

ORDINANCE NO. 742

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Chapter 8.68 of the Lakewood Municipal Code relating to fireworks.

WHEREAS, the City Council recognizes the potential safety hazards inherent in the use of fireworks; and

WHEREAS, the City recognizes that it is in the best interest of the citizens of Lakewood to limit the hours in which fireworks may be discharged; and

WHEREAS, it is desirable to bring the Lakewood Municipal Code in closer alignment with provisions of the RCW 70.77 State Fireworks Law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as Follows:

Section 1. That Chapter 8.68 of the Lakewood Municipal Code is amended to read as follows:

8.68.010 Definitions.

The words and phrases herein used for the purposes of this chapter shall have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

“~~Common-Consumer~~ fireworks” includes only such fireworks that have been defined in RCW [70.77.136](#) ~~or WAC 212-17-035~~.

“Dangerous fireworks” includes all fireworks which do not meet the common fireworks definition under RCW [70.77.136](#) ~~or WAC 212-17-035~~.

“Fireworks stands” includes all displays and locations where fireworks are displayed in connection with sale of fireworks, offered for sale or are stored. Fireworks stands includes temporary fireworks stands as well as permanent structures where fireworks are offered for sale or are stored.

“Person” includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate or any other group or combination acting as a unit.

“Public display of fireworks” means an entertainment feature where the public is admitted or

permitted to view the display or discharge of dangerous fireworks.

“Sale at retail” includes any sale or transfer, including contracts or orders for sales or transfers, wherein any person at a fixed location or a place of business sells, transfers or gives fireworks to a consumer or user.

“Sale at wholesale” includes a sale or transfer to a retailer or any other person for resale, and which also includes any sale or transfer of fireworks to a permittee of a public display of fireworks. [Ord. 84 § 1, 1996.]

8.68.020 General provisions.

Each of the following are hereby declared to be unlawful within the City:

- A. For any person to offer for sale, at retail or wholesale, or to sell, at retail or wholesale, any fireworks without having first obtained a permit or license to do so;
- B. For any person to possess, use or explode any dangerous fireworks or any fireworks other than those listed as being able to be sold to the public in WAC [212-17-198](#), except as specifically provided for public displays in this chapter;
- C. For any person to sell, possess, use or explode any fireworks except as provided in this chapter;
- D. For any person to sell, at retail or wholesale, or offer for sale, at retail or wholesale, any fireworks to be sold within the City except from 12:00 noon on June 28th through 11:00 p.m. on July 4th. Fireworks may not be sold between the hours of 11:00 p.m. and 9:00 a.m. from June 28th through July 3rd.
- E. For any person to use, discharge or explode any fireworks in a negligent or reckless manner or during a period other than from 11:00 a.m. to 11:00 p.m. ~~on July 4th from July 3rd through July 5th of any year~~ and from 11:00 p.m. December 31st to 1:00 a.m. January 1st.
 1. For purposes of this section, “negligent manner” means in a manner which endangers or is likely to endanger persons, animals or property.
 2. “Reckless manner” means in a manner with willful and wanton disregard for the safety of persons, animals or property.
- F. For any person to sell, at retail or wholesale, or to offer for sale, at retail or wholesale, fireworks to any person under the age of 16 years of age. It shall be the responsibility of any seller of fireworks to obtain and/or require proof of age of any customer at the time of purchase, which proof requirement may be satisfied by inspecting the customer’s valid Washington State photo driver’s license or valid Washington State photo identification card or the equivalent thereof issued by another state or jurisdiction.
- G. For any person under the age of 16 years of age to possess or to discharge any fireworks within the City without direct supervision of his/her parent or guardian.
- H. In addition, it shall be unlawful for any person to use, discharge or explode any type of firework in any manner on any school grounds or park located within the City of Lakewood or in

any City rights-of-way. [Ord. 564 § 4, 2013; Ord. 416 § 1, 2006; Ord. 84 § 1, 1996.]

8.68.030 Sales application – Permit.

An application for a permit to offer for sale, at retail or wholesale, or to sell, at retail or wholesale, any fireworks within the City shall be made at the offices of the Fire Marshal for the City on or before June 10th of the year for which the permit is desired. Such a permit shall be issued only upon the following minimum conditions and requirements:

- A. The application shall be filed with and accompanied by a permit fee of \$100.00.
- B. Approval of the permit by the City Manager or designee, subsequent to an investigation by the City's Fire Marshal or designee.
- C. The application shall have a valid license issued by the state authorizing the holder thereof to engage in the business of sale of fireworks.
- D. If the applicant does not own or have the right to possess a temporary fireworks stand complying with the standards required for temporary fireworks stands, then the applicant shall have as a place for the sale of fireworks a building which is of fireproof construction and with proper firefighting equipment located therein, as approved by the City's Fire Marshal or his designee. In all cases, the placing of fireworks for display in the fireworks stand or place of sale shall be in such a manner as to be beyond the reach of customers.
- E. The applicant shall procure and maintain a policy or policies of public liability and property damage insurance with a company or companies acceptable to the City Attorney in the following amounts: \$100,000 or more for injuries to any one person in any one accident or occurrence; \$200,000 or more for injuries to two or more persons in any one act or occurrence; \$50,000 or more for damage to property in any one accident or occurrence. The City shall be named as an additional insured in each policy providing coverage in connection with the manufacture, importation, exportation, regulation, possession, sale, use and/or discharge of fireworks.
- F. The permittee's location or place business, if a temporary fireworks stand, shall be only in those areas or zones within the City which have been approved by the Fire Marshal of the City or designee. The permittee's location or place of business, if the fireworks stand or display is located within a permanent structure, shall be only in those zones within the City in which commercial businesses may be located.
- G. The applicant shall post with the City Clerk a performance bond or cash bond in the amount of not less than \$50.00, subject to the following conditions: The deposit shall be returned to the applicant only if the applicant promptly removes the temporary fireworks stand and cleans the area of its location to the satisfaction of the Fire Marshal or his designee, or, in the case of a fireworks stand being located within a permanent structure, if the applicant promptly cleans the area of its location to the satisfaction of the Fire Marshall or his designee. In the event that the applicant fails to do so, the performance bond or cash deposit shall be forfeited to the City. In no event shall the applicant be entitled to the return of the performance bond or the cash deposited if he/she fails to complete the above described work by July 15th of any year. [Ord. 84 § 1, 1996.]

8.68.040 Fireworks stands.

Fireworks stands shall conform to the requirements of Chapter [212-17](#) WAC and the following minimum standards, conditions and requirements:

A. All fireworks stands shall be inspected and approved by the City's Fire Marshal or designee. Temporary fireworks stands need not comply with all of the provisions of the City's Building Code; provided, however, that all such temporary fireworks stands shall be erected under the supervision of the City's Fire Marshal or designee, or in accordance with the specified standards of the City's Fire Marshal or designee, including but not limited to the requirement that all temporary fireworks stands be constructed in a safe manner for both persons selling fireworks at the temporary fireworks stand and for potential customers of the temporary fireworks stand. In the event any fireworks stand is wired for and connected to electric power, then the wiring shall be approved by the City's Fire Marshal or the Electrical Inspector or their designee to ensure compliance with Article 502-2(a), Class II, Div. I of the N.E.C. or successor regulations.

B. No temporary fireworks stand shall be located within 50 feet of any other building or structure constructed entirely or partially of combustible materials or with unprotected openings, nor within 20 feet of any building or structure constructed entirely of noncombustible materials; nor within 100 feet of any gas station, oil storage tank or premises where flammable liquids are kept or stored.

C. Each fireworks stand must have at least two exits; which shall be unobstructed at all times.

D. Each fireworks stand shall have in readily accessible places two or more extinguishers approved by the City's Fire Marshal or designee, and a two-gallon pail of water.

E. All weeds, grass and combustible materials shall be cleared from the location of a fireworks stand and the surrounding area, a distance of not less than 20 feet measured from the exterior walls on each side of the fireworks stand.

F. No smoking shall be permitted in or near a fireworks stand and fireworks stands shall be posted with "No Smoking" signs with letters at least two inches in height, in conspicuous places on all four sides of the fireworks stand. Each temporary fireworks stand or fireworks display within a permanent structure where fireworks are displayed and offered for sale shall have at least one adult in attendance at all times during which fireworks are available for sale.

G. All unsold stock and accompanying litter shall be removed from the vicinity of the fireworks stand by 12:00 noon on July 5th of any year, and shall be stored and/or disposed of as provided in Chapter [212-17](#) WAC.

H. There shall be no discharging or igniting of fireworks within 100 feet of any fireworks stand.

I. No fireworks stand shall be located within 10 feet of a public sidewalk or street.

J. There shall be no sleeping in any fireworks stands, nor within any structure where fireworks are stored.

K. There shall be no matches, lighters, pressurized or nonpressurized propane, kerosene, gas, fuel oil lanterns, or similar devices, or other open flame devices stored, nor offered for sale in any fireworks stand, nor within any structure where fireworks are stored.

In the event that there are any conflicts between the provisions hereof and the provisions of

Chapter [212-17](#) WAC, the more restrictive of the two shall control. [Ord. 84 § 1, 1996.]

8.68.050 Public displays of fireworks.

A. *Application for Permits for Public Displays of Fireworks.* Any person desiring to give or make a display of fireworks within the City shall, not less than 10 days in advance of the proposed display, make an application for a permit to operate the public display, in writing, to the City Manager or designee. The application shall set forth the following information:

1. The name of the organization sponsoring the display, together with the names and addresses of persons actually in charge of the firing/presentation of the display;
2. The date and time of day at which the display is to be held;
3. The exact location planned for the display;
4. A description setting forth the age and experience of the persons who are to do the actual discharging of the fireworks, and copies of their public display permit issued pursuant to RCW [70.77.280](#) or comparable applicable statute;
5. The number, type and description of fireworks to be discharged;
6. The manner and place of storage of such fireworks prior to the display; and
7. A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of transit or communication as well as telephone, electric and other utility lines and poles and any other structures, facilities or objects which could present overhead obstructions, located within 500 feet of the point of discharge.

B. *Fee for Public Display Permit.* There shall be no permit fee for a public display permit other than the license required by the State Fire Marshal.

C. *Investigation on Site – Certificate of Compliance by City’s Fire Marshal – Notice of Approval by City’s Fire Marshal or Designee.* Upon receipt of such application, at least 20 days in advance of the date set for the display, the City’s Fire Marshal or designee shall make an investigation of the site of the proposed display for the purpose of determining whether the provisions of these regulations are complied with in the case of the particular display. If the City’s Fire Marshal or designee is satisfied that the display is lawful and there has or will be full compliance with all applicable laws, state and local, then the City’s Fire Marshal or designee shall issue a written recommendation for or against the permit which shall be kept on file in the City’s Fire Marshal’s or designee’s office and available for review by authorized reviewing agencies. If the City’s Fire Marshal or designee finds that the permit applicant has complied with all applicable laws, then the City’s Fire Marshal or designee may issue a certificate of compliance stating an endorsement of the display as being in conformance with all applicable laws and with these regulations. For any scheduled public display, applicants must submit such information as is deemed appropriate by the City’s law enforcement agency to ensure that adequate traffic control and crowd protection policing and any other measures necessary or appropriate for public safety have been arranged either through private security agencies or through a contract with a law enforcement agency and/or with commissioned law enforcement

officers of the agency. A written notice that the applicant has complied with these requirements shall be issued by the City's Police Chief before a public display permit is issued; provided, that if the applicant should contract for traffic control and crowd protection policing with the City, for use of its law enforcement officers, in no event shall the sum agreed upon as payment for such policing be less than the actual expenses incurred by the City for providing such services. Such consideration shall be calculated in terms of personnel resources at the hourly rate for overtime under current collective bargaining agreements and/or rates of pay, plus that percentage which is paid by the public agency for fringe benefits, whichever applies, and all such sums paid under the contract shall be paid in accordance with procedures specified by the City's Fire Marshal.

D. Every public display of fireworks shall be handled by at least two competent operators approved by the City's Fire Marshal or designee, and every public display of fireworks shall be of such character, and so located, discharged or fired that, in the opinion of the City's Fire Marshal or designee, after proper investigation, it would not constitute a hazard to property or endanger any person.

E. A state pyrotechnics license is required for at least one operator at each public display of fireworks. The state licensed operator shall be the person who actually discharges or ignites the fireworks.

F. A bond or certificate of insurance must be furnished to the City Manager or designee before a permit is issued. The bond shall be in the amount of \$1,000,000 and shall be conditioned upon the applicant's payment of all damages to persons and property resulting from or caused by any public display of fireworks, or by any negligence on the part of the applicant or its agents, servants, employees or subcontractors in the presentation of the display. The certificate of insurance shall evidence a comprehensive general liability (including automobile coverage) insurance policy providing limits of \$1,000,000 combined single limit per occurrence and annual aggregate, naming the City of Lakewood as an additional insured. Any such bond or insurance policy must be approved by the City Attorney.

G. A cash deposit in the amount of \$500.00 must be posted with the City Manager or designee at least 30 days in advance of the public display date to provide for the costs of site cleanup. The deposit shall be forfeited to the City if the operator fails to perform such cleanup within six days of the public display. If the operator properly performs the cleanup, the deposit shall be returned to the operator.

H. *Storage.*

1. As soon as the fireworks have been delivered to the display site, they shall be attended and shall remain dry.

2. All shells shall be inspected upon delivery to the display site by the display operator. Any shells having tears, leaks, broken fuses or showing signs of having been wet shall be set aside and shall not be fired. After the display, any such shells shall be either returned to the supplier or destroyed according to the supplier's instructions.

3. All fireworks at the firing site must be stored in ready boxes (substantially constructed wood magazines). During the display, magazines must be 25 feet upwind (in relation to the firing item)

from the nearest mortar. Magazine lids must be open in the opposite direction of the firing. All ready boxes are to be protected by a flameproof water repellent canvas cover until emptied.

4. The shell storage area shall be located at a minimum distance of not less than 25 feet from the discharge site.

5. During the display, shells shall be stored upwind from the discharge site. If the winds shift during the display, the shell storage area shall be relocated to be upwind from the discharge site.

6. There shall be at least two 2A-rated fire extinguishers (two and one-half gallons water), UL approved kept as widely separated as possible within the actual area where the discharging will occur.

I. *Preparation of Site Crowd Control.*

1. All dry grass, weeds and other combustible waste within 50 feet of the firing site shall be removed.

2. The site shall be located so that the trajectory of shells shall not come within 50 feet of any overhead object including but not limited to aboveground telephone, telegraph or electric lines, trees or wooded areas.

3. Discharged fireworks shall not come within 100 feet of any tent or canvas shelter.

4. The firing and storage site shall be located not less than 200 feet from any building, public highway or railroad or other means of travel.

5. No boats shall be allowed within 200 feet of the firing or storage site.

6. The operators shall provide sufficient personnel to assure that no unauthorized persons are allowed within 200 feet of the firing and storage site. This requirement shall be in effect from one-half hour prior to the arrival of fireworks until the fireworks debris, equipment and fireworks have been removed from the site.

7. Spectators shall be restrained behind lines or barriers at least 200 feet from the firing and storage locations.

J. *Installation of Mortars.*

1. Mortars shall be inspected by the operators for dents, bent ends, and cracked or broken plugs prior to ground placement. Mortars found to be defective in any way shall not be used. Any scale on the inside surface of the mortars shall be removed.

2. Mortars shall be positioned so that the shells are carried away from spectators and buildings. When fired over water, mortars shall be installed at an angle of not less than 10 degrees, pointed towards the water.

3. Mortars shall be either buried securely into the ground to a depth of two-thirds to three-fourths of their length or fastened securely in mortar boxes or drums. In soft ground, heavy timber or rock slabs shall be placed beneath the mortars to prevent their sinking or being driven into the ground during firing.

4. In damp ground, a weather-resistant bag should be placed under the bottom of the mortar prior to placement in the ground to protect the mortar against moisture.

5. Weather-resistant bags shall be placed over the open end of the mortar in damp weather to keep moisture from accumulating inside the surface of the mortar.

K. *Operation of the Display.*

1. The operators shall provide fire protection at the site as required by the City's Fire Marshal or designee.
2. Only permitted fireworks are authorized for use.
3. When display is fired from a barge or vessel, a secured area shall be established around the barge or vessel to prevent boats from entering the fallout area. No boats shall be allowed within 200 feet of the firing or storage site. A boat shall be on standby to remove personnel from the barge and otherwise respond in the case of an emergency. Additional fire extinguishers, rated 2A minimum, shall be on the barge and so spaced that an extinguisher shall be available at all times.
4. If, in the opinion of the City's Fire Marshal or designee or authorized representative, lack of crowd control should pose a danger, the display shall be immediately discontinued until such time as the situation is corrected.
5. If at any time high winds or unusually wet weather prevail such that in the opinion of the City's Fire Marshal or designee or authorized representative of the display operators, a definite fire danger exists, the public display shall be discontinued or postponed until weather conditions improve so as to permit safe discharge of fireworks.
6. Light snow or mist need not cause cancellation of the display; however, all materials used in the display shall be protected from the weather until immediately prior to use.
7. Display operators and assistants shall use only flashlights or approved electrical lighting for artificial illumination.
8. No smoking or open flames shall be allowed within 50 feet of the firing or storage area so long as shells are present. Signs to this effect shall be conspicuously posted.
9. The first shell fired shall be carefully observed to determine that its trajectory will carry it into the intended firing range and that the shell functions are over and any debris falls into the planned landing area.
10. Mortars shall be re-angled or reset if necessary at any time during the display to properly adjust the trajectory or landing area.
11. When a shell fails to ignite in the mortar, the mortar shall not be touched for a minimum of five minutes. After five minutes it shall be carefully flooded with water. Immediately following the display, the mortar shall be emptied into a bucket of water. The supplier shall be contacted as soon as possible for proper disposal instructions.
12. Operators shall not attempt to repair a damaged shell nor shall they attempt to dismantle a dry shell. In all such cases, the supplier shall be contacted as soon as possible for proper disposal instructions.
13. Operators shall not dry a wet shell, nor shall they lance or pot a wet shell for reuse.
14. The entire firing range shall be inspected immediately following the display to locate any defective shells. Any such shells found shall be immediately doused with water before handling. The shells shall be placed in a bucket of water. The supplier shall then be contacted as soon as possible for proper disposal instructions.
15. When fireworks are displayed in darkness, the sponsor shall ensure that the firing range is

inspected early the following morning.

16. Any fireworks remaining unfired after the display shall be immediately disposed of or removed from the City in a safe manner.

17. The debris from discharged fireworks shall be disposed of in a proper manner.

18. The operator shall further comply with the requirements of Chapter [212-17](#) WAC. In the event that the requirements of Chapter [212-17](#) WAC are inconsistent or in conflict with the provisions hereof, the more restrictive of the two shall control.

L. The denial by the City's Fire Marshal or designee of a permit for the public display of fireworks may be appealed to the City Council. If no such appeal is made within 60 days, the denial is final. [Ord. 416 § 1, 2006; Ord. 84 § 1, 1996.]

8.68.060 Sale of fireworks.

The sale at retail of any fireworks other than "common fireworks" or fireworks authorized to be sold to the public in WAC [212-17-198](#) is prohibited; provided, however, that toy pistols, toy canes, toy guns or other similar devices, in which paper caps containing not more than 0.25 grains of explosive compound for each cap is used, may be sold at any time. The transfer of dangerous fireworks, whether by sale, at wholesale or retail, by gift or by means of conveyance, or the delivery of any fireworks to any person who does not possess a valid permit issued pursuant to LMC [8.68.050](#) at the time of such transfer is prohibited. All sale of fireworks from stands and locations within the City of Lakewood shall be reported as taxable events within the City of Lakewood, and the same shall be indicated on the permit issued pursuant to this chapter, so that sales tax due the City shall be properly routed. [Ord. 84 § 1, 1996.]

8.68.070 Unclassified fireworks.

The sale, transportation, possession or discharge of fireworks not marked with manufacturer's license number and the Washington State Department of Community Trade and Economic Development's classification, as required by Chapter [70.77](#) RCW or Chapter [212-17](#) WAC, is prohibited. [Ord. 416 § 1, 2006; Ord. 84 § 1, 1996.]

8.68.080 Exceptions.

The provisions of this chapter shall not apply to "toy sparklers" and "toy caps" containing not more than 0.25 grains of explosive compound for each cap and/or sparkler. It is further provided that nothing contained in this chapter shall be deemed to prohibit the use of any explosive or flammable compound, blasting caps and similar items used for industrial purposes, nor to prohibit the use of any blank cartridges for use by person for bona fide ceremonial services, sporting events or demonstrations. This chapter shall not be construed so as to prohibit the use of torpedoes, flares or fuses by the operators of motor vehicles or railroads, nor by other transportation agencies for signal purposes. This chapter shall also not apply to the assembling, use and display of fireworks, of whatever nature, by any persons engaged in the production of fireworks when such use and display are necessary parts of the production and such persons

possess requisite state permits to do so. This chapter shall also not apply to manufacturers, wholesalers, dealers or jobbers who possess the appropriate licenses and/or permits, from manufacturing or selling any kind of fireworks for direct shipment out of the City or out of the state, nor for manufacturing and/or selling at wholesale, any dangerous fireworks to properly licensed persons holding a valid permit for a public display of fireworks. [Ord. 84 § 1, 1996.]

8.68.090 Violation – Penalty.

A. Any person violating any provision of this chapter is guilty of a gross misdemeanor, and upon conviction shall be punished by a fine in an amount not exceeding \$~~51~~,000, or by imprisonment in jail for a term not exceeding ~~90-364~~ days, or by both. In the case of a conviction for a violation of this chapter, the City's Fire Marshal or designee may order the fireworks stand closed and may deny approval of a request by the person for a fireworks license for the next year.

B. A person is guilty of a separate offense for each separate and distinct violation of any provisions of this chapter, and a person is guilty of a separate offense for each day during which he/she commits or allows to continue a violation of any provisions of this chapter.

C. Any fireworks which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of this chapter or of Chapter 70.77 RCW shall be subject to seizure by any police officer or by the City's Fire Marshal or his designee.

D. For the purposes of this chapter, any person violating LMC 8.68.020(H) in a manner not rising to the level of negligence or recklessness as defined by LMC 8.68.020 shall have committed a civil infraction. The penalty for a violation of LMC 8.68.020(H) shall be punishable by a fine not to exceed \$75.00 in addition to any other costs and assessments provided by law. The City shall have the burden of proving the violation by a preponderance of the evidence. [Ord. 416 § 1, 2006; Ord. 84 § 1, 1996.]

8.68.100 Savings.

If any portion of LMC 8.68.020 is held invalid, upon the determination of invalidity, LMC 8.68.020 shall revert to that version which existed prior to the amendment set forth in Ordinance 564 (to wit: Ordinance 416 § 1 (part), 2006). [Ord. 564 § 4, 2013.]

Section 2. Severability. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Effective Date. That this Ordinance shall be in full force and effect thirty (30) days after publication of the Ordinance Summary.


ADOPTED by the City Council this 21st day of September, 2020.

CITY OF LAKEWOOD

Attest:



Don Anderson, Mayor


Briana Schumacher, City Clerk

Approved as to Form:


Heidi Ann Wachter, City Attorney