

ORDINANCE NO. 2019-07

AN ORDINANCE OF THE CITY OF CLEWISTON, FLORIDA, AMENDING CHAPTER 38 OF THE CODE OF LAWS AND ORDINANCES OF THE CITY OF CLEWISTON BY ADDING ARTICLE III., SEC. 38-34 THROUGH 38-39, RELATING TO FIREWORKS USE WITHIN CITY LIMITS, PROVIDING FOR DEFINITIONS, FIREWORKS USE, MANUFACTURE AND RECOMBINATION, AUTHORIZED USE, AND ENFORCEMENT; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES, CONFLICT AND SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, unlawful use of fireworks has become prevalent within the City.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF CLEWISTON THAT:

SECTION 1. The Code of Laws and Ordinances, Chapter 38, Fire Prevention and Protection, is hereby amended to add Article III, Sec. 38-34 through 38-39, as follows:

Sec. 38-34. – Definitions

“Fireworks” shall mean and include any combustible or explosive composition, or any substance or combination of substances, or any article prepared for the purpose of producing a visible and audible effect by combustion, explosion, deflagration, detonation, or shower of sparks, including but not limited to firecrackers, torpedoes, skyrockets, Roman candles, dago bombs, aerial spinners, cannons and other devices of like construction, any devices containing any explosive or flammable compound, and any tablets or other article containing an explosive substance. The term "fireworks" shall not include auto flares, emergency signaling devices, toy paper caps containing not in excess of 25/100 grain of explosive content per cap, toy pistols, toy canes, and toy guns designed to use these caps, novelty and trick noisemakers, as defined by the National Fire Protection Association, and those items tested and approved as sparklers and listed as such by the State Fire Marshal's annual listing.

“Manufacture” shall mean and include the process of preparing or combining any chemical compound or explosive composition or substance or combination of substances for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.

“Recombination” shall mean and include the breaking down of or use of an existing firework or materials therein and combining said materials or fireworks into a new form or for use within alternative infrastructure for the purposes of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.

Sec. 38-35. – Fireworks Use

The use of fireworks within the City of Clewiston is prohibited except for those uses as outlined in Florida Statute 791.07.

Sec. 38-36. – Manufacture or Recombination

The Manufacture and Recombination of fireworks is prohibited within the City of Clewiston at all times.

Sec. 38-37. Authorized Use

No provision in this article shall be construed to prevent the lawful manufacture, sale, or use of fireworks for those entities registered to do so as specified in Florida Statute 791.015.

Sec. 38-38. – Enforcement

Any law enforcement officer, authorized to enforce the laws of the state within the city limits of Clewiston, may enforce the provisions of sections 38-34 to 38-38 including through the issuance of a notice to appear. Any violations of the provisions of this article, if enforced by a law enforcement officer, shall be prosecuted as a misdemeanor of the second degree and punished by a fine of not more than five-hundred dollars (\$500.00) and/or imprisonment for not more than (60) days. The Clewiston Police Department is to strictly enforce the provisions of Article III, Section 38, at all times.

Sec. 38-39. – Reserved

SECTION 2. **INCLUSION IN THE CODE OF ORDINANCES.** The provisions of this ordinance shall become and be made a part of the City Code of Ordinances and the sections of these ordinances may be renumbered and codified to accomplish this end.

SECTION 3. **CONFLICT.** All ordinances or parts of ordinances in conflict herewith are hereby repealed. All ordinances or parts of ordinances not specifically in conflict herewith are hereby continued in full force and effect.

SECTION 4. SEVERABILITY. If any part of these ordinances are declared invalid by a court of competent jurisdiction, such part or parts shall be severable, and the remaining part or parts shall continue to be in full force and effect.

SECTION 5. EFFECTIVE DATE. These ordinances shall take effect immediately upon its passage and approval consistent with all requirements of general law.

PASSED on first reading by the City Commission on August 19, 2019.

PASSED AND ADOPTED on second and final reading by the City Commission on September 23, 2019.

ATTEST:

CITY OF CLEWISTON, FLORIDA



Mary-K. Combass, City Clerk



Mali Gardner, Mayor

(MUNICIPAL SEAL)

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**


By: _____
Gary M. Brandenburg, City Attorney