

ORDINANCE NO. 3625

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO FIREWORKS, DECLARING THE SALE, HANDLING, DISCHARGE AND DISPLAY OF FIREWORKS TO BE UNLAWFUL WITHIN THE CITY LIMITS, REPEALING CHAPTER 11.60 OF THE KIRKLAND MUNICIPAL CODE, AND CREATING A NEW KIRKLAND MUNICIPAL CODE CHAPTER 11.60, ENTITLED "FIREWORKS."

WHEREAS, Chapter 70.77 RCW is the State law relating to the sale and use of fireworks; and

WHEREAS, notwithstanding Chapter 70.77 RCW, the State Legislature has not preempted the ability of local jurisdictions to adopt local ordinances relating to fireworks; and

WHEREAS, Chapter 70.77 RCW does not prevent a city from enacting an ordinance more prohibitive than RCW 70.77.395 as to the dates and times that fireworks may be sold and used; and

WHEREAS, this ordinance imposing a ban on the sale and use of fireworks within the City limits after February 28, 1999 does not conflict with the State statute, but merely prohibits a wider scope of activity than the State statute;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

FINDINGS OF FACT. The City Council makes the following Findings of Fact:

1. The sale and use of fireworks within the City increases the risks of fires and the associated danger to public safety and public and private property.
2. Both illegal (dangerous) and legal (common) fireworks as defined in RCW 70.77.136 are types of fireworks involved in fires within the City.
3. A ban on the use of all fireworks within the City is rationally related to the Council legislative purpose of reducing and/or eliminating the risk of major property damage and risk to public safety which results from the sale, possession, and use of any fireworks.

Section 1. KIRKLAND MUNICIPAL CODE Chapter 11.60 is hereby repealed. A new KIRKLAND MUNICIPAL CODE Chapter 11.60, entitled "Fireworks," is hereby created.

Section 2. The new KIRKLAND MUNICIPAL CODE Chapter 11.60 shall read as follows:

11.60.010 Definitions. The definitions of Chapter 70.77 RCW as now stated or hereafter amended shall govern the construction of this chapter, when applicable. RCW 70.77.120, through and including RCW 70.77.230 as now stated or hereinafter amended, is adopted by this reference and a copy of such shall be kept on file in the office of the City Clerk for public use and inspection. In addition, the following terms are defined:

- (1) **Dangerous Fireworks:** Any fireworks not defined as a common firework" under the provisions of RCW70.77.136.

11.60.020 Sale of Fireworks Unlawful. It is unlawful for any person, firm or corporation to sell any fireworks within the City; provided, that this prohibition does not apply to duly authorized public displays.

11.60.030 Possession, Use and Discharge of Fireworks Unlawful. Except as authorized by State license and City permit granted pursuant to RCW 70.77.260(2) (public display) or RCW 70.77.311(2) (use by group or individual for religious or other specific purpose on approved date and at an approved location), it is unlawful for any person, firm, or corporation to engage in the retail sale of, or to sell, possess, use, transfer, discharge or explode any fireworks of any kind within the City.

11.60.040 Permit Required to Display Fireworks. It is unlawful for any person, firm or corporation to hold, conduct, or engage in a public display of fireworks within the City without first having obtained and being the holder of a valid permit issued pursuant to the provisions of this chapter.

11.60.050 Permit Fees. The fee for a "public display permit" for the public display of fireworks shall be one hundred dollars, payable in advance.

11.60.060 Issuance--Nontransferable--Voiding. Each public display permit issued pursuant to this chapter shall be valid for the specific authorized public display evening only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is a violation of this chapter and shall void the permit granted in addition to all other sanctions provided in this code.

11.60.070 Application for Public Display Permit. Applications for a permit to hold, conduct, or operate a public display of fireworks as defined under Chapter 70.77 RCW shall be made to the building official for a permit. Such a permit shall also require the approval of the fire chief or his/her duly appointed representative. Applicants shall be made at least fourteen (14) days prior to the scheduled event. Applications shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display and,

in particular, shall hold a pyrotechnic operator license issued by the State of Washington as defined by Chapter 70.77 RCW and Chapter 212-17 WAC.

11.60.080 Standards for Public Fireworks. All public fireworks displays shall conform to the following minimum standards and conditions:

- A. All public fireworks displays must be planned, organized, and discharged by a State-licensed Pyrotechnician.
- B. A permit must be obtained from the City and approved by the fire chief or designee prior to any display of public fireworks. The permit shall include the name of the applicant and his address, the name of the Pyrotechnician and his address, the exact location, date and time of the proposed display, the number, type and class of fireworks to be displayed, the manner in which the fireworks are being stored prior to the public fireworks display.
- C. The applicant for a public display of fireworks permit shall include with the application evidence of a bond issued by an authorized surety or a certificate of public liability insurance. Such bond or certificate shall conform to the requirements set forth in RCW 70.77.285 and RCW 70.77.355.
- D. A drawing shall be submitted with the application to the fire chief showing a plan view of the fireworks discharge site and the surrounding area within a five hundred foot radius. The drawing shall include all structures, fences, barricades, streets, fields, streams, and any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.
- E. When, in the discretion of the Fire Chief, such requirement is necessary to preserve the public health, safety and welfare, the permit may, at the direction of the Fire Chief or designee, require that a Kirkland fire pumper and a minimum of three firefighters shall be on site thirty minutes prior to and after the conclusion of the display. All compensation for fire personnel and apparatus will be paid by the applicant in an amount calculated according to the Washington State Chiefs Association's fee schedule and shall be designated to the Kirkland Fire and Life Safety District.
- F. All combustible debris and trash shall be removed by the applicant from the area of discharge for a distance of three hundred feet in all directions.

- G. Applicant shall dispose of all unfired or "dud" fireworks in a safe manner.
- H. Applicant shall provide the fireworks discharge site a minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket.
- I. The permit may be immediately revoked at any time deemed necessary by the fire chief or designee due to any noncompliance, weather conditions such as extremely low humidity or wind factor. The display may also be canceled by accidental ignition of combustible or flammable material in the vicinity due to fall debris from display.
- J. Areas of public access shall be determined by the fire chief or designee and maintained by the applicant in an approved manner.

11.60.090 Use of Fireworks in Public Parks and on Public Land. It shall be unlawful for any person to discharge or possess any fireworks upon public land or in any public park owned by the City of Kirkland provided, however, nothing herein shall be deemed to limit the authority of the city to allow event display of special fireworks under a permit issued in accordance with the provisions of this chapter.

11.60.100 Special Effects for Entertainment Media. This chapter does not prohibit the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio, or television productions, theatricals or operas when such use and display is a necessary part of the production and such person possesses a valid permit issued by the City of Kirkland to purchase, possess, transport or use such fireworks.

11.60.110 Nonprohibited Acts--Signal Purposes, Forest Protection. 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.

11.60.120 Construction. This chapter is intended to implement Chapter 70.77 RCW, and shall be construed in connection with that law and any and all rules or regulations issued pursuant thereto.

11.60.130 Enforcement. The fire chief, or designee, in coordination with the building official, is authorized to enforce all provisions of this chapter and, in addition to criminal sanctions or civil remedies, he/she may revoke any permit issued pursuant to this chapter upon any failure or refusal of the permittee to comply with the orders and directives of the fire chief or

designee, and/or to comply with any provisions of this code relating to temporary structures.

Section 3. This ordinance shall be effective on March 1, 1999, which is more than five (5) days after its publication.

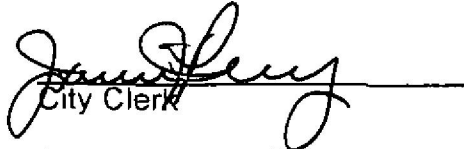
Passed by majority vote of the Kirkland City Council in regular, open meeting this 17th day of February, 1998.

SIGNED IN AUTHENTICATION THEREOF this 17th day of February, 1998.




Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

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