

ORDINANCE 2023 - 10

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, AMENDING
THE SUNNYSIDE MUNICIPAL CODE (SMC), TITLE 5,
BUSINESS LICENSES, FEES AND REGULATIONS**

WHEREAS, Article XI, § 11 of the Washington State Constitution, provides that "[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws"; an; and

WHEREAS, RCW 35A.13.180, authorizes code cities to adopt any standard code of technical regulations, or portions thereof for City purposes if a copy of such adopted code is made available for inspection by the City; and

WHEREAS, there are currently a number of separate code provisions through the International Building Code and International Fire Code that address property maintenance standards, building safety standards, and fire safety standards; and

WHEREAS, the purpose of the light and heavy industrial zoning districts is to provide locations for small manufacturing, processing, assembly or storage facilities that will strengthen and diversify Sunnyside's economic base without conflicting with adjacent land uses, and provide areas for major manufacturing assembly and processing plants where railroad facilities are available and industrial sewerage treatment is available; and

WHEREAS, the City Council held an open record public hearing on May 17, 2023, pursuant to notice, to consider such amendment as recommended by City staff; and

WHEREAS, the City Council of the City of Sunnyside, having considered the record herein, hereby finds and determines that approval of these amendments is in the best interest of residents of the City of Sunnyside, and the changes will continue to promote general health, safety, and welfare, while allowing additional investment into the City of Sunnyside;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

SECTION 1. Amendments to Replace and Supersede. The proposed amendments to SMC Chapter 5.42, as contained in Exhibit "A" respectively attached hereto and fully incorporated herein, shall replace and supersede previous versions of the referenced documents.

SECTION 2. Severability/Validity. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining proportion of this ordinance.

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. Authorization to File. The City Clerk is hereby authorized and directed to file a certified copy of this ordinance with the Yakima County Auditor.

SECTION 5. Effective Date. This ordinance shall be effective five days after passage, approval and publication as required by law.

PASSED this 22nd day of May, 2023



DEAN BROERSMA, MAYOR

ATTEST:



JACQUELINE RENTERIA, CITY CLERK

APPROVED AS TO FORM:



SAXTON RILEY & RILEY, PLLC
Attorneys for the City of Sunnyside

Date of Publication: ~~MAY 31, 2023~~ June 7, 2023

EXHIBIT "A"

2023 Proposed Text Amendments – Track Changes Version

SMC Title 5

SMC 5.42 Fireworks:

Sections:

5.42.010 Definitions.

5.42.020 Prohibiting manufacture, sale and discharge of fireworks – Exception.

5.42.022 Prohibiting manufacture, sale and discharge of fireworks on December 27 through December 31, 2002, and each year thereafter, and each New Year's Eve and New Year's Day thereafter.

5.42.030 Insurance required for public display of fireworks.

5.42.040 Violations – Penalties.

5.42.010 Definitions.

The words and phrases herein used for the purpose of this chapter shall have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

A. "Fireworks" means a combustible or explosive composition, or any substance, combination of substances, or device prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation. Fireworks include toy pistols, toy cannons, toy canes or toy guns in which explosives are used; firecrackers, torpedoes, sky-rockets, Roman candles, sparklers or other devices of like construction; any devices containing an explosive or flammable compound; and any tablet or other device containing an explosive substance. Fireworks do not include auto flares; paper caps containing an average of 25/100ths of a grain of explosive content per cap or less; and toy pistols, toy canes, toy guns or other devices for use of such caps.

B. "Common fireworks" are small firework devices designed primarily to produce visible or audible effects by combustion and which comply with the construction, chemical composition and United States Department of Transportation labeling requirements for Class C, Common Fireworks, and include such fireworks that have been defined in RCW [70.77.136](#).

C. "Special fireworks" are large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation. Special fireworks include, but are not limited to, fireworks

containing more than two grains (130 milligrams) of explosive composition; aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as common fireworks. Special fireworks are classified as Class "B" explosives by the United States Department of Transportation.

D. "Dangerous fireworks" includes all fireworks which do not meet the common fireworks definition under RCW [70.77.136](#).

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

F. "Public display of fireworks" means an entertainment feature where the public is admitted or permitted to view the outdoor display or discharge of dangerous fireworks. No public or private display of fireworks and/or special effect pyrotechnics shall occur or be permitted in any building or any structure or stage with a roof.

G. "Sale" includes any sale or transfer, including contracts or orders for sales or transfers, wherein any person at a fixed location or a place of business sells, transfers, or gives fireworks to a consumer or user; and includes sale or transfer to a retailer or any other person for resale, and which also includes any sale or transfer of fireworks to public display permittees.

5.42.020 Prohibiting manufacture, sale and discharge of fireworks – Exception.

A. The manufacture of fireworks is prohibited within the City of Sunnyside and all districts except by special permit.

B. Except as provided herein, it is unlawful for any person to possess, store, offer for sale, expose for sale, sell at retail, use, explode, fire or discharge any fireworks. It is further unlawful to store, use, explode, fire or discharge any fireworks and/or special effect pyrotechnics in any building or in any structure or stage with a roof.

1. The prohibitions regarding fireworks stated above shall not apply to any use, explosion, fire, discharge or possession of fireworks, including Class "C" common fireworks, by the Sunnyside Police Department and its employees, which use, possession, fire or discharge occurs during the performance of law enforcement duties and authorized training.

2. The City Manager or his designee is authorized to adopt reasonable rules and regulations for the granting of permits for the supervised public displays of fireworks. Applicants shall meet all qualifications and requirements of State law regarding public display of fireworks and all fire and

safety requirements as set forth here in the standards for public display. Every operator shall have first obtained a State license pursuant to RCW [70.77.300](#). The display shall be of such character and so located, discharged or fired that, after proper inspection, such fireworks and public display shall not be hazardous to property or endanger any person.

[3. Storage and distribution business facilities of consumer grade fireworks, defined in RCW 70.77.136, in the Light industrial \(M-1 and Heavy Industrial \(M-2\) zoning districts only. All storage and distribution facilities shall meet City of Sunnyside fire protection standards prior to the establishment of a business.](#)

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

1. "Public displays of fireworks" shall be in accordance with this section. Only common fireworks and special fireworks are allowed to be used. Use of such fireworks shall be in accordance with the requirements of the International Fire Code as adopted pursuant to SMC [15.02.010](#).
2. Applications for permits for a public display of fireworks shall be made in writing at least 30 days in advance of the display.
3. All public fireworks displays must be planned, organized and discharged by a State of Washington licensed pyrotechnician.
4. A permit must be first obtained from the City of Sunnyside and approved by the City Manager or his designee prior to any public display of 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 and shall include the name and address of the insurance company providing the bond required. The City shall retain a copy of the operator's State license issued pursuant to RCW [70.77.300](#).
5. A drawing shall be submitted to the City Manager or his designee showing a planned view of the fireworks discharge site and the surrounding area within a 500-foot radius. The drawing shall include all structures, fences, barricades, streets, fields, streams, and other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.
6. A City of Sunnyside Fire Department pumper and a minimum of three trained City of Sunnyside firefighters shall be on site 30 minutes prior to and 30 minutes after the shooting of the event.

Reasonable compensation for standby apparatus and manpower may be necessary as determined by the City Manager. Any compensation for Fire Department apparatus and manpower will be determined by the Washington State Fire Chiefs Association fee schedule.

7. All combustible debris and trash shall be removed from the area of discharge for a distance of 300 feet in all directions.

8. All unfired or "dud" fireworks shall be disposed of in a safe manner.

9. A minimum of two "A" rated fire extinguishers and one fire blanket shall be required to be at the fireworks discharge site.

10. The permit may be immediately revoked if at any time deemed necessary by the Fire Department due to any noncompliance or weather conditions, such as extremely low humidity or wind factor. The display may also be canceled by accidental ignition by any form of combustible or flammable material in the vicinity due to falling debris from the display.

11. Areas of public access shall be approved by the Fire Department and Public Works Department and maintained in an approved manner.

5.42.022 Prohibiting manufacture, sale and discharge of fireworks on December 27 through December 31, 2002, and each year thereafter, and each New Year's Eve and New Year's Day thereafter.

The prohibitions, restrictions and exceptions stated in SMC [5.42.020](#) shall apply each day of each year, including but not limited to, December 27 through December 31, 2002, and each December 27th through December 31st of each thereafter, and January 1, 2003, and each New Year's Eve and New Year's Day thereafter, notwithstanding any contrary provision in RCW [70.77.395](#) as now existing or hereafter amended.

5.42.030 Insurance required for public display of fireworks.

The applicant for a permit for a public display of fireworks shall file with the City Manager a copy of public liability and property damage insurance policy providing coverage with minimum limits as specified in RCW [70.77.295](#); however, the holder of a general license from the State Fire Marshal, and, upon compliance with RCW [70.77.355](#), shall be excused from compliance with this section. [Ord. 1831 § 1, 1993.]

5.42.040 Violations – Penalties.

Any person, firm or corporation violating the provisions of this chapter shall be guilty of a civil infraction and shall be punished by a civil penalty of not more than \$1,000 and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of the provisions of this code is committed, continued, or permitted, and upon finding of guilty of such violation, such person, firm or corporation shall be subject to assessment of a penalty of not more than \$1,000.

The court may waive, reduce, or suspend the monetary penalty prescribed for the civil infraction. If the court determines that a person has insufficient funds to pay the monetary penalty, the court may order performance of a number of hours of community restitution in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.