

**CITY OF MERCER ISLAND
ORDINANCE NO. 24C-10**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
AMENDING CHAPTER 8.35 OF THE MERCER ISLAND CITY CODE ON
EXPLOSIVES AND FIREWORKS; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, chapter 8.35 MICC, adopted in accordance with chapter 70.77 RCW, regulates fireworks on Mercer Island; and

WHEREAS, the City of Mercer Island is authorized under RCW 70.77.395 to adopt ordinances regulating sale or discharge of fireworks within its boundaries that are more restrictive than state laws, provided that such ordinances have an effective date no sooner than one year after their adoption, as provided in RCW 70.77.250(4); and

WHEREAS, the City Council finds that it is in the best interest of Mercer Island to prohibit retail sale of consumer fireworks and discharge of the same year round;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Amended. Chapter 8.35 MICC shall be amended as set forth in Exhibit A of this ordinance.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 3. Effective Date. This ordinance shall take effect and be in force on May 22, 2025, but not sooner than one year after its adoption, as provided in RCW 70.77.250(4).

PASSED by the City Council of the City of Mercer Island, Washington at its meeting on the ____ day of _____ 2024 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: _____

EXHIBIT A TO ORDINANCE NO. 24C-10

CHAPTER 8.35 EXPLOSIVES AND FIREWORKS

8.35.010 Explosives and fireworks prohibited.

- A. It is unlawful for any person, firm, corporation, or organization to make, sell, or use explosives or fireworks within the corporate limits of the city.

Exception:

- ~~1.~~ When no other alternative means is available, the fire chief may approve the use of explosives for construction or demolition purposes.
 - ~~2.~~ ~~Fireworks considered safe and sane and approved by the state fire marshal may be sold and used as described in MICC 8.35.020.~~
- B. In the event the fire chief shall decide to approve the use of explosives as noted in the exception above, permits therefor shall be obtained and procedures adhered to as enumerated in Article 77 of the Uniform Fire Code.
- C. Exception 7 to Section 77.102(a) of the Uniform Fire Code is deleted.

8.35.020 Fireworks—Permit requirements.

- A. *State law adopted by reference.* The Washington State Fireworks Law, RCW Chapter 70.77, as it presently exists and as it may be amended from time to time, is hereby adopted and incorporated herein by this reference as if set forth in full. A copy of the same shall be kept on file in the office of the city clerk for public use and inspection.
- B. *Acts prohibited without a permit.* No person shall do any of the following acts in the city of Mercer Island without having first obtained and having in full force and effect a valid permit issued by the city:
1. Manufacture, import, possess or sell any fireworks at wholesale ~~or retail~~ for any use; provided, however, no permit is required for the possession ~~or use~~ of consumer fireworks lawfully purchased at retail;
 2. Make a public display of fireworks; or
 3. Transport fireworks, except as a public carrier delivering to a permittee.
- C. *Permit for public display of fireworks.* Any person desiring to put on a public display of fireworks shall apply in writing to the local fire official for a permit. For purposes of this chapter, the local fire official shall be the chief of the Mercer Island fire department or his/her designee, consistent with RCW 70.77.177. The application shall be made at least 45 days in advance of the proposed display. The local fire official shall conduct an investigation and submit a report of findings and recommendation for or against the issuance of the permit to the city council. The city council shall have the power in its discretion to grant or deny the application, subject to such reasonable conditions, if any, as it shall prescribe.

- D. *All other permits.* Any person desiring to manufacture, import, possess, or sell any fireworks at wholesale ~~or retail~~ for any use; or transport fireworks, except as a licensee or as a public carrier delivering to a licensee, shall apply in writing to the local fire official for a permit. The local fire official shall have the power in his/her discretion to grant or deny the application, subject to such reasonable conditions, if any, as he/she shall prescribe.
- E. *Application for permit.* Any person applying for a permit for an activity listed in subsection C or D of this section shall first make written application for a permit to the local fire official. 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; if the application is made by a limited liability company, it shall be signed by a manager or member of the limited liability company; and if the application is made by a corporation, it shall be signed by an officer of the corporation and bear the seal of the corporation. The application shall be in such form as the local fire official shall require and shall include, at a minimum, the following information:
1. The true name, address and telephone number of the applicant ~~and, for any retail operation, the person in charge and responsible;~~
 2. A statement by the applicant that he or she is over the age of 18 years;
 3. A valid and current license issued by the chief of the Washington State Patrol, through the director of fire protection, pursuant to RCW Chapter 70.77 authorizing the applicant thereto to engage in the requested activity;
 4. The proposed location at which the applicant intends to perform the act for which the permit is sought, ~~and, for retail sales, a diagram showing the proposed site plan of the stand location which includes distances from property lines, distances from structures, distances from other fireworks stands and vehicular traffic routes;~~
 5. A certificate of insurance demonstrating compliance with the insurance requirements set forth in subsection F of this section;
- ~~6. For retail sales, a valid and current city of Mercer Island business license.~~
- F. *Insurance requirements.* The applicant shall have in effect for the life of the permit a public liability and property damage insurance policy with minimum coverage in the amount of \$500,000.00, and \$2,000,000.00 for bodily injury liability for each person and event, respectively, and not less than \$500,000.00 for property damage liability for each event. The applicant shall furnish to the city a copy of the insurance policy or a certificate evidencing the existence of such a policy. Such general liability policy shall name the city as an additional insured, must be in full force and effect for the duration of the permit, and shall include a provision prohibiting cancellation of the policy without 30 days' written notice to the city. Such policy and certificate shall be in a form approved by the city attorney.
- ~~G. Temporary fireworks stands. Retail sales of fireworks shall be permitted only from within a temporary fireworks stand and the sale from any other building or structure is prohibited. Temporary stands shall be subject to the following conditions:—~~
- ~~1. Temporary fireworks stands shall be erected under the supervision of the fire department and need not comply with the building code of the city.—~~

2. ~~Temporary fireworks stands shall not be located within 50 feet of any gasoline stations, oil storage tanks, or premises where flammable liquids are kept or stored; shall not be located closer than 20 feet to buildings, combustibles, parking, storage, public roads, motor vehicle traffic, or generators; shall not be located within 25 feet of any property line; shall not be located within 100 feet of tents, other fireworks stands, fuel dispensing devices, retail propane dispensing stations, flammable liquid storage, and combustible storage; and shall not be located within 300 feet of bulk fuel storage.~~
3. ~~Each temporary fireworks stand shall have at least two exits which shall be unobstructed at all times and located as far from each other as possible.~~
4. ~~Each temporary fireworks stand shall have in a readily accessible place fire extinguishers approved by the fire department as to location within the stand, number and type. No smoking shall be permitted in or near a fireworks stand, and "no smoking within 25 feet" signs shall be prominently displayed on the fireworks stand.~~
5. ~~Each stand shall be operated by adults only. No fireworks shall be left unattended in a stand.~~
6. ~~All weeds and combustible materials shall be cleared from the location of the stand to at least a distance of 20 feet.~~
7. ~~All unsold fireworks, cartons and other rubbish shall be removed from the location and from the city by noon on July 6 each year. The fireworks stand shall be dismantled and removed from the location by noon on July 10 each year.~~
8. ~~Fireworks shall not be discharged within 300 feet of a fireworks stand. Signs reading "NO FIREWORKS DISCHARGE WITHIN 300 FEET" shall be in letters at least two inches high, with a principal stroke of not less than one-half inch on contrasting background, and shall conspicuously post such signs on all four sides of the stand.~~
9. ~~Fireworks retailers shall:~~
 - a. ~~Not knowingly sell fireworks to persons under the age of 16;~~
 - b. ~~Have a sign reading "No sale of fireworks to persons under the age of sixteen years. PHOTO ID REQUIRED" in letters at least two inches high, with a principal stroke of not less than one-half inch on contrasting background, and shall conspicuously post such signs on the front of each fireworks stand; and~~
 - c. ~~Require proof of age by means of display of a driver's license or photo identification card showing date of birth issued by a public or private school, state, federal or foreign government. No other forms of identification shall be accepted.~~

8.35.030 ~~Dates and times consumer fireworks may be sold or discharged and enforcement. Discharge and sale of consumer fireworks prohibited – Enforcement.~~

- A. The use, firing, exploding and discharge of consumer fireworks, as defined in RCW 70.77.136, is prohibited within the city of Mercer Island ~~except on July 4 of each year between the hours of 11:00 a.m. and 11:00 p.m.~~
- B. The sales and discharge of consumer fireworks within the city of Mercer Island are more limited than state law, as set forth in RCW 70.77.395, and are prohibited ~~from December 27 through~~

~~December 31 of each year and on January 1 of the subsequent year and on July 5 of each year. It is legal to sell and purchase consumer fireworks consistent with this RCW chapter within the city of Mercer Island each year on the following days and times: June 28, from noon to 9:00 p.m.; June 29 through July 4, from 9:00 a.m. to 9:00 p.m.~~

- C. Any person who violates any provision of this section shall be liable for the payment of a civil penalty in the amount of \$500.00 for each violation. A violation of this section is designated as a civil infraction and is not classified as a criminal offense.
- D. Whenever any person is arrested for any violation of this section, the arresting officer may serve upon him/her a citation and notice to appear in the court. The arrested person, in order to secure release, and when permitted by the arresting officer, must give his written promise to appear in court, as required by the citation and notice by signing in the appropriate place on the written citation and notice served by the arresting officer. Upon the arrested person's failing or refusing to sign such written promise to appear in court, he/she may be taken into the custody of such arresting officer and so remain or be placed in confinement. The failure to sign a written promise to appear shall constitute a criminal offense under the provisions of the Mercer Island City Code.
- E. Any person violating his/her written promise to appear in court or his/her written and signed promise to respond to a notice of infraction issued as provided in this title is guilty of a misdemeanor regardless of the disposition of the charge upon which he/she was originally cited or arrested or the disposition of a notice of infraction; provided, that a written promise to appear in court or a written promise to respond to a notice of infraction may be complied with by an appearance of counsel representing the person charged.

8.35.040 Prohibition due to extreme fire danger.

During periods of extreme fire danger, the local fire official may prohibit the discharge of all fireworks.