

ORDINANCE NO. 271

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WEST YELLOWSTONE AMENDING CHAPTER 8.08 OF THE WEST YELLOWSTONE TOWN CODE IN ITS ENTIRETY.

WHEREAS, the Town Council of the Town of West Yellowstone believes that the regulation of fireworks is in the best interests of the health, safety and welfare of the citizens of West Yellowstone; and

WHEREAS, the Town Council believes in order to properly regulate the use of fireworks within the boundaries of the Town and on Town property located outside the boundaries of the town, the current fireworks chapter must be revised; and

WHEREAS, the Town Council believes such changes are necessary to ensure the safety of the citizens of the Town; and

WHEREAS, the Town Council considered this ordinance and any public comment made on this ordinance at a public hearing, duly noticed and held on May 19th, 2020, and considered a first reading of this ordinance at a regularly scheduled and duly noticed meeting of the Council on May 19, 2020, and a second reading of this ordinance at a regularly scheduled and duly noticed meeting of the Council on June 2, 2020;

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of West Yellowstone that the following amendment be made to the municipal code of the Town of West Yellowstone, effectively amending Chapter 8.08 in its entirety as follows:

Section 1: Chapter 8.08 FIREWORKS

Sections:

- 8.08.005 Definitions.
- 8.08.010 Sale, discharge and use prohibited.
- 8.08.011 Permissible Fireworks
- 8.08.015 Discharge of fireworks.
- 8.08.020 Compulsory removal of stock.
- 8.08.025 Suspension of purchase, sale and discharge due to fire danger.
- 8.08.030 Violation-Penalty.

8.08.005 Definitions.

Fireworks: Includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes skyrockets, roman candles, helicopters, daygo bombs, blank cartridges, toy cannons, toy canes or toy guns in which explosives other than toy paper caps are used; the type of balloons which require fire underneath to propel the same; firecrackers, torpedoes, sparklers or other fireworks of like construction; and any fireworks containing any explosive or flammable compound or any tablets or other device containing any explosive substance.[MCA 50-37-101]

Nothing in this section shall be construed as applying to toy paper caps containing not more than twenty five hundredths (0.25) of a grain of explosive composition per cap, nor to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, nor apply to the military or navy forces of the United States or of this state, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonials or theatrical or athletic events. [MCA 50-37-102]

8.08.010 Sale, discharge and use prohibited.

The sale, solicitation, discharge, firing, or use of fireworks or other substances designed or intended for pyrotechnic display or demonstration within the Town is prohibited; provided that the Town along with the Hebgen Basin Fire District may, at any time, in writing, permit a Town and/or West Yellowstone Chamber of Commerce- sponsored public display of fireworks under such conditions, supervision, limitations, and precautions as they may prescribe and by properly qualified persons, with regard to the safety of persons and property.

The prohibition set forth in this Section shall not apply to the sale and purchase of fireworks for three (3) calendar days prior to and including July 4th and December 31st each year, and as set forth below.

8.08.011 Permissible fireworks.

Permissible fireworks, excluding sky rockets, roman candles, and bottle rockets, include and are limited to those that meet the definition of "common fireworks" as set forth in the U.S. department of transportation's Hazardous Materials Regulations, 49 CFR, parts 173.88 and 173.100, as they read on January 1, 1985, and that comply with the construction, chemical composition, and labeling regulations of the U.S. consumer

product safety commission, as set forth in 16 CFR, part 1507, as it read on January 1, 1985. [MCA 50-27-105]

8.08.015 Discharge of fireworks.

Discharge and use shall be allowed upon the following conditions:

1. There shall be no discharge of fireworks from or into any national forest, national park, or state highway.
2. There shall be no discharge of fireworks within one hundred (100) feet of a church or medical facility; or within fifty (50) feet of any entrance to any business location or hotel.
3. There shall be no discharge of fireworks from or towards a motor vehicle, motorcycle, or snowmobile.
4. There shall be no discharge or use of fireworks in the following areas within the Town limits:

The areas bounded by and including the intersection of Gibbon Avenue and Electric Street east to Boundary Street, Boundary Street south to Yellowstone Avenue and continuing south along the property boundary with Yellowstone National Park to the boundary with United States Forest Service property, west on the boundary with Forest Service property to Geyser Street, north on Geyser Street to Yellowstone Avenue, East on Yellowstone Avenue to Electric Street, and North on Electric Street to the intersection of Gibbon Avenue and Electric Street, as shown on the map included as Attachment A to the ordinance codified in this section.

5. There shall be no discharge or use of fireworks on the area of Town commonly known as "The Old Airport," "The 80 Acres," or any other lands owned or leased by the Town outside of the municipal boundaries of the Town.
6. There shall be no discharge of fireworks earlier than 12:00 p.m. (noon) on July 3rd or 4th, and 5:00 p.m. on December 31st, nor later than 11:00 p.m. on July 3rd and 11:59 p.m. on July 4th, and 12:30 a.m. on January 1st of each year.
7. There shall be no discharge of fireworks toward another person or group of

people, or in the vicinity of or toward any animal, in such manner to expose such person, persons or animal to the risk of injury or harm.

8. There shall be no discharge of any fireworks within two hundred (200) feet of any propane or gasoline fuel tanks, or any business dispensing any flammable fuel or compressed gas product.
9. Any person discharging or supervising the discharge of fireworks as provided in this Section, shall promptly clean, remove, and responsibly dispose of any litter, garbage, or debris resulting from such discharge. Any person failing to do so may be cited by law enforcement as appropriate.

8.08.020 Compulsory removal of stock.

Except as specifically provided in this Section, the provisions of Title 50, Chapter 37, Montana Code Annotated, shall apply to the Town of West Yellowstone. The Town may, at its discretion, remove or have removed, at the owner's expense, all stock of fireworks and articles specified in Section 8.08.005, and any similar article or combustible, exposed for sale or held in stock in violation of this Chapter.

8.08.025 Suspension of purchase, sale and discharge due to fire danger.

The sale, purchase, discharge, and use of fireworks, as permitted by this Section, shall be suspended when fire danger reaches a designation of "high" as determined by the United States Forest Service or Yellowstone National Park, or may be suspended at any time by declaration of the Town Manager of West Yellowstone, at his/her discretion, as follows: upon the recommendation of the Fire Chief of the Hebgen Basin Rural Fire District, or the Chief of the West Yellowstone Police Department, or for other legitimate reasons. In the event of such declaration, the Hebgen Basin Rural Fire Department, the West Yellowstone Police Department, and the general public shall be immediately notified of the declaration.

8.08.030 Violation--Penalty.

Violation of this Chapter is a municipal infraction subject to the provisions of Sections 7-1-4150 through 7-1-4152, MCA, including but not limited to a municipal infraction is a civil offense punishable by a civil penalty of not more than \$50 for each violation or if the infraction is a repeat offense, a civil penalty not to exceed \$200 for each repeat violation.

Section 2: REPEALER: All ordinances and parts of ordinances in conflict with provisions of this ordinance, except as provided above, are hereby amended or repealed.

Section 3: EFFECTIVE DATE: This ordinance shall be in full force and effect thirty (30) days after final adoption by the Town Council of the Town of West Yellowstone.

Section 4: SEVERABILITY: If any portion of this ordinance or the application therefore to any person or circumstance is held invalid, such invalidity shall not affect other provisions of this ordinance which may be given effect

without the invalid provisions or application and, to this end, the provisions of this ordinance are declared to be severable.

PASSED BY the Town Council and approved by the Mayor of the Town of West Yellowstone, Montana, this ____ day of _____, 2020.

Mayor Jerry Johnson

Deputy Mayor Brad Schmier

Council Member Greg Forsythe

Council Member Travis Watt

Council Member Jeff Mathews

ATTEST:

Town Clerk Elizabeth Roos

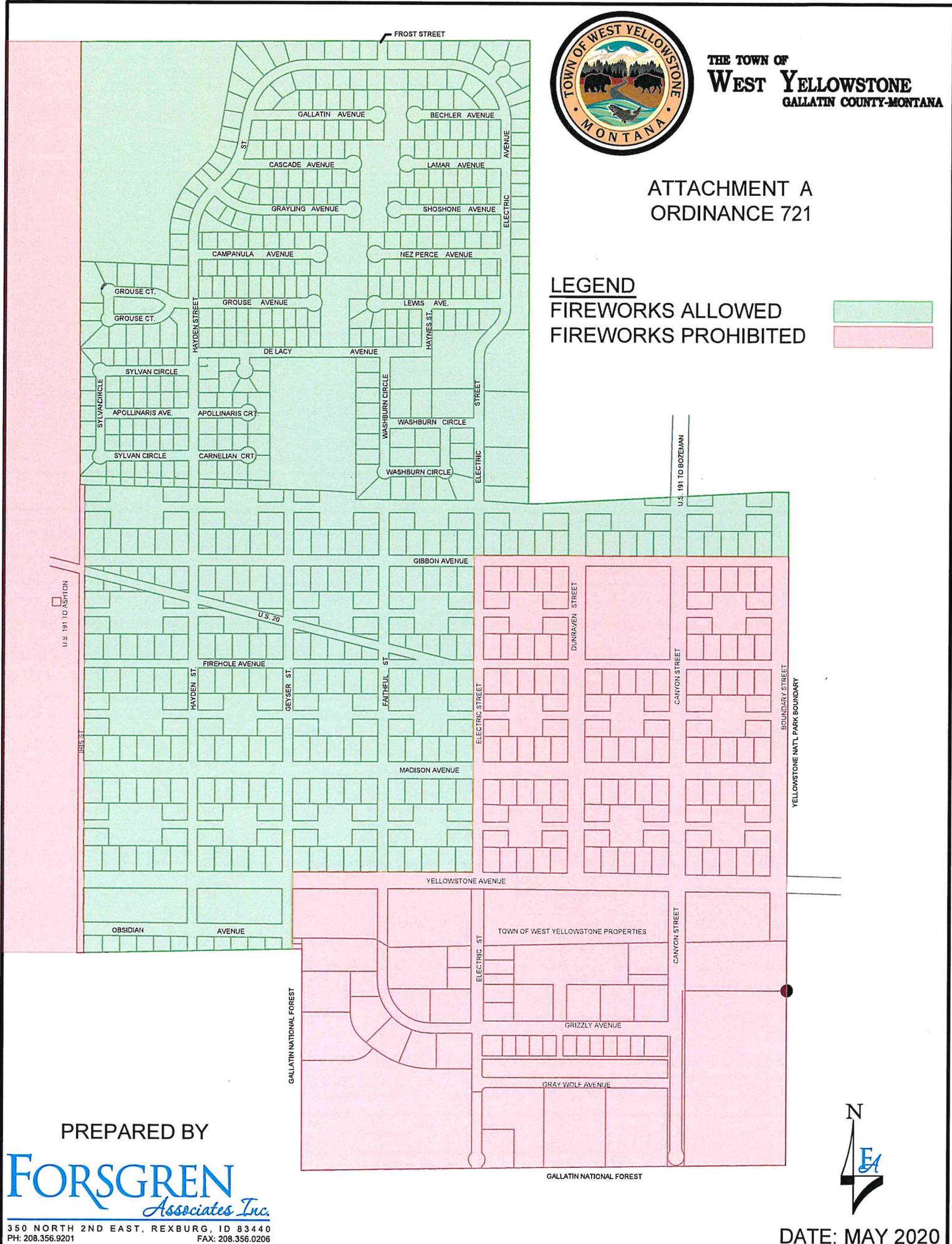




THE TOWN OF
WEST YELLOWSTONE
GALLATIN COUNTY-MONTANA

ATTACHMENT A ORDINANCE 721

LEGEND
FIREWORKS ALLOWED
FIREWORKS PROHIBITED



PREPARED BY

FORSGREN
Associates Inc.

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DATE: MAY 2020