

RESOLUTION NO. 2016-59

Amending Chapter 7.44, Fireworks, of the Chelan County Code

WHEREAS, pursuant to Chapter 7.44, Fireworks, of the Chelan County Code, Chelan County regulates the sale, use, and discharge of fireworks within the unincorporated areas of Chelan County,

WHEREAS, Chelan County held a duly advertised public hearing on June 27, 2016 to receive any comments regarding revision to Chapter 7.44 Fireworks,

WHEREAS, the Board of Chelan County Commissioners have the power pursuant to RCW 36.32.120 to make and enforce, by appropriate resolutions or ordinance, all such police regulations as are not in conflict with state law,

WHEREAS, pursuant to RCW 70.77.395(3) counties are authorized to limit or prohibit the sale, purchase, possession, or use of consumer fireworks,

WHEREAS, Chelan County has determined that revisions to Chapter 7.44 of the Chelan County Code, as set forth in Exhibit A, are necessary in order to protect the public health, safety and welfare with respect to the sale, use, and discharge of fireworks within the unincorporated areas of Chelan County,

NOW THEREFORE, BE IT RESOLVED by the Board of Chelan County Commissioners that Chapter 7.44 of the Chelan County Code is hereby amended as set forth in Exhibit A.

Dated at Wenatchee, Washington this 27th day of June 2016.

BOARD OF COUNTY COMMISSIONERS



ATTEST: CARLYE BAITY

Keith W. Goehner

KEITH W. GOEHNER, Chairman

Doug England

DOUG ENGLAND, Commissioner

Ron Walter

RON WALTER, Commissioner

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Clerk of the Board

EXHIBIT "A"

To Resolution No. 2016-59

Chapter 7.44 FIREWORKS*

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* Prior resolution history: Res. 82-60.

7.44.010 Purpose.

The purpose of this chapter is to implement the state fireworks law as stated in Chapter 70.77 RCW and Chapter 212-17 WAC. (Res. 2004-65 (part), 6/28/04; Res. 87-54 § 1, 6/22/87).

7.44.020 Scope.

These rules apply to fireworks stored, transported, sold, possessed, or discharged within this county. (Res. 2004-65 (part), 6/28/04; Res. 87-54 § 2, 6/22/87).

7.44.030 Definitions.

As used in this chapter:

(1) "Common fireworks" means any fireworks designed primarily to produce visible or audible effects by combustion. Effective June 22, 1988, the term includes ground and hand-held sparkling devices, including items commonly known as dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers and smoke devices; provided, that the

term does not include fireworks commonly known as firecrackers, salutes, chasers, skyrockets, missile-type rockets, helicopters, aerials, spinners, Roman candles, mines, shells and Class C explosives classified as common fireworks by the U.S. Department of Transportation, unless such Class C explosives are approved by the fire chief or his designee.

(2) "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 classified as common or special fireworks.

(3) "Special effects" means any combustion of chemical elements or chemical compounds capable of burning independently of the oxygen in the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as a necessary part of motion picture, radio, television, theatrical or opera productions.

(4) "Special fireworks" means any fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes:

(A) Fireworks commonly known as sky rockets, missile-type rockets, firecrackers, salutes and chasers; and

(B) Fireworks which are not classified as common fireworks. (Res. 2004-65 (part), 6/28/04; Res. 87-54 § 3, 6/22/87).

7.44.040 Permit required—Fee—Bond.

(a) Fee. In addition to obtaining the state license from the State Fire Marshal, each individual, organization, or other entity desiring to sell fireworks at retail within the unincorporated section of Chelan County shall obtain a fireworks permit from the Chelan County fire marshal. The fee shall be fifty dollars.

(b) There shall also be posted a cash bond in the amount of three hundred dollars to assure the timely and orderly removal of the temporary stand and associated appurtenances within ten days of the expiration of the permit. This amount is refundable upon satisfactory final inspection. (Res. 2004-65 (part), 6/28/04; Res. 87-54 § 4(a), 6/22/87).

7.44.050 Sales location.

Fireworks sold at retail shall be sold only as set out in this section:

(1) Fireworks which may be lawfully sold pursuant to this chapter shall be sold at retail only from temporary fireworks stands, the construction and location which have been approved by the Chelan County fire marshal or his designee.

(2) All fireworks stands shall be erected in a stable and safe manner and must be approved by the county building official, or his designee, prior to use.

- (3) No fireworks stand shall be located closer than fifty feet to any other building or structure, nor closer than two hundred fifty feet to any gasoline station, tank or premises where flammable liquid or gases are used or stored, or any area designated as a hazardous fire area pursuant to Chapter 7.52 of this code.
- (4) No fireworks stand shall be located closer than two hundred fifty feet to any other fireworks stand. The date and time of receipt by the Chelan County fire marshal's office of an application for a permit for the sale of fireworks shall be used when necessary to establish the priority for permitted locations.
- (5) Each fireworks stand must have at least two exits which shall be unlocked and unobstructed at all times while sales take place.
- (6) Each fireworks stand must have, in a readily accessible place, at least two two-and-one-half-gallon pressurized-water fire extinguishers, which are full and in good working order.
- (7) All weeds, grass and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area a distance of not less than twenty-five feet, measured from the exterior walls on each side of the temporary fireworks stand.
- (8) No smoking shall be permitted in or near a temporary fireworks stand for a distance of not less than fifty feet measured from the exterior walls of the temporary fireworks stand. This shall be duly signed on all sides of the stand with a sign having lettering with a minimum stroke of one and one-half inches.
- (9) No person may sell fireworks to a person under the age of sixteen years. Identification is required on request. This shall be duly signed on the front of the stand with a sign having lettering with a minimum stroke of one and one-half inches.
- (10) Each temporary fireworks stand shall have a person who is twenty-one years or older in attendance at all times the stand is stocked. Stock from the stand shall not be removed and stored in any other building during the sales period without the express approval of the Chelan County fire marshal.
- ~~(11) All unsold stock and accompanying litter shall be removed from the temporary fireworks stand by twelve noon on the seventh day of July of each year.~~
- (12) Each temporary fireworks stand shall have provisions for sufficient off-street parking, at least fifteen spaces, to avoid impeding a continuous flow of traffic at entrances and exits from the premises.
- (13) No person shall discharge any fireworks within two hundred fifty feet of the exterior walls of the temporary fireworks stand and signs stating, "No Discharge of Fireworks within 250 feet," the letters having a minimum stroke of one and one-half inch shall be posted on the exterior of all walls of the temporary fireworks stand.
- (14) There must be posted on the exterior of all walls of the temporary fireworks stand a complete list of those areas where the discharge or ignition of fireworks are prohibited within the county of Chelan. (Res. 2004-65 (part), 6/28/04; Res. 87-54 § 4(b), 6/22/87).

7.44.055 Dates and times discharge of common fireworks permitted.

Common fireworks that are permitted to be sold by retailers within the unincorporated Chelan County may be discharged within the unincorporated Chelan County only on the following dates and times:

~~(1) Between the hours of 1:00 p.m. and 11:59 p.m. on July 3rd and 4th; and~~

(2) Between the hours of 6:00 p.m. on December 31st and 1:00 a.m. on January 1st. (Res. 2004-65 (part), 6/28/04).

7.44.060 Sales operation.

(a) No one under the age of eighteen will be allowed inside the stand or other sales areas nor shall they be allowed to sell fireworks.

(b) Parking shall not be permitted within twenty feet of the sales stand.

(c) The retail sale of common fireworks by fireworks retailers in the County of Chelan shall be permitted only on the following dates and times: between 12:00 P.M. and 10:00 P.M. on December 27th through December 31st

~~(1) Between the hours of 10:00 a.m. to 10:00 p.m. each day on July 1st through July 3rd and between the hours of 10:00 a.m. and 9:00 p.m. on July 4th. (Res. 2004-65 (part), 6/28/04; Res. 87-54 § 4(c), 6/22/87).~~

7.44.070 Public display.

WAC 212-17-245 through 212-17-345 are adopted with the following supplemental changes:

(1) Persons, organizations, or other entities desiring to hold a public display of fireworks within the unincorporated area of Chelan County shall, in addition to securing a license from the State Fire Marshal, obtain a fireworks permit from the Chelan County fire marshal. The fee for this permit shall be forty dollars.

(2) Permits shall not be issued when the location or area chosen for public display is in conflict with WAC 212-17-275 and 212-17-280. Potentially hazardous areas will be closely scrutinized.

(3) Adequate fire protection must be provided by the persons, organization or other entity providing the public display dependent upon the size and magnitude of the display and as required by the Chelan County fire marshal or his designee.

(4) An inspection by the Chelan County fire marshal or his designee to determine compliance will be required before the public display is allowed to take place. (Res. 2004-65 (part), 6/28/04; Res. 87-54 § 6, 6/22/87).

7.44.080 Prohibited discharge areas.

No fireworks of any type or classification shall be discharged or ignited within the county of Chelan at any of the following listed locations:

- (1) In or upon any public street, sidewalk, park or other publicly owned property;
- (2) Within two hundred fifty feet of any hospital, nursing home, retirement center, public library, church, synagogue or other place of worship while any persons are in attendance therein;
- (3) Within, or closer than two hundred fifty feet of any hotel, motel or bed and breakfast lodging and boarding facility;
- (4) Within five hundred feet of any gasoline station, tank or premises where flammable liquids or gases are used or stored for dispensing at retail;
- (5) Within or closer than two hundred fifty feet to any area designated as a hazardous fire area by the board of county commissioners or Chelan County fire marshal pursuant to Chapter 7.52 of this code as the same now is or may hereafter be amended, nor within, or closer than two hundred fifty feet to any stand or field of dry grass or other dry plant material, whether or not designated as a hazardous fire area. (Res. 2004-65 (part), 6/28/04; Res. 87-54 § 5, 6/22/87).

7.44.085 Retail stand signage requirements.

In addition to other signs required by the provisions of Chapter 212-17 WAC, the following signage on each retail fireworks stand shall be required:

- (1) A sign designating that only common fireworks permitted to be sold by retailers in the unincorporated Chelan County may be discharged in the unincorporated Chelan County reading: "ONLY COMMON FIREWORKS LIKE THOSE SOLD HERE MAY BE DISCHARGED IN THE UNINCORPORATED AREAS OF CHELAN COUNTY" in letters at least two inches high, with a principal stroke of not less than one-half inch on contrasting background, shall be conspicuously posted on all four sides of the stand.
- (2) Signs reading "~~DISCHARGE OF FIREWORKS IS PERMITTED JULY 3 AND JULY 4 BETWEEN THE HOURS OF 1:00 P.M. AND 11:59 P.M. ONLY.~~" At 6:00 P.M. on December 31st through 1:00 A.M. on January 1st.
- (3) Signs reading "DISCHARGE OF FIRECRACKERS, SALUTES, CHASERS, SKYROCKETS, MISSILE-TYPE ROCKETS, HELICOPTERS, AERIALS, SPINNERS, ROMAN CANDLES, MINES AND SHELLS OR SIMILAR DEVICES IS ILLEGAL AND WILL SUBJECT THE VIOLATOR TO CRIMINAL PROSECUTION." (Res. 2004-65 (part), 6/28/04).

7.44.090 Insurance.

All applications for permits pursuant hereto other than public display permits shall be accompanied by a certificate of insurance as evidence that the applicant carries a comprehensive general liability insurance policy written on an "occurrence basis" and not a "claims-made basis" with minimum coverage of one

million dollars for property damage liability for each event. Such general liability policy shall name Chelan County as an additional named insured, must be in full force and effect for the duration of the permit, and shall include a provision prohibiting cancellation of said policy without thirty days' written notice to the county. Said policy and certificate shall be in a form approved by Chelan County. (Res. 2004-65 (part), 6/28/04; Res. 87-54 § 7, 6/22/87).

7.44.095 Violation—Penalty.

(a) Unless otherwise designated, a first violation of this chapter is a civil infraction with a penalty not to exceed one hundred thirty dollars, exclusive of any statutory PSEA assessments. Unless otherwise designated, a second violation of this chapter within five years is a civil infraction with a penalty not to exceed two hundred fifty dollars, exclusive of any statutory PSEA assessment. A third violation of this chapter within a five-year period shall be designated a misdemeanor, punishable 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 by both such imprisonment and fine. The court may suspend any or all of the monetary penalties and/or jail time of any violation of this chapter upon appropriate conditions to be established by the court in its discretion, including payment of restitution to any injured party as set forth in subsection (b) of this section. For purposes of this subsection, the term "violation" for purposes of calculating the number of prior offenses includes committed findings, bail forfeitures, deferred sentences of any type, dismissals entered after a period of probation, continuance agreements, or a deferred finding including those entered on an infraction.

(b) In any prosecution under this chapter, the court may order the defendant to make restitution for any damages or harm caused by their actions.

(c) Any monetary penalty imposed by a court pursuant to this chapter for any violation denominated as an infraction is immediately payable. If the person is unable to pay at that time, the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the payment in the same manner as other civil judgments and may notify the prosecuting attorney of failure to pay.

(d) Any monetary penalty imposed by a court pursuant to this chapter for any violation denominated as a misdemeanor is immediately payable. The court may, however, grant an extension of the period in which the penalty may be paid, or may convert the penalty to community service or jail time at an appropriate rate to be determined by the court.

(e) If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. (Res. 2004-65 (part), 6/28/04).

7.44.100 Effective date.

Pursuant to RCW 70.77.250(4), the resolution codified in this chapter shall become effective on June 28, 2005. (Res. 2004-65 (part), 6/28/04).