ORDINANCE NO. 2006 - 342

AN ORDINANCE OF THE CITY OF NEWCASTLE, WASHINGTON, PROHIBITING THE SALE AND DISCHARGE OF FIREWORKS EXCEPTING PUBLIC DISPLAYS, PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Newcastle held a public hearing on September 5th, 2006 in order to solicit testimony in favor or opposed to prohibiting the sale and discharge of fireworks within the City of Newcastle except for public displays; and

WHEREAS, the majority of the speakers at the public hearing favored prohibiting fireworks within the City of Newcastle except for public displays;

WHEREAS, On September 5th the City of Newcastle Fire Marshal provided a brief presentation concerning the dangers of fireworks to individuals and to the community, and urged the City Council to prohibit fireworks;

WHEREAS, the Cities of Renton and Bellevue currently prohibit the sale and discharge of fireworks within those municipal borders, which attracts to the City of Newcastle – where fireworks are not currently prohibited – those who desire to sell and discharge fireworks; and

WHEREAS, the City of Newcastle intends to develop and aggressive public education campaign and enforcement strategy for its community memebers; and

WHEREAS, the City of Newcastle is strongly considering its own 4th of July fireworks display; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWCASTLE ORDAINS AS FOLLOWS:

Section 1. 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: Dangerous Fireworks. Any fireworks not defined as a "common fireworks" under the provisions of RCW 70.77.136.

Section 2. 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.

Section 3. 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.

Section 4. 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.

Section 5. Permit fees. The fee for a public display permit for the public display of fireworks shall be one hundred dollars, payable in advance.

Section 6. Issuance—Nontransferable—Voiding. Each public display permit issued pursuant to this chapter shall be valid for the specific authorized public display event 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.

Section 7. 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. Applications shall be made at least fourteen days prior to the scheduled event. Applicants 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.

Section 8. Standards for public fireworks. All public fireworks displays shall conform to the following minimum standards and conditions:

(1) All public fireworks displays must be planned, organized, and discharged by a state-licensed pyrotechnician.

(2) 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.

(3) 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 70.77.355.

(4) 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.

(5) 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 Bellevue 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 Bellevue Fire Department.

(6) 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.

(7) Applicant shall dispose of all unfired or "dud" fireworks in a safe manner.

(8) Applicant shall provide the fireworks discharge site a minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket.

(9) 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 the display.

(10) Areas of public access shall be determined by the fire chief or designee and maintained by the applicant in an approved manner.

(11) For displays other than the 4th of July and the Newcastle Days celebration, the permit application must also include a public notification plan for affected residents. This may include newspaper, radio, and/or television announcements ; door to door distribution of written announcements; reader boards and/or other methods or mediums. The public notification plan is subject to approval by the City Manager or his or her designee. Costs associated with public notification to affected residents are to be born by the permit applicant.

Section 9. 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 Newcastle; 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.

Section 10. 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 Newcastle to purchase, possess, transport or use such fireworks.

Section 11. 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.

Section 12. 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.

Section 13. Enforcement. The fire marshal, or designee 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 14. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 15. Effective Date. This Ordinance, or a summary thereof, shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication

ADOPTED BY THE CITY COUNCIL AT ITS REGULAR MEETING ON SEPTEMBER 5, 2006.

Jean Garber, Mayor

ATTEST:

Robert H. Baker, CMC, City Clerk

APPROVED AS TO FORM:

Lisa Marshall, City Attorney

Filed with City Clerk:	8/31/2006
Adopted by Council	9/05/2006
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