

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, REDUCING THE PENALTY FOR THE DISCHARGE OF CONSUMER FIREWORKS IN THE CITY IN OLYMPIA AND AMENDING OLYMPIA MUNICIPAL CODE SECTION 9.48.160**

**WHEREAS**, the Olympia City Council determines it to be in the best interest of the City of Olympia to reduce the penalty for the discharge of consumer fireworks in the City from a misdemeanor to a civil infraction;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. OMC 9.48.160 of Olympia Municipal Code Chapter 9.48 is hereby amended to read as follows:**

**9.48.160 Fireworks**

A. The definitions set forth below shall govern the construction of this chapter:

"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.

"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.

"Fire nuisance" means anything or any act which increases, or may cause an increase of, the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire; or which may obstruct, delay, or hinder, or may become the cause of any obstruction, delay, or a hindrance to the prevention or extinguishment of fire.

"Importer" includes any person who for any purpose other than personal use:

- (1) Brings fireworks into this state or causes fireworks to be brought into this state;
- (2) Procures the delivery or receives shipments of any fireworks into this state; or

(3) Buys or contracts to buy fireworks for shipment into this state.

"License" means a nontransferable formal authorization which the Chief of the Washington State Patrol, through the Director of Fire Protection, is authorized to issue under this chapter to allow a person to engage in the act specifically designated therein.

"Licensee" means any person issued a fireworks license in conformance with this chapter.

"Local fire official" means the chief of a local fire department or a chief fire protection officer or such other person as may be designated by the governing body of a city or county to act as a local fire official under this chapter.

"Manufacturer" includes any person who manufactures, makes, constructs, fabricates, or produces any fireworks article or device but does not include persons who assemble or fabricate sets or mechanical pieces in public displays of fireworks or persons who assemble consumer fireworks items or sets or packages containing consumer fireworks items.

"Permit" means the official authorization granted by a city or county for the purpose of establishing and maintaining a place within the jurisdiction of the city or county where fireworks are manufactured, constructed, produced, packaged, stored, sold, or exchanged and the official authorization granted by a city or county for a public display of fireworks.

"Person" includes any individual, firm, partnership, joint venture, association, concern, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

"Public display of fireworks" means an entertainment feature where the public is or could be admitted or allowed to view the display or discharge of display fireworks.

"Pyrotechnic operator" includes any individual who by experience and training has demonstrated the required skill and ability for safely setting up and discharging display fireworks.

"Retailer" includes any person who, at a fixed location or place of business, offers for sale, sells, or exchanges for consideration consumer fireworks to a consumer or user.

"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.

"Special effects" means any combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere, and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production, or live entertainment.

"Wholesaler" includes any person who sells fireworks to a retailer or any other person for resale and any person who sells display fireworks to public display licensees.

B. RCW Chapter 70.77.

1. The following sections of RCW Chapter 70.77 relating to the manufacture, importation, possession, sale, discharge, display or transportation of fireworks are adopted by reference as though fully set forth in this chapter, to the extent not in conflict with the Olympia Municipal Code:

RCW 70.77.255 (1)-(3)	RCW 70.77.295
.260	.401
.265	.405
.270	.410
.280	.415
.285	.420
.290	.435
	.450
	.480
	.510
	.515
	.520
	.525
	.530
	.535
	.545

C. International Fire Code. The provisions of Chapter 33 of the International Fire Code as incorporated by reference in Section 16.04.020 of the Olympia Municipal Code shall be considered supplemental to the

provisions of RCW Chapter 70.77 as adopted by reference in subsection B unless a conflict exists, in which case, the provisions of RCW Chapter 70.77 as adopted in subsection B shall prevail.

D. Sales, possession and discharge of fireworks.

1. Small firework devices may be sold and used at all times.
2. Consumer fireworks shall not be sold or discharged in the city.
3. The sale, use and possession of display fireworks or any other type of fireworks not otherwise regulated by Section 9.48.160 of the Olympia Municipal Code shall be unlawful unless sold, possessed or used in accordance with the provisions of Chapter 70.77 of the Revised Code of Washington.

E. Fireworks permits. Any person, firm or corporation intending to sell, possess or discharge display fireworks within the City, shall be required as a condition of such sale, possession or discharge, to secure from the City Fire Marshal 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 Fire Marshal is directed to issue such permits only if the applicant is in compliance with the terms of this chapter and Chapter 70.77 of the Revised Code of Washington upon application and payment of the permit fee. For public displays the basic fee shall be twenty-five dollars (\$25) with an additional twenty-five dollars (\$25) for each hour of inspection above one hour, with a one hundred dollar (\$100) maximum fee.

F. Fireworks--Unlawful sales. Any person, firm or corporation selling consumer fireworks in the City at any time shall be guilty of a misdemeanor.

G. Fireworks--Unlawful transfer. Any person who knowingly sells, transfers or agrees to sell or transfer within the City any display fireworks to any person who is not a fireworks licensee as provided for in Chapter 70.77 of the Revised Code of Washington shall be guilty of a gross misdemeanor.

H. Fireworks--Unlawful possession or discharge. It shall be unlawful for any person, within the City of Olympia to:

1. Possess display fireworks which are not 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.

2. Discharge consumer fireworks in the City. Violation of this subsection shall constitute a ~~misdemeanor~~ civil infraction.

3. 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 subsection shall constitute a gross misdemeanor.

4. 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 2. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 3. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 4. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
DEPUTY CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**