

**CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 95**

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE, SPOKANE COUNTY,
WASHINGTON, AMENDING TITLE 3 OF THE SPOKANE COUNTY CODE AS
ADOPTED BY THE CITY OF LIBERTY LAKE TO COMPLY WITH AMENDMENTS
TO REVISED CODE OF WASHINGTON CHAPTER 70.77 AND TO PROHIBIT THE
SALE OR DISCHARGE OF CONSUMER FIREWORKS WITHIN THE CITY OF
LIBERTY LAKE FROM DECEMBER 27, 2002 UNTIL JANUARY 1, 2003, AND EVERY
YEAR THEREAFTER.**

WHEREAS, pursuant to the provisions of RCW 35.21.180, 35A.11.020, 35A.21.160, the City of Liberty Lake ("City") has enacted fireworks regulations by adopting by reference Title 3 of the Spokane County Code; and

WHEREAS, pursuant to its adopted ordinance, the City currently prohibits the sale and discharge of common fireworks at all times within the City limits; and

WHEREAS, the Washington State legislature adopted Second Substitute Senate Bill (SSSB) 6080 on April 5, 2002, with an effective date of June 13, 2002; and

WHEREAS, SSSB 6080 preempts local governments prohibition of the sale of common fireworks (now identified as "consumer" fireworks under SSSB 6080, Laws of 2002) from noon to 11:00 p.m. on December 27 through December 31, of each year; and

WHEREAS, SSSB 6080 preempts local governments prohibition of the use of common fireworks (now identified as "consumer" fireworks under SSSB 6080, Laws of 2002) from 6:00 p.m. on December 31 until 1:00 a.m. on January 1; and

WHEREAS, SSSB 6080 provides that a city may enact an ordinance within sixty (60) days of its effective date to limit or prohibit the sale, purchase, possession, or use of common fireworks (now identified as "consumer" fireworks under SSSB 6080, Laws of 2002), on December 27, 2002, through December 31, 2002, and any subsequent year(s); and

WHEREAS, the City Council has determined that it is in the best interests of the City to amend its fireworks regulations to prohibit the sale or use of common fireworks (now identified as "consumer" fireworks under SSSB 6080, Laws of 2002), at all times, including from December 27, 2002 until January 1, 2003, and each subsequent year thereafter;

WHEREAS, SSSB 6080 also enacts amendments to the Revised Code of Washington concerning defined terms and licensing requirements regarding fireworks; and

WHEREAS, the City Council has determined that the City's fireworks regulations should be consistent with the revisions to the Revised Code of Washington enacted pursuant to SSSB 6080, and approves the amendments set forth below.

NOW, THEREFORE, the City Council of the City of Liberty Lake, Washington, do ordain as follows:

Section 1: Amendments to Chapter 3.17

Chapter 3.17 FIREWORKS

3.17.010 Purpose of the chapter.

3.17.020 Definitions.

3.17.030 Scope.

3.17.040 Activities requiring permit.

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3.17.070 Consumer fireworks--Sale.

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3.17.090 Violation--Penalty.

3.17.100 Seizure of fireworks.

3.17.110 Seizure of fireworks--Petition for return--Hearing--Decision--Judicial action for recovery--Sale of confiscated fireworks.

3.17.120 Severability.

3.17.140 Liberal construction.

3.17.010 Purpose of the chapter.

The purpose of this chapter is to:

(a) Establish a permitting process regulating, within the unincorporated areas of Spokane County, the manufacturing, importing, possessing, or selling any fireworks at wholesale; making a public display of fireworks; transporting fireworks (except as a public carrier delivering to a licensee); establishing or maintaining a place where fireworks are manufactured, constructed, produced, packaged, stored, sold, exchanged, discharged or used; and

(b) Prohibit the sale or discharge, within the unincorporated areas of Spokane County, of any consumer fireworks.

Pursuant to the provisions of RCW Section 70.77.395:

(1) It is legal to sell and purchase consumer fireworks within this state from twelve o'clock noon to eleven o'clock p.m. on the twenty-eighth of June, from nine o'clock a.m. to eleven o'clock p.m. on each day from the twenty-ninth of June through the fourth of July, from nine o'clock a.m. to nine o'clock p.m. on the fifth of July, from twelve o'clock noon to eleven o'clock p.m. on each day from the twenty-seventh of December through the thirty-first of December of each year, and as provided in RCW 70.77.311; and,

(2) Consumer fireworks may be used or discharged each day between the hours of twelve o'clock noon and eleven o'clock p.m. on the twenty-eighth of June and between the hours of nine o'clock a.m. and eleven o'clock p.m. on the twenty-ninth of June to the third of July, and on July 4th between the hours of nine o'clock a.m. and twelve o'clock midnight, and between the hours of nine o'clock a.m. and eleven o'clock p.m. on July 5th, and from six o'clock p.m. on December 31st until one o'clock a.m. on January 1st of the subsequent year, and as provided in RCW 70.77.311.

In the case of *Brown v. Yakima*, 116 Wn.2d 556, 807 P.2d 353 (1991), the Washington State Supreme Court held that the Washington State legislature did not intend to preempt the entire field of fireworks regulations by enacting RCW Chapter 70.77. The court further held that an ordinance adopted by the city of Yakima further restricting the dates and times as set forth in RCW Section 70.77.395 during which common fireworks (now identified as consumer fireworks under SSSB 6080, Laws of 2002) may be sold or discharged within its jurisdiction was constitutional and did not violate Article XI Subsection 11 of the Washington State Constitution.

Spokane County now desires to exercise its rights as provided in Article XI Subsection 11 of the Washington State Constitution, RCW Section 35A.11.020 and RCW Section 70.77.250(4) to (1) regulate, within the unincorporated areas of Spokane County, the manufacturing, importing, possessing, or selling any fireworks at wholesale; making a public display of fireworks; transporting fireworks (except as a public carrier delivering to a licensee); establishing or maintaining a place where fireworks are manufactured, constructed, produced, packaged, stored, sold, exchanged, discharged or used; and (2) prohibit the sale or discharge within the unincorporated areas of Spokane County any consumer fireworks. In exercising this right, Spokane County would be prohibiting the sale or discharge of consumer fireworks, as presently authorized in RCW Section 70.77.395, and as amended pursuant to SSSB 6080, Laws of 2002. (Res. 92-1518 (part), 1992)

3.17.020 Definitions.

The definitions set forth in this section shall govern the construction of this chapter, unless the context otherwise requires.

(a) "Applicant" means any person who makes application for a permit under the terms of this chapter.

(b) "*Articles pyrotechnic*" means pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use which meet the weight limits for consumer fireworks but which are not labeled as such and which are classified as UN0431 or UN0432 by the United States department of transportation at 49 C.F.R. Sec. 172.101 as of the effective date of this section.

(c) "Consumer fireworks" (formerly referred to as "common fireworks") means any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the United States consumer product safety commission, as set forth in 16 C.F.R. Parts 1500 and 1507 and including some small devices designed to produce audible effects, such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials and classified as fireworks UN0336 by the United States department of transportation at 49 C.F.R. Sec. 172.101 as of the effective date of this section , and not including fused setpieces containing components which together exceed 50 mg of salute powder.

(d) "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 grains (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 the effective date of this section, and including fused setpieces containing components which exceed 50 mg of salute powder.

(e) "Director" means the director of the Liberty Lake Department of Planning and Community Development or his/her designee, who shall act as the local fire official.

(f) "Fireworks" means any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and which meets the definition of articles pyrotechnic, or consumer fireworks, or display fireworks.

(g) "Importer" means any person who for any purpose:

(1) Brings fireworks into Spokane County or causes fireworks to be brought into Spokane County;

(2) Procures the delivery or receives shipments of any fireworks into Spokane County; or

(3) Buys or contracts to buy fireworks for shipment into Spokane County.

(h) "License" means a nontransferable formal authorization which the state of Washington is permitted to issue under provisions of RCW Chapter 70.77 to engage in the act specifically designated therein.

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

(j) "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 for fireworks.

(k) "New fireworks item" means any fireworks initially classified or reclassified as articles pyrotechnic, display fireworks, or consumer fireworks by the United States department of transportation after the effective date of this section, and which comply with the construction, chemical composition, and labeling regulations of the United States consumer products safety commission, 16 C.F.R., Parts 1500 and 1507, as determined by the Washington State Patrol through the Director of Fire Protection.

(l) "Permit" means the official authorization granted by the director for the purpose of establishing and maintaining a place within the unincorporated area of Spokane County where fireworks are manufactured, constructed, produced, packaged, stored, sold, exchanged and authorization granted by the director for a public display of fireworks.

(m) "Permittee" means any person issued a fireworks permit in conformance with this chapter.

(n) "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.

(o) "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.

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

(q) "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.

(r) "Wholesaler" includes any person other than an importer, exporter, or manufacturer selling only to wholesalers, who sells fireworks to a retailer or any other person for resale, and also includes any person who sells display fireworks to public display licensees. (Res. 92-1518 (part), 1992)

3.17.040 Activities requiring permit.

(a) In addition to a license issued by the Washington State Patrol through the Director of Fire Protection, a person needs a county permit to:

- (1) Manufacture, import, possess (except as provided below) or sell any fireworks at wholesale or retail for any use;
- (2) Make a public display of fireworks;
- (3) Transport fireworks, except as a licensee or as a public carrier delivering to a licensee;
- (4) Assemble, compound, use, and/or display articles pyrotechnic or special effects in the production of motion pictures, radio or television productions, or live entertainment.
- (5) Establish or maintain a place where fireworks are manufactured, constructed, produced, packaged, stored, sold, exchanged, discharged, or used.

(b) Except as authorized by a license and permit under 3.17.050, no person may discharge display fireworks at any place.

(c) The assembling, compounding, use, and display of articles pyrotechnic or special effects in the production of motion pictures, radio or television productions, or live entertainment shall be under the direction and control of a pyrotechnic operator licensed by the state of Washington and who possesses a valid permit.

(d) No permit shall be issued by the county for the retail sale of any fireworks. (Res. 92-1518 (part), 1992)

3.17.050 Application for permit.

(a) An applicant for a permit required under this chapter shall make written application to the director at least ten days prior to commencement of the activity for which the permit is sought. No person less than eighteen years of age may apply for or receive a license or permit under this chapter.

(b) The form of the application and the criteria for issuance, denial, or issuance with conditions shall be the same as used by the Chief of the Washington State Patrol through the Director of Fire Protection in processing applications for the corresponding state license. (Res. 92-1518 (part), 1992) Activities authorized by a County permit shall conform to the provisions of Article 78 of the Uniform Fire Code.

3.17.060 Permit--Fees.

(a) The director is charged with the duty of administering this chapter and collecting fees provided herein. The permit fee hereunder shall be as follows:

- (1) Manufacturers, wholesalers, importers and exporters, annual fee -- \$100.00
- (2) Public display of fireworks or pyrotechnic special effects, each display -- \$100.00

(b) The fees prescribed hereunder shall be paid at the time the application for a permit is filed with the director and there shall be no refunds. Annual permit fees shall be for the period from January 1st to December 31st of each year or any fractional part thereof. All permits shall expire on December 31st of the year issued, unless sooner surrendered or revoked. (Res. 92-1518 (part), 1992)

3.17.070 Consumer fireworks--Sale.

No consumer fireworks shall be sold or offered for sale at retail within the unincorporated areas of Spokane County. (Res. 92-1518 (part), 1992)

3.17.080 Consumer fireworks--Use.

It is unlawful for any person to ignite, discharge, use or explode any consumer fireworks within the unincorporated areas of Spokane County, except when duly authorized pursuant to the provision of Section 3.17.040 of this chapter. (Res. 92-1518 (part), 1992)

3.17.090 Violation--Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court, of not more than one thousand dollars, or both such imprisonment and fine. (Res. 92-1518 (part), 1992)

3.17.100 Seizure of fireworks.

Any fireworks which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of this chapter are subject to seizure by the director or his/her designee by summary destruction at any time subsequent to thirty days from the seizure or ten days from the final termination of proceedings under the provisions of Section 3.17.110, whichever is later. (Res. 92-1518 (part), 1992)

3.17.110 Seizure of fireworks--Petition for return--Hearing--Decision--Judicial action for recovery--Sale of confiscated fireworks.

(a) Any person whose fireworks are seized under the provisions of Section 3.17.100 may, within thirty days after such seizure, petition the director to return the fireworks seized upon the ground that such fireworks were illegally or erroneously seized. Any petition filed hereunder shall be considered by the director within fifteen days after filing and an oral hearing granted the petitioner, if requested. Notice of the decision of the director shall be served upon the petitioner. The director may order the fireworks seized under this section disposed of or returned to the petitioner if illegally or erroneously seized. The determination of the director is final unless, within thirty days, an action is commenced in a court of competent jurisdiction in the state of Washington for the recovery of the fireworks seized by the director.

(b) If the fireworks are not returned to petitioner, or destroyed as provided for in Section 3.17.100, the director may sell confiscated consumer fireworks and display fireworks that are legal for use and possession under the provisions of this chapter to wholesalers licensed under RCW Chapter 70.77. Sale shall be by public auction after publishing a notice of the date, place and time of the auction in a newspaper of general circulation in Spokane County, at least three days before the date of the auction. The proceeds of the sale

of the seized fireworks under this section shall be deposited in the county's general fund. Fireworks that are not legal for use and possession in the state shall be destroyed by the director. (Res. 92-1518 (part), 1992)

3.17.120 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or application of its provisions to other persons or circumstances is not affected. (Res. 92-1518 (part), 1992)

3.17.140 Liberal construction.

This chapter shall be deemed to be an exercise of the police power of Spokane County to preserve the public peace, health, safety, and welfare, and its provisions shall be liberally construed for the accomplishment of that purpose. (Res. 92-1518 (part), 1992)

Section 2. Construction. All references to Spokane County or the "unincorporated areas" of Spokane County shall be construed to mean and refer to the City of Liberty Lake except the references to Spokane County in SCC 3.17.110(b).

Section 3. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

PASSED by the City Council this 6 day of August, 2002.

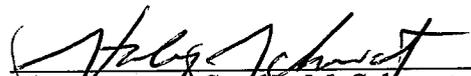


Mayor, Steve Peterson

ATTEST:


Deputy City Clerk, Arlene Fisher
Cynthia Miller

APPROVED AS TO FORM:



City Attorney, Stanley M. Schwartz

Date of Publication: 8/22/02
Effective Date: 8/26/02

City of Liberty Lake
1421 North Meadowwood Lane, Ste. 120
Liberty Lake, WA 99019
(509) 755-6700

**NOTICE OF ORDINANCE PASSED
BY LIBERTY LAKE CITY COUNCIL**

The following is the title and summary of Ordinance No. 95 passed by the City of Liberty Lake City Council on the 6th day of August, 2002.

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE, SPOKANE COUNTY,
WASHINGTON, AMENDING TITLE 3 OF THE SPOKANE COUNTY CODE AS
ADOPTED BY THE CITY OF LIBERTY LAKE TO COMPLY WITH AMENDMENTS
TO REVISED CODE OF WASHINGTON CHAPTER 70.77 AND TO PROHIBIT THE
SALE OR DISCHARGE OF CONSUMER FIREWORKS WITHIN THE CITY OF
LIBERTY LAKE FROM DECEMBER 27, 2002 UNTIL JANUARY 1, 2003, AND EVERY
YEAR THEREAFTER.**

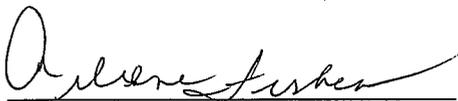
The introductory paragraphs state the City desires to amend the fireworks ordinance in a manner consistent with state law.

Section 1 amends the fireworks ordinance, adopted by reference, according to legislation passed by the 2002 Washington State Legislature including adding definitions, deleting Section 3.17.030, identifying activities which require a permit, stating application requirements, the prohibition on the sale and use of fireworks, stating the violation with a seizure of fireworks.

Section 2 changes references from Spokane County to the City of Liberty Lake.

Section 3 states this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

The full text of the Ordinance is available at the City of Liberty Lake City offices as identified above. A copy will be mailed out upon request.



Arlene Fisher
City Clerk-Treasurer

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