

ORDINANCE NO. 1254

CITY OF LACEY

AN ORDINANCE MODIFYING THE CITY'S REGULATIONS RELATING TO FIREWORKS IN ACCORDANCE WITH THE PROPOSITION APPROVED BY THE VOTERS OF THE CITY ON NOVEMBER 8, 2005, REPEALING SECTION 9.20.020 AND 9.20.048, ENACTING A NEW SECTION, 9.20.020 AND AMENDING SECTIONS 9.20.030, 9.20.040, 9.20.042 AND 9.20.046, ALL OF THE LACEY MUNICIPAL CODE, DECLARING AN EFFECTIVE DATE AND ADOPTING A SUMMARY FOR PUBLICATION.

WHEREAS, the City Council, by passage of Ordinance No. 1245, submitted to the voters of the City of Lacey a question as to whether or not certain fireworks should be totally banned from sale or discharge within the limits of the City of Lacey and such proposition was approved at an election which was held on November 8, 2005, and

WHEREAS, pursuant to the terms of Ordinance No. 1245 and such approval, it is necessary to modify the regulatory provisions of the City of Lacey relating to fireworks in order to establish such ban,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Section 9.20.020 and 9.20.048 of the Lacey Municipal Code are hereby repealed.

Section 2. There is hereby enacted a new Section 9.20.020 of the Lacey Municipal Code to read as follows:

The following definitions shall apply to Sections 9.20.030 through 9.20.046:

A. "Consumer Fireworks" means any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and not included within the definition of display fireworks or small firework devices, as set forth in this section.

B. "Display fireworks" means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation and includes, but is not limited to, salutes containing more than 2 grams (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "consumer fireworks" and are classified as fireworks UN0333, UN0334, or UN0335 by the United States department of transportation at 49 C.F.R. Sec. 172.101 as of June 13, 2002, and including fused setpieces containing components which exceed 50 mg of salute powder.

C. "Small firework devices" means those devices commonly referred to as trick and novelty devices, including such items as snakes, glowworms, trick noise makers, party poppers, snappers or pop-its, paper caps containing not more than 25/100 grams of explosive compound for each cap, trick matches or similar devices. Such term also includes combustibles used in auto burglar alarms.

Section 3. Section 9.20.030 of the Lacey Municipal Code is hereby amended to read as follows:

- A. ~~Toy pistols, toy canes, toy guns or other similar devices in which paper caps containing not more than 25/100 grain of explosive compound for each cap may be sold at all times.~~ Small firework devices may be sold and used at all times.
- B. Consumer fireworks shall not ~~may~~ be sold or discharged in the city. ~~between the hours of 9:00 a.m. and 11:00 p.m. on the 1st through the 4th day of July of each year. Such consumer fireworks may be discharged only between the hours of 9:00 a.m. and 11:00 p.m. on July 3rd and 4th of each year. In addition to all other rules and regulations, consumer fireworks may not be discharged within the Woodland District of the City of Lacey between 6:00 p.m. on July 3rd through 9:00 a.m. on July 4th of each year.~~
- C. The sale, use and possession of display fireworks or any other fireworks not described in 9.20.030.A and 9.20.030.B shall be unlawful unless sold, possessed or used in accordance with the provisions of Chapter 70.77 of the Revised Code of Washington.

Section 4. Section 9.20.040 of the Lacey Municipal Code is hereby amended to read as follows:

- A. Any person, firm or corporation intending to sell, possess or discharge display ~~selling~~ fireworks within the city, ~~either as a wholesale dealer or as a retail dealer,~~ shall be required as a condition of such ~~operation,~~ sale, possession or discharge, to secure from the city finance director a permit for such activities. The fee for such permits shall be effective for the full calendar year in which the permit is secured. The city finance director is directed to issue such permits only if the applicant is in compliance ~~to those dealers complying~~ with the terms of this chapter and Chapter 70.77 of the Revised Code of Washington upon application and payment of the permit fee.
- B. ~~A person who sells fireworks without a permit is guilty of a misdemeanor.~~

Section 5. Section 9.20.042 is hereby amended to read as follows:

Any person, firm or corporation selling consumer fireworks in the city at any time ~~not specified in Section 9.20.030~~ shall be guilty of a misdemeanor.

Section 6. Section 9.20.046 of the Lacey Municipal Code is hereby amended to read as follows:

It shall be unlawful for any person, within the City of Lacey, to:

- A. Possess display fireworks which are not authorized by the terms of this chapter or authorized to be in the possession of a licensee pursuant to Chapter 70.77 of the Revised Code of Washington. Possession of less than one pound of said unauthorized display fireworks, exclusive of external packaging, shall constitute a misdemeanor and possession of one pound or more of said non-authorized display fireworks, exclusive of external packaging, shall constitute a gross misdemeanor. For purposes of this subsection, the term "external packaging" means any materials that are not an integral part of the operative unit of the fireworks.
- B. Discharge consumer fireworks in the city, ~~except at the dates and times provided in Section 9.20.030.B.~~ Violation of this subsection shall constitute a misdemeanor.
- C. Discharge or otherwise use any fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another. A violation of this section shall constitute a gross misdemeanor.
- D. To allow rubbish to accumulate in any premises in which fireworks are stored or sold or to permit a fire nuisance to exist on such premises. A violation of this subsection shall constitute a misdemeanor.

Section 7. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portions of this ordinance, or the validity of the application thereof to any person or circumstance shall not effect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 8. This ordinance shall be effective one year after its passage and publication as provided by law.

Section 9. The Summary attached hereto is hereby approved for publication.

PASSED by the City Council of the City of Lacey, Washington, at a regularly-called meeting thereof, held this 15th day of December, 2005.

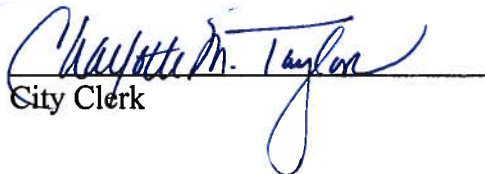
CITY COUNCIL

By: 
Mayor

Approved as to form:

Attest:


City Attorney


City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE 1254

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on ~~December~~ December 15, 2005, Ordinance No. 1254, entitled "AN ORDINANCE MODIFYING THE CITY'S REGULATIONS RELATING TO FIREWORKS IN ACCORDANCE WITH THE PROPOSITION APPROVED BY THE VOTERS OF THE CITY ON NOVEMBER 8, 2005, REPEALING SECTION 9.20.020 AND 9.20.048, ENACTING A NEW SECTION, 9.20.020 AND AMENDING SECTIONS 9.20.030, 9.20.040, 9.20.042 AND 9.20.046, ALL OF THE LACEY MUNICIPAL CODE, DECLARING AN EFFECTIVE DATE AND ADOPTING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The City Council previously passed Ordinance No. 1245 describing a possible ban on the sale, use and discharge of fireworks within the City, with certain exceptions, and providing for the submittal of that proposed legislation to the voters at an election held on November 8, 2005.
2. The results of such election have been certified showing that such a proposed ban was approved by the voters.
3. This ordinance carries into effect the proposal made in Ordinance No. 1245. The ordinance modifies the City's regulation of fireworks to prohibit the sale or discharge of all fireworks within the City except "display fireworks" as authorized by RCW Chapter 70.77 and "small firework devices such as snakes, glowworms, trick noisemakers, party poppers, snappers or pop-its, paper caps, trick matches or similar devices.
4. The ordinance is declared to be effective one year after its passage and publication.
5. The Ordinance approves this Summary for Publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: December 19, _____, 2005.
Monday