offense against the City and upon conviction of any such offense the violator shall be punished by a fine up to the maximum amount allowed under the municipal ordinances for the City of Stilwell, Oklahoma, plus court costs.

SECTION 3. If any section, subsection or sentence, clause or phrase of this Ordinance is for any reason held invalid, such decision or decisions shall not affect the validity of the remaining portions of this Ordinance.

PASSED by the City Council this 11th day of December 2006.

APPROVED by the Mayor this 11th day of December 2006.


REGGY E. COX, Mayor
(SEAL)

ATTEST: 
KENNETH DAVIDSON, City Clerk Treasurer

(Published in the Stilwell Democrat Journal, Dec 20 _____, 2006)