

ORDINANCE NO. 696

**AN ORDINANCE OF THE CITY OF ARTESIA
PROHIBITING THE SALE AND DISCHARGE OF SAFE
AND SANE FIREWORKS IN CITY PARKS AND ON
OTHER CITY-OWNED PROPERTIES, PROVIDING
LIMITED EXCEPTIONS TO THAT PROHIBITION, AND
AMENDING THE ARTESIA MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF ARTESIA HEREBY ORDAINS AS FOLLOWS

Section 1. Findings.

(a) The State Fireworks Law, California Health and Safety Code § 12500, et seq., permits each city to regulate or prohibit the sale, use and/or discharge of “safe and sane fireworks” within its jurisdiction.

(b) The City of Artesia has heretofore permitted the sale and discharge of safe and sane fireworks.

(c) On November 14, 2005, the City Council of the City of Artesia adopted Ordinance No. 688 prohibiting the sale and discharge of safe and sane fireworks anywhere in the City. On December 12, 2005, referendum petitions were filed with the City Clerk seeking the repeal of Ordinance No. 688 by the City Council or the rejection of that Ordinance by the voters at a special election. On February 13, 2006, the City Clerk certified to the City Council that the petitions had the requisite number of valid signatures to require either the repeal of the Ordinance by the City Council or the approval or rejection of the Ordinance by the voters at a special election.

(d) The City Council of the City of Artesia has determined that the sale and discharge of safe and sane fireworks in City parks presents a risk of harm to persons and property because such activity interferes with other programs at the park, such as the City’s Annual 4th of July Program, and the discharge of fireworks in the park by private individuals often occurs in close proximity to a large number of persons congregating in the park. The sale and discharge of fireworks at City Hall, at the Historical Museum, the Historic Fire Station, the Artesia Water Tower, on City parking lots and on other City-owned properties poses a similar risk to the residents and users of those properties.

(e) In order to more fully protect the health and safety of persons and property within the City of Artesia, it is the intent of the City Council in adopting this Ordinance to prohibit further sales and discharges of safe and sane fireworks within City parks, at City Hall, at the Historical Museum, at the Historic Fire Station, at the Artesia Water Tower, on City parking lots and on other City-owned properties in the City, excluding therefrom, city streets and sidewalks.

(f) The City Council finds that the subject of this Ordinance is the sale and use of fireworks by private individuals on City-owned property and that this subject is materially different than the subject of Ordinance No. 688. Ordinance No. 688 is principally aimed at prohibiting the sale of fireworks Citywide and the use of those fireworks throughout the City, including on private property. The subject of this Ordinance is a limited to a prohibition on the sale and use of fireworks by private individuals on City-owned parcels and lots in the City so as to address the safety of persons congregating in City parks and on those other City-owned properties during the 4th of July holiday period. This Ordinance is not aimed at, nor does it impose a limitation on, the sale or use of fireworks on any private property. By adopting this Ordinance, the City Council intends to supplement its pre-existing park use and public facility regulations in a manner that will not interfere with the actions of the voters but still permit the City to regulate the use of City-owned and maintained parks and other properties in a manner that protects the public health and safety. For these reasons, the City Council finds that this Ordinance is not essentially the same as Ordinance No. 688.

(g) All legal prerequisites to the adoption of this Ordinance have occurred.

Section 2. Section 4-2.105 (Time Limits for Sale and Discharge of Fireworks) of Chapter 2 (Fireworks) of Title 4 (Public Safety) of the Artesia Municipal Code is hereby amended to read as follows:

“4-2.105 Time Limits for the Sale and Discharge of Fireworks and Restrictions Applicable to City-Owned Properties.

(a) Safe and sane fireworks, as defined in Section 12529 of the California Health and Safety Code, may be sold or discharged in the City only during the period beginning at 12:00 noon on June 28 and ending at 9:00 p.m. on July 4 of each year. This time period shall be known as the “fireworks sales and discharge period.” During the fireworks sales and discharge period, no fireworks shall be sold or discharged before 7:00 a.m. or after 10:00 p.m. on any day, except that fireworks shall not be sold after 9:00 p.m. on July 4th and shall not be discharged after 10:00 p.m. on July 4th.

(b) No person shall at any time sell or discharge a firework, including, but not limited to, safe and sane fireworks, within City parks or on any lot or parcel of land owned by the City, including but not limited to, property occupied by the Artesia City Hall, the Artesia Historical Museum, the Historic Fire Station, the Artesia Water Tower, City-owned parking lots, and on other City-owned properties in the City, excluding therefrom city sidewalks and streets. Notwithstanding the immediately preceding sentence, the discharge of fireworks may be permitted in a City park or on City-owned property in the following instances:

(1) When conducted as part of a properly permitted ‘public display of fireworks,’ as that term is defined in California Health and Safety Code § 12524, or successor provision thereto. The City Council may contract with any person or business entity to provide such display for the benefit of the City upon terms and conditions deemed appropriate by the City Council;

(2) When conducted in connection with a film, television or theatrical production occurring within the City for which written permission of the City Manager, and any required permit, have been obtained;

(3) When conducted in connection with any educational demonstration being provided by the Los Angeles County Fire Department; or

(4) When conducted for any other purpose expressly authorized by law.”

Section 3. Paragraph (d) of Section 4-2-106 (Stands) of Chapter 2 (Fireworks) of Title 4 (Public Safety) of the Artesia Municipal Code is hereby amended to add a new subparagraph (6) to read as follows:

“(6) No fireworks stand shall be located in a City park or on City-owned Property.”

Section 4. Chapter 8 (Public Parks and Restrooms) of Title 5 (Public Welfare) of the Artesia Municipal Code is hereby amended to add a new Section 5-8.06 to read as follows:

“5-8.06 Fireworks Prohibited in City Parks; Exceptions. No person shall at any time sell or discharge a firework, including, but not limited to, safe and sane fireworks, within a City park. Notwithstanding the immediately preceding sentence, the discharge of fireworks may be permitted in a City park in the following instances:

(a) When conducted as part of a properly permitted ‘public display of fireworks,’ as that term is defined in California Health and Safety Code § 12524, or successor provision thereto. The City Council may contract with any

person or business entity to provide such display for the benefit of the City upon terms and conditions deemed appropriate by the City Council;

(b) When conducted in connection with a film, television or theatrical production occurring within the City for which written permission of the City Manager, and any required permit, have been obtained;

(c) When conducted in connection with any educational demonstration being provided by the Los Angeles County Fire Department; or

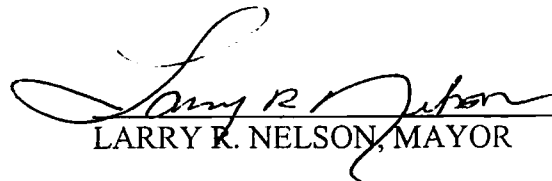
(d) When conducted for any other purpose expressly authorized by law.”

Section 5. Automatic Repeal of Certain Provisions of this Ordinance. The provisions of this Ordinance shall take effect 30 days after the second reading or as otherwise provided by law. The provisions of Sections 2 and 3 of this Ordinance shall automatically be repealed if Ordinance No. 688 is approved by the voters.

Section 6. Severability. The City Council declares that should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

Section 7. The City Clerk shall certify to the adoption of this Ordinance.

PASSED, APPROVED AND ADOPTED this ¹³~~14~~th day of March, 2006.


LARRY R. NELSON, MAYOR

ATTEST:


GLORIA CONSIDINE, CITY CLERK

I, Gloria Considine, City Clerk of the City of Artesia do hereby certify that the foregoing ordinance was adopted at a regular meeting held on the 13th day of March, 2006, by the following roll call vote:

AYES: COUNCILMEMBERS: Martins, Mendoza, Flowers, Lyon and Nelson
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None


GLORIA CONSIDINE, CITY CLERK