

Ordinance No. 00566

CITY COUNCIL MEETING MINUTES AUGUST 5, 2013

Amended 8/5/13

ORDINANCE NO. 566

An Ordinance of the City Council of the City of Lakewood, Washington, amending Sections 9A.14.010 and 9A.14.030 and creating Sections 9A.14.005 and 9A.14.040 of the Lakewood Municipal Code (LMC) relative to Firearms, Dangerous Weapons, Explosives.

WHEREAS, the City previously adopted Title 9A entitled Criminal Code by Ordinance 526 on January 1, 2011; and

WHEREAS, chapter 9A.14 LMC is potentially subject to challenge for criminalizing otherwise lawful activities; and

WHEREAS provisions of chapter 9A.14 LMC may potentially limit certain forms of legal economic development within the City of Lakewood; and

WHEREAS the Washington Court of Appeals in Chan v. City of Seattle, 164 Wn.App. 549 (2011), review denied, 173 Wn.2d 1025 (2012), concluded that certain municipal attempts to regulate the possession and regulation of firearms are preempted by state law; and

WHEREAS, Lakewood Municipal Code may be construed in such a way that it fails to protect citizens from the display of an item which is not an actual weapon, but appears to be a weapon and is used in a circumstance evidencing an intent to do harm; and

WHEREAS the City desires to bring its code in line with state law and to appropriately regulate firearm usage.

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

Section 1. That LMC 9A.14.010 entitled "Weapons Apparently Capable of Producing Bodily Harm - Carrying, Exhibiting, Displaying or Drawing Unlawful – Exhibitions" is hereby amended to read as follows:

9A.14.010 - Weapons Apparently Capable of Producing Bodily Harm - Carrying, Exhibiting, Displaying or Drawing Unlawful – Exhibitions

A. It is unlawful for anyone to carry, exhibit, display or draw any pistol, rifle, dagger, sword, knife or other cutting or stabbing instrument, club or any other weapon apparently that appears to be capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons. It is also unlawful, except as provided herein, for any person to possess or have within an area of dominion and control throwing stars and chako sticks.

~~For the purposes of this Section, pistol and rifle shall include but are not limited to pellet guns, BB guns, air-propelled guns and similar devices. For the purpose of this Section chako sticks are defined as an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by rope, cord, wire or chain in the design of a weapon used in connection with the practice of a system of self-defense, such as karate. In addition, for the purpose of this Section, throwing stars are defined as an instrument consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon.~~

B. Any person violating the provisions of subsection A shall be guilty of a gross misdemeanor.

~~C. Subsection A shall not apply to or affect the following:~~

~~1. Any act committed by a person while in his place of abode or fixed place of business in self-defense of such abode or business;~~

~~2. Any person who by virtue of his office or public employment is vested by law with a duty to preserve public safety, maintain public order, or to make arrests for offenses while in the performance of such duty;~~

~~3. Any person acting for the purpose of protecting himself against the use or presently threatened unlawful force by another, or for the purpose of protecting another against the use of such unlawful force by the third person;~~

4. Any person making or assisting in making a lawful arrest for the commission of a felony; or,
5. Any person engaged in military activities sponsored by the federal or state governments;
6. Provision relating to chako sticks or throwing stars shall not apply to or affect regularly enrolled members of clubs and associations organized for the practice, instruction or demonstration of self-defense arts involving chako sticks or throwing stars while such members are at, or are going to and from their place of residence, a practice session, an instruction session, a demonstration, or place of repair, or while such members are going from the place of purchase, providing that the chako sticks or throwing stars are in a carrying case in the possession of the owner.

(Ord. 526 § 2 (part), 2010.)

Section 2. That LMC 9A.14.030 entitled "Discharge of Firearms in City Prohibited" is hereby amended to read as follows:

9A.14.030 - Discharge of Firearms in City Prohibited

The entire area of the City is a "no shoot" area. It is unlawful to shoot or discharge any firearm, pistol, rifle or similar device anywhere within the corporate limits of the City other than for the purposes of exercising the rights or allowable circumstances which may be authorized by law, to include but not limited to that conduct specified in RCW 9A.16.020, chapter 9.41 RCW or LMC 9A.14.040. For the purposes of this Section, pistol and rifle shall include but are not limited to pellet guns, B-B guns, air-propelled guns and similar devices.

(Ord. 526 § 2 (part), 2010.)

Section 3. A new section, LMC 9A.14.005, entitled "Definitions," is created to read as follows:

9A.14.005 - Definitions

For the purposes of this chapter, the following definitions shall control:

"Chako sticks" are defined as an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by rope, cord, wire or chain in the design of a weapon used in connection with the practice of a system of self-defense, such as karate.

"Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.

"Pistol" and "rifle" shall include but are not limited to pellet guns, B-B guns, air-propelled guns and similar devices.

"Throwing stars" are defined as an instrument consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon.

Section 4. A new section, LMC 9A.14.040 entitled "Defenses," is created to read as follows:

9A.14.040 – Defenses

This chapter shall not apply to the following uses of a weapon or firearm:

1. Any act committed by a person while in his place of abode or fixed place of business in self-defense of such abode or business;
2. Any person acting for the purpose of protecting himself against the use or presently threatened unlawful force by another, or for the purpose of protecting another against the use of such unlawful force by the third person;
3. Any federal, military, state, county or municipal law enforcement officer in the discharge of their official duties, whether such officer is within or outside their jurisdictions, or on-or-off duty;
4. Any person engaged in military activities sponsored by the federal or state governments;
5. The provision relating to chako sticks or throwing stars shall not apply to or affect regularly enrolled members of clubs and associations organized for the practice, instruction or demonstration of self-defense arts involving chako sticks or throwing stars while such members are at, or are going to and from their place of residence, a practice session, an instruction session, a demonstration, or place of repair, or while such members are going from the place of purchase.

providing that the chako sticks or throwing stars are in a carrying case in the possession of the owner; or,

6. Any person engaged in the lawful use of a pistol, rifle or other firearm at any commercial sport shooting range, or a private basement or cellar target range. For purposes of this chapter, a "commercial sport shooting range" means a business holding a master business license issued by the State of Washington and business operating license issued by the City of Lakewood to conduct a for-profit business under chapter 5.2 LMC, and operating a shooting range at a building or facility designed for the use and discharge of pistols, rifles and other firearms.

7. Engaging in practice in the use of a firearm or target shooting at an established range owned by the City of Lakewood.

8. Any person discharging blank cartridges in theatrical performances, sporting events, or education events or to the firing of salutes by a honor guard at funerals or memorials.

Section 5. Severability. If any one or more chapters, sections, subsections or sentences of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 6: This Ordinance shall be in full force and effect thirty (30) days after publication of the Ordinance Summary.

ADOPTED by the City Council this _____ day of _____, 2013.

CITY OF LAKEWOOD

Don Anderson, Mayor

Attest:

Alice M. Bush, MMC, City Clerk

Approved as to Form:

Matthew S Kaser, Acting City Attorney