

ORDINANCE NO. 1261

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO FIREWORKS; AMENDING CHAPTER 8.20 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, on March 14, 1983, the City of Gig Harbor City Council passed Ordinance No. 418, which adopted provisions for regulating the sale and use of fireworks; and

WHEREAS, on January 28, 2013, the Gig Harbor City Council passed Ordinance No. 1255, which amended Chapter 5.01 of the Gig Harbor Municipal Code relating to Business Licensing and Exemptions, and repealed Chapter 5.16—Temporary Businesses; and

WHEREAS, as amended Chapter 5.01 GHMC requires all businesses to obtain a city business license; and

WHEREAS, the repealed temporary business license for fireworks sales will be replaced by a temporary fireworks stand permit fee as provided by RCW 70.77.555; and

WHEREAS, the City of Gig Harbor desires to better develop its guidelines for the regulation and permitting of temporary fireworks stands, providing sufficient time for permit application processing, ensuring insurance requirements consistent with industry standard, and reflecting current departmental supervision of terms and conditions;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 8.20 GHMC – Amended. Chapter 8.20 of the Gig Harbor Municipal Code is hereby revised as follows:

Chapter 8.20 FIREWORKS

Sections:

- 8.20.010 Intent.
- 8.20.020 Applicability.
- 8.20.030 Compliance with licensing provisions.
- 8.20.040 License Permit— Application.
- 8.20.050 License Permit – Use requirements.
- 8.20.060 License Permit – Maximum number.
- 8.20.070 License Permit – Terms and conditions.

- 8.20.080 **License Permit – Granting limitations.**
- 8.20.090 **Temporary stands – Standards and conditions.**
- 8.20.100 **Temporary stands – Safe and sane fireworks only.**
- 8.20.110 **Time limit – Sale of fireworks.**
- 8.20.120 **Time limit – Use of fireworks.**
- 8.20.130 **Unlawful acts.**
- 8.20.140 **Enforcement.**
- 8.20.150 **Violation – Penalty.**

8.20.010 Intent.

This chapter is intended to implement Chapter 228, Laws of 1961 of the state of Washington, and shall be construed in connection with said law and any and all rules or regulations issued pursuant thereto.

8.20.020 Applicability.

The provisions of this chapter shall apply to the sale of all safe and sane fireworks, as defined by Chapter 228, Laws of 1961 of the state of Washington, except as to the sales of "toy caps" and "sparklers."

8.20.030 Compliance with licensing provisions.

It is unlawful for any person, firm or corporation to engage in the retail sale of or to sell any fireworks within the city limits of Gig Harbor without first obtaining a city business license and complying with the provisions of Chapter 5.16 GHMC. Chapter 5.01. GHMC.

8.20.040 License Permit – Application.

Applications for temporary business licenses temporary fireworks stand permit must be accompanied by the permit fee and pursuant to this chapter may be filed and will be accepted by the city only during the period between April 15th and July 4th June 1st of the year for which the license permit is sought.

8.20.050 License Permit – Use requirements.

A license permit granted pursuant to this chapter shall entitle the licensee permittee to maintain only one retail outlet. All licenses permits issued pursuant hereto shall be used only by the designated licensee permittee and shall be nontransferable. Any transfer or purported transfer of such a license permit shall be deemed a violation of this chapter.

8.20.060 License Permit – Maximum number.

The maximum number of licenses permits issued by the city in any year shall not exceed one for every 500 people or fraction thereof residing in the corporate limits of Gig Harbor.

8.20.070 License Permit – Terms and conditions.

A ~~temporary business license~~ ~~temporary fireworks stand permit~~ for the sale of fireworks shall be issued only upon the following terms and conditions:

- A. The applicant shall have a valid and subsisting ~~Washington State Fireworks License~~ license issued by the ~~state of Washington~~ ~~Washington State Patrol~~ authorizing the holder thereof to engage in the fireworks business.
- B. The applicant shall own or have the right to possess a temporary fireworks stand complying with the standards hereinafter set forth for temporary fireworks stands.
- C. The applicant shall procure and maintain a policy or policies of public liability and property damage insurance in a company or companies approved by the city of Gig Harbor in the following amounts: Not less than ~~\$300,000 bodily injuries to a person or persons in any one accident or occurrence; and \$100,000 property damage.~~ \$1,000,000 Commercial General Liability (each occurrence); \$50,000 Damage to premises; \$1,000,000 Personal & Adv Injury; \$2,000,000 General Aggregate; \$2,000,000 Products – Comp/OP AGG.
- D. The ~~licensee's~~ ~~permittee's~~ location or place of business shall be only in those areas or zones within the city wherein commercial activities are authorized under the applicable zoning laws of the city of Gig Harbor; provided, that the sale of safe and sane fireworks shall not be deemed an enlargement of an existing nonconforming use; and provided, further, that no fireworks shall be sold in any residential area where a commercial enterprise does not exist.
- E. The applicant shall file with the city a cash deposit in an amount not less than \$100.00, conditioned upon the prompt removal of the temporary stand and the cleaning up of all debris from the site of the temporary stand. The deposit shall be returned to the applicant after he removes the temporary stand and cleans up all debris to the satisfaction of the ~~public works director~~ Building Official/Fire Marshal. If he fails to do so, the cash deposit and all property not removed shall be forfeited to the city. In no event shall the applicant be entitled to the return of the cash deposit if he has failed to remove the temporary stand and clean up all debris by the tenth day of July of each year.

8.20.080 License Permit – Granting limitations.

In the event there are more applications for ~~licenses~~ permits than there are ~~licenses~~ permits available, ~~licenses~~ permits shall be granted in the following manner:

- A. Any person, firm or corporation having been issued a ~~license~~ permit and exercised its rights under that ~~license~~ permit for the year prior to the making of the application shall be entitled to renew said ~~license~~ permit.
- B. Any ~~licenses~~ permits remaining shall be granted to those first applying there for, who meet all the necessary qualifications and requirements.

8.20.090 Temporary stands – Standards and conditions.

The temporary stands of all licensees permit holders shall conform to the following minimum standards and conditions:

- A. Temporary fireworks stands need not comply with all provisions of the International Building Code; provided, however, that all such stands shall be erected under the supervision of the building inspector or his duly authorized representative, who shall require all stands to be constructed in a safe manner, insuring the safety of attendants and patrons. In the event any temporary stand is wired for electricity, then the wiring shall conform to the Electrical Code of the state of Washington.
- B. No temporary fireworks stand shall be located within 20 feet of any other building or structure, nor within 50 feet of any gasoline station, oil storage tank or premises where flammable liquids are kept or stored.
- C. Each temporary fireworks stand must have at least two exits, which shall be unobstructed at all times.
- D. Each temporary fireworks stand shall have, in a readily accessible place, a ~~fire extinguisher duly approved in advance by the fire chief of Fire Protection District No. 5 or his duly authorized representative. two~~ approved, pressurized two and one-half gallon water-type fire extinguishers.
- E. All weeds, grass and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area a distance of not less than 20 feet, measured from the exterior walls on each side of said temporary fireworks stand.
- F. No smoking shall be permitted in or near a temporary fireworks stand and the same shall be posted with proper "No Smoking" signs.
- G. Each temporary fireworks stand shall have an adult in attendance at all times. No child or children under the age of 18 years shall be allowed inside the employee area of any temporary fireworks stand.
- H. All unsold stock and accompanying litter shall be removed from said temporary fireworks stand by 12:00 noon on July 6th of each year.

8.20.100 Temporary stands – Safe and sane fireworks only.

All safe and sane fireworks except "toy caps" and "sparklers" shall be sold only from temporary stands.

8.20.110 Time limit – Sale of fireworks.

No licensee permittee shall sell at retail or offer for sale any fireworks authorized to be sold herein within the city limits of Gig Harbor except from 12:00 noon on June 28th to 12:00 noon on July 5th of any year.

8.20.120 Time limit – Use of fireworks.

No person shall use or explode any fireworks within the corporate limits of Gig Harbor except from 12:00 noon on June 28th to 12:00 noon on July 5th of any year; provided that this prohibition shall not apply to duly

authorized public displays where the same are authorized pursuant to the laws of the state of Washington.

8.20.130 Unlawful acts.

It is unlawful for any person to sell, possess, use or explode any dangerous fireworks within the city limits of Gig Harbor. Any item of fireworks which does not bear a "Safe and Sane" registration or classification of the State Fire Marshal in conformity with Chapter 228, Laws of 1961 of the state of Washington, shall be deemed dangerous and is prohibited by this chapter.

8.20.140 Enforcement.

The chief of police or his duly authorized representative is designated as the enforcing officer of this chapter. In addition to all the grounds for revocation of licenses, permits set forth in the general provisions of this chapter, any failure or refusal on the part of licensee permittee to obey any rule, regulation or request of the chief of police concerning the sale of fireworks shall be grounds for the revocation of a fireworks license temporary fireworks stand permit.

8.20.150 Violation – Penalty.

Violation of any portion of this chapter is an infraction and subject to a penalty of \$1,000 as provided in GHMC 1.16.010D.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor,
this 25th day of March, 2013

CITY OF GIG HARBOR

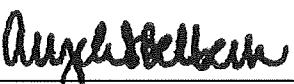
The signature is handwritten in blue ink, appearing to read "Steve" above "Ekberg".

Mayor Pro Tem Steven K. Ekberg

ATTEST/AUTHENTICATED:

Molly Towslee
Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney


Angela Belbeck, City Attorney

FILED WITH THE CITY CLERK: 03/06/13
PASSED BY THE CITY COUNCIL: 03/25/13
PUBLISHED: 03/27/13
EFFECTIVE DATE: 04/01/13
ORDINANCE NO: 1261