

ORDINANCE NO. 1217

AN ORDINANCE OF THE CITY OF OKANOGAN, WASHINGTON, AMENDING CHAPTER 8.12 OF THE OKANOGAN MUNICIPAL CODE - FIREWORKS TO CONFORM TO RCW 70.77, AND TO CHANGE THE DATES AND TIMES THAT FIREWORKS MAY BE DISCHARGED, SOLD AND PURCHASED WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF OKANOGAN, AND AMENDING THE PENALTIES PROVIDED THEREFORE.

WHEREAS, the City Council of the City of Okanogan has determined that it is necessary or advisable to amend Chapter 8.12 – Fireworks of the Okanogan Municipal Code to conform to RCW 70.77, to change the dates and times fireworks may be discharged, sold and purchased within the municipal boundaries of the City of Okanogan, and amending the penalties therefore.

NOW, THEREFORE, the City Council of the City of Okanogan do ordain as follows:

SECTION 1 - AMENDMENT.

A. Okanogan Municipal Code (“OMC”) 8.12.010(C) which reads as follows:

“C. “Common fireworks” means any fireworks as defined in RCW 70.77.136 as now existing or hereafter amended.”

Be and is hereby amended to read as follows:

“C. “Consumer fireworks” means any fireworks as defined in RCW 70.77.136 as now existing or hereafter amended.”

B. OMC 8.12.010(D) which reads as follows:

“D. “Agricultural and wildlife fireworks” includes fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of Interior and/or the State Department of Game.”

Be and is hereby amended to read as follows:

“D. “Agricultural and wildlife fireworks” includes fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of Interior and/or the Washington State Department Fish and Wildlife.”

C. OMC 8.12.010(L) which reads as follows:

“L. “Retailer” includes any person who, at a fixed location or place of business, sells, transfers, or gives common fireworks to a consumer or user.”

Be and is hereby amended to read as follows:

“L. “Retailer” includes any person who, at a fixed location or place of business, sells, transfers, or gives consumer fireworks to a consumer or user.”

D. OMC 8.12.020(A) which reads as follows:

“A. Manufacture, import, possess or sell, at wholesale or retail, any class or kind of fireworks, for any use whatsoever, excluding possession of common fireworks lawfully purchased at retail;”

Be and is hereby amended to read as follows:

“A. Manufacture, import, possess or sell, at wholesale or retail, any class or kind of fireworks, for any use whatsoever, excluding possession of consumer fireworks lawfully purchased at retail;”

E. OMC 8.12.020(B) which reads as follows:

“Discharge or ignite any class or kind of fireworks at any place excluding common fireworks lawfully purchased at retail at such places and times as are permitted by this chapter;”

Be and is hereby amended to read as follows:

“Discharge or ignite any class or kind of fireworks at any place, excluding consumer fireworks lawfully purchased at

retail at such places and times as are permitted by this chapter;”

F. OMC 8.12.030(A) which reads as follows:

“A. Any person desiring to do any act set forth in OMC 8.12.020 shall first make written application for a permit to the fire chief. The application for a permit shall be signed by the applicant. If the application is made by a partnership, it shall be signed by each partner of the partnership; and if the application is made by a corporation, it shall be signed by an officer of the corporation.”

Be and is hereby amended to read as follows:

“A. Any person desiring to do any act set forth in OMC 8.12.020 shall first make written application for a permit to the fire chief. The application for a permit shall be signed by the applicant. If the application is made by a partnership, it shall be signed by each partner of the partnership; and if the application is made by a corporation, it shall be signed by an officer of the corporation; and if the application is by a limited liability company, it shall be signed by the manager or all members of the limited liability company.”

G. The first paragraph of OMC 8.12.035 which reads as follows:

“Applications for seller’s permits shall be made to the fire chief annually on or after April 1st of the year for which the permit is issued and the filing period shall close on June 1st of such year unless extended by action of the city council; provided, however, the filing period for the year 1986 shall be extended until noon on June 27th. Applications shall be signed before a notary public by the retail seller if an individual, or by the duly authorized officer, if an association, or corporation. It is unlawful for a fireworks manufacturer, wholesaler or supplier to make application for or to obtain a retail sales permit on behalf of any retailer. Seller’s permits shall be issued only to applicants meeting the following conditions:”

Be and is hereby amended to read as follows:

“Applications for seller’s permits shall be made to the fire chief annually on or after April 1st of the year for which the permit

is issued and the filing period shall close on May 15th of such year unless extended by action of the city council. The City shall grant a permit if the application meets the requirements of Chapter 70.77 RCW and this chapter. Applications shall be signed before a notary public by the retail seller if an individual, or by the duly authorized officer or manager, if an association, corporation or limited liability company. It is unlawful for a fireworks manufacturer, wholesaler or supplier to make application for or to obtain a retail sales permit on behalf of any retailer. Seller's permits shall be issued only to applicants meeting the following conditions:"

H. OMC 8.12.035(E) which reads as follows:

"E. The applicant shall post with the city a performance bond or a cash deposit in the amount not less than \$1,000, conditioned upon the prompt removal of the temporary fireworks stand and the cleaning up of all debris from the site of the stand, which deposit shall be returned to the applicant only in the event that he removes the temporary stand and cleans up all debris to the satisfaction of the proper officials of the city. In the event of his failure to do so, the performance bond or cash deposit shall be forfeited. In no event shall the applicant be entitled to the return of the performance bond or cash deposit if he has failed to remove the stand and clean up all debris by the tenth of July following the sales period."

Be and is hereby amended to read as follows:

"E. The applicant shall post with the city a performance bond or a cash deposit in the amount not less than \$1,000, conditioned upon the prompt removal of the temporary fireworks stand and the cleaning up of all debris from the site of the stand, which deposit shall be returned to the applicant only in the event that they remove the temporary stand and cleans up all debris to the satisfaction of the proper officials of the city. In the event of their failure to do so, the performance bond or cash deposit shall be forfeited. In no event shall the applicant be entitled to the return of the performance bond or cash deposit if they have failed to remove the stand and clean up all debris by the tenth day following the sales period."

- I. OMC 8.12.035 is hereby amended to add a new subsection, OMC 8.12.035(G) which reads as follows:

“G. Seller’s permits shall be granted by June 10th, or no less than 30-days after receipt of an application, whichever date occurs first, for sales commencing on June 28th, or by December 10th, or no less than 30-days after receipt of an application, whichever occurs first, for sales commencing on December 27th.”

- J. OMC 8.12.120 which reads as follows:

“This chapter does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities.”

Be and is hereby amended to read as follows:

“This chapter does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities, or the purchase and use of agricultural and wildlife fireworks by government agencies.”

- K. OMC 8.12.150(B) which reads as follows:

“It is unlawful for any person to sell or transfer any common fireworks to a consumer or other user other than at the place of business of a retail seller of fireworks for which a license pursuant to Chapter 70.77 RCW and a permit pursuant to this chapter have been issued.”

Be and is hereby amended to read as follows:

“It is unlawful for any person to sell or transfer any consumer fireworks to a consumer or other user other than at the place of business of a retail seller of fireworks for which a license pursuant to Chapter 70.77 RCW and a permit pursuant to this chapter have been issued.”

L. OMC 8.12.160 which reads as follows:

“On or after June 28, 1987, it shall be unlawful to offer for sale at retail, or to engage in the retail sale of any of the following fireworks, notwithstanding the inclusion of any such fireworks within the definition of “common fireworks” as defined by Chapter 70.77 RCW and regulations issued by the State Fire Marshal: Those listed in WAC 212-17-035(2) Aerial Device paragraphs (a) through (c).”

Be and is hereby amended to read as follows:

“It shall be a violation of this chapter to offer for sale at retail, or to engage in the retail sale of any of the following fireworks, notwithstanding the inclusion of any such fireworks within the definition of “consumer fireworks” as defined by Chapter 70.77 RCW and regulations issued by the State Fire Marshal: Those listed in WAC 212-17-035(2) Aerial Device paragraphs (a) through (c).”

M. OMC 8.12.175(A) which reads as follows:

“A. No fireworks stand shall be located within 50 feet of any other building, nor within 250 feet of any gasoline station, tank or premises where flammable liquids or gases are used or stored, or any area designed as hazardous fire area pursuant to Appendix II-A of the Uniform Fire Code.”

Be and is hereby amended to read as follows:

“A. No fireworks stand shall be located within 50 feet of any other building, nor within 250 feet of any gasoline station, tank or premises where flammable liquids or gases are used or stored, or any area designed as hazardous fire area pursuant to Appendix II-A of the Uniform Fire Code, as amended.”

N. OMC 8.12.175(S) which reads as follows:

“S. All unsold stock shall be removed no later than 12:00 noon on the 7th day of July of any year.”

Be and is hereby amended to read as follows:

“S. All unsold stock shall be removed no later than 12:00 noon on the third day after the expiration of the sales period established in OMC 8.12.190.”

○. OMC 8.12.180(C) which reads as follows:

“C. Within, or closer than 250 feet to any area designated as a hazardous fire area by the fire chief pursuant to Appendix II-A of the 1985 Edition of the Uniform Fire Code, as the same now is or may hereafter be amended, nor designated as a hazardous fire area.”

Be and is hereby amended to read as follows:

“C. Within, or closer than 250 feet to any area designated as a hazardous fire area by the fire chief pursuant to Appendix II-A of the Uniform Fire Code, as the same now is or may hereafter be amended, nor designated as a hazardous fire area.”

P. OMC 8.12.190 which reads as follows:

“Dates and time use of fireworks permitted.

Except for the authorized public display of fireworks, fireworks regulated by this chapter may be discharged or ignited only from 12:00 noon on the 28th day of June to 12:00 noon on the 6th day of July. Discharge or ignition of any such fireworks at any other time within the city is prohibited.”

Be and is hereby amended to read as follows:

“Dates and times fireworks may be discharged or sold and purchased.

Except for the authorized public display of fireworks, fireworks regulated by this chapter may be discharged or ignited only from 12:00 noon on the 4th day of July to midnight on the 4th day of July, and from 12:00 noon on the 31st day of December to 1:00 a.m. on the 1st day of January, unless otherwise prohibited by order of the Mayor, upon recommendation by the fire chief due to weather conditions such as extremely low humidity or wind factor. Discharge or

ignition of any such fireworks at any other time within the city is prohibited.

Fireworks regulated by this chapter may only be sold and purchased on the following dates and times:

June 28: 12:00 noon – 11:00 p.m.

June 29 – July 4: 9:00 a.m. – 11:00 p.m.

July 5: 9:00 a.m.- 9:00 p.m.

December 27-31: 12:00 noon – 11:00 p.m.

Sale or purchase of any such fireworks at any other time within the city is prohibited.

Q. OMC 8.12.200(H) which reads as follows:

“H. The permit may be immediately revoked at any time deemed necessary by the fire marshal or designee, due to any noncompliance, or weather conditions such as extremely low humidity or wind factor. The display may also be cancelled due to accidental ignition of any combustible material in the vicinity of the display.”

Be and is hereby amended to read as follows:

“H. The permit may be immediately revoked at any time deemed necessary by the fire chief or designee, due to any noncompliance, or weather conditions such as extremely low humidity or wind factor. The display may also be cancelled due to accidental ignition of any combustible material in the vicinity of the display.”

R. OMC 8.12.220 which reads as follows:

“Penalties for violation.

Any person violating any of the provision of this chapter shall, upon a finding by a court of competent jurisdiction that such violation was committed, be subject to imposition of a fine as follows:

A. Unlawful possession of fireworks weighing less than one pound, exclusive of external packaging, shall be punishable by payment of a fine not to exceed \$1,000.

- B. Unlawful possession of fireworks weighing one pound or more, exclusive of external packaging, payment of a fine not to exceed \$5,000.
- C. Violation of the prohibition upon use or discharge of fireworks in a reckless manner shall be punishable by payment of a fine not to exceed \$5,000.
- D. A violation of the restrictions upon the sale of fireworks set forth in this chapter shall be punishable by payment of a fine not to exceed \$5,000.
- E. Any other violation of the provisions of this chapter shall be punishable by payment of a fine not to exceed \$1,000.”

Be and is hereby amended to read as follows:

“Penalties for violation.

Any person violating any of the provision of this chapter shall, in addition to any penalties imposed under Chapter 70.77 RCW, be guilty of a civil infraction, and shall be assessed the following civil penalties:

- A. Unlawful possession of fireworks weighing less than one pound, exclusive of external packaging, shall be punishable by payment of a civil penalty not to exceed \$250.00.
- B. Unlawful possession of fireworks weighing one pound or more, exclusive of external packaging, payment of a civil penalty not to exceed \$250.00.
- C. Violation of the prohibition upon use or discharge of fireworks in a reckless manner shall be punishable by payment of a civil penalty not to exceed \$250.00.
- D. A violation of the restrictions upon the sale of fireworks set forth in this chapter shall be punishable by payment of a civil penalty not to exceed \$250.00.
- E. Any other violation of the provisions of this chapter shall be punishable by payment of a civil penalty not to exceed \$250.00.

- F. Any fireworks involved in the violation of the provisions of this chapter may be confiscated. In the event that fireworks are confiscated and required to be disposed of by the fire chief, a disposal fee of \$250.00 shall be assessed against the violator, in addition to the penalties stated above.
- G. In addition to all other applicable criminal and civil penalties, a person who violates any of the provisions of this chapter and causes the city fire department to respond to a fireworks related incident, shall be liable to the city for actual costs incurred in the fireworks related response.”

SECTION 2 – SEVERABILITY. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of the Ordinance.

SECTION 3 – EFFECTIVE DATE. This Ordinance or summary thereof consisting of the title, shall take effective and be in full force after passage by the City Council, approval by the Mayor, and one (1) year after adoption of this Ordinance pursuant to RCW 70.77.250(4).

PASSED by the City Council of the City of Okanogan, Washington, at their regular meeting this 14th day of June, 2022.

APPROVED:



Jon K. Culp, Mayor

ATTEST:



Amber Scott, City Clerk-Treasurer

APPROVED AS TO FORM:



W. Scott DeTro, City Attorney