



Snohomish County Council

Committee: Planning & Community Development **Analyst:** Ryan Countryman
ECAF: 2023-0614
Proposal: Ordinance 23-057 **Date:** July 18, 2023

Consideration

Proposed Ordinance 23-057 would amend Snohomish County Code (SCC) 30.53A.710, to prohibit sales of fireworks in “no fireworks areas” where use of fireworks is prohibited.

Background and Analysis

The first discussion of Ordinance 23-057 was in Planning & Community Development Committee on June 20, 2023. The Committee continued discussion to July 18 to allow staff to research several questions and provide additional background information.

General Background. On December 4, 2019, Snohomish County Council adopted Ordinance 19-037 which prohibited the discharge of fireworks in the unincorporated part of the SWUGA by creating a “no fireworks area” in the SWUGA ([SCC 30.53A.726](#)). Despite this ban on use, county code does not currently provide a corresponding ban on sales.

Ordinance 23-057, sponsored by Councilmember Peterson, would amend [SCC 30.53A.710](#) (sales locations) to prohibit sales of fireworks in no fireworks areas. As proposed in this ordinance, if the county were to identify more no fireworks areas in .726, then the amendments proposed in .710 would automatically prohibit sales in those areas too.

Legislative History. State and local requirements regarding fireworks have changed several times. From 1943 to 1951, state law prohibited most sales of fireworks to the public and made it generally illegal for people to use them. The Legislature legalized fireworks again in 1951, allowing cities and counties to adopt local ordinances. In 1956, Snohomish County prohibited retail sales and use of fireworks. Retail sales and use became legal again in Snohomish County in 1986. In December 2019, the County Council passed Amended Ordinance 19-037 prohibiting discharge of fireworks in the unincorporated Southwest Urban Growth Area (SWUGA) with an effective date of December 2020. Although discharge was prohibited, Amended Ordinance 19-037 did

not prohibit retail sales in the SWUGA. Appendix A on page 5 includes further details on this history.

One-Year Delay. Starting with Amended Ordinance 97-021 in 1997, Snohomish County has applied a one-year delay to the effective date of previous ordinances that are more restrictive than state law.

State law changed in 1985 to require local ordinances “that are more restrictive than state law as to the types of fireworks that may be sold shall have an effective date no sooner than one year after their adoption” ([ESHB 1509](#)). This clearly established a 1-year delay to new restrictions on retail sales of fireworks; however, the Legislature modified the scope of this section in 1995.

In 1995, state law changed to drop the “as to the types of fireworks that may be sold” phrase, leaving a requirement that local ordinances “that are more restrictive than state law shall have an effective date no sooner than one year after their adoption” ([SSB 5997](#)). This appears to have changed the applicability of the 1-year delay, expanding it to include new restrictions on discharge.

Snohomish County has passed two ordinances since the 1995 enactment of SSB 5997 that added restrictions on discharge. Both of these county ordinances included a delayed effective date ([Amended Ordinance 97-021](#) and [Amended Ordinance 19-037](#)). Likewise, Ordinance 23-057 proposes a delayed effective date to comply with the state requirement. The practical effect is that if the County Council were to pass Ordinance 23-057, the restrictions on sales would not affect sales in 2024 but would prohibit sales in 2025.

Infractions. County code provides for penalties of up to \$500 as a Class 1 civil infraction for discharging fireworks when prohibited, but infractions need to take place in an officer’s presence before the officer may issue notice of infraction¹.

Data for 2022 from the Sheriff’s Office show 932 county-wide complaints about fireworks. Of these, officers handled a large majority of complaints by patrolling the area. When officers made a stop, most of the time they logged making contact as sufficient to address the situation. Seven complaints resulted in issuance of written

¹ [SCC 30.53A.400](#) states that “any violation of SCC 30.53A.722 is a class 1 civil infraction punishable as provided by law and by chapter 10.70 SCC.” [SCC 30.53A.722\(2\)](#) prohibits discharge of fireworks except for on July 4 and outside of designated “no fireworks” areas. [SCC 10.70.110\(1\)\(a\)](#) sets the maximum monetary penalty for a class 1 civil infraction at \$500. [SCC 10.70.040\(2\)](#) provides that “notice of civil infraction may be issued by an enforcement officer when the civil infraction occurs in the officer’s presence”.

warnings. No complaints in 2022 resulted in notice of infractions (tickets issued) as a disposition.

Writing notices for infractions would require the officer who was present at the time of illegal discharge to document the circumstances of the offense. Persons receiving the notice could then appeal to District Court. If notices of infraction for use of fireworks were to be issued frequently, there would be some fiscal impact to the court system and to the Prosecuting Attorney's Office because of the need to make charging decisions. Although related to Ord. 23-057, these process issues are outside the scope of the current proposal which is solely drafted to affect sales.

Modified Ban. The Council received testimony and written comment suggesting a modified ban akin to that enacted in the City of Tukwila. Council staff was asked for more information on what the city requires and what a similar modified ban in Snohomish County might look like.

Tukwila Municipal Code (TMC) allows four types of exception to city prohibition on discharge of fireworks. Exceptions (d) may be the most relevant to sales and use of fireworks by the public in general. [TMC 16.16.040\(1\)](#) provides:

1. Fireworks Discharge Prohibited. No person shall ignite or discharge any fireworks at any time.

Exceptions:

a. Displays authorized by permit issued by the City pursuant to RCW 70.77.260(2) now enacted or as hereafter amended.

b. Use by a group or individual for religious or other specific purposes on an approved date at an approved location pursuant to a permit issued pursuant to RCW 70.77.311(2)(c) now enacted or as hereafter amended and as required by Tukwila Municipal Code.

c. Use of trick and novelty devices as defined in WAC 212-17-030, as amended, and as hereafter amended and use of agricultural and wildlife fireworks as defined in WAC 212-17-045 now enacted or as hereafter amended.

d. Legal consumer fireworks, as defined by RCW 70.77.136 now enacted or as hereafter amended, are small devices designed to produce: (1) visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission; and (2) audible effects such as a whistling device, ground device containing 50 milligrams or less of explosive materials—provided that devices that are aerial, airborne, discharged, launched, or explode are prohibited.

Tukwila allows discharge of some types of fireworks, which are generally ground-based and that do not explode. TMC limits retail sales to “legal consumer fireworks” subject to restrictions (TMC 16.16.040(9)).

Snohomish County Council has authority to adopt similar provisions to those found in TMC. However, Snohomish County adoption of a modified ban would include a different scope of than Ordinance 23-057 proposes. In other words, consideration of a modified ban would mean preparing and considering a different ordinance.

Emergency Bans. County code provides for emergency restrictions on sales and use of fireworks in [SCC 30.53A.725](#). This section provides that

The fire marshal may prohibit the discharge of all fireworks during periods of extreme fire danger. The fire marshal may exempt a public display of fireworks from this prohibition by permit and upon a finding that the public display will not constitute an extreme fire danger.

Authority to enact an emergency ban rests with the County Fire Marshal, not the County Council. Further, the Fire Marshal may only enact an emergency ban during periods of extreme fire danger according to the [National Fire Danger Rating System](#) (NFDRS) administered by the United States Department of Agriculture US Forest Service.

Ordinance 23-057 would have no impact on the Fire Marshal’s ability to enact a local emergency prohibition on fireworks when the NFDRS has determined Snohomish County to be in a period of extreme fire danger.

Current Proposal

Scope and Summary: Ordinance 23-057 would amend SCC 30.53A.710 to prohibit sales of fireworks in “no fireworks areas”, which is currently the unincorporated SWUGA.

Fiscal Implications: None

Handling: Normal

Approved-as-to-form: Yes

Executive Recommendation: TBD

Request: Move to General Legislative Session July 19 to set time and date for a public hearing.

Appendix A: Chronology of Key Changes in County and State Fireworks Legislation

March 19, 1943. The Governor of Washington signs [SB223](#), making it “unlawful for any person, firm, co-partnership or corporation or municipality to offer for sale, expose for sale, sell at retail, or use or explode any fireworks” except as provided in the bill, which allowed for public displays and very limited range of private uses. This bill becomes RCW Chapter 70.78 effectively banning retail sales and discharge of fireworks by the general public throughout Washington State.

March 19, 1951. Effective date of [SSB40](#), enacted by the Washington State Legislature to amend regulations of fireworks. It repeals RCW Chapter 70.78 and replaces it with [RCW 70.77](#). This new chapter allows retail sales and discharge of fireworks. This legislation allows cities and counties to adopt local provisions regarding sales and discharge of fireworks.

January 30, 1956. Snohomish County Commissioners pass a resolution to prohibit retail sale and use of fireworks. Violations are a misdemeanor with a fine not to exceed \$100 and jail not to exceed 30 days.

January 1, 1962. Effective date of [HB 195](#), passed by the Washington State Legislature in 1961, to amend regulation of fireworks. This revises RCW 70.77 to its current general format and content.

August 29, 1977. County Commissioners pass a resolution including procedural amendments to SCC 10.16.010 regarding sale of fireworks.

May 1, 1980. Snohomish County changes its form of government. This was the result of a November 4, 1979, vote by the people of Snohomish County to adopt a [county charter](#) and elect new officials. In the old form of government, Snohomish County had three commissioners who passed legislation and administered the county. The charter created the present arrangement of five councilmembers plus an executive. Code amendments now require passage of ordinances rather than resolutions. These changes do not affect fireworks directly but do change who adopted county code and who is responsible for implementing those provisions.

July 1, 1985. Effective date [ESHB 1509](#), passed by the Legislature in 1984, which among other things added a requirement that

Any local rules adopted by local authorities that are more restrictive than state law as to the types of fireworks that may be sold shall have an effective date no sooner than one year after their adoption.

June 11, 1986. County [Ordinance 86-056](#) allows sale and use of fireworks from June 28 to July 6, repealing Chapter 10.16 and enacting new fireworks code at Chapter 16.10 SCC.

April 17, 1995. Effective date of [SSB 5997](#) passed by the Legislature, which among other changes amended the part of ESHB 1509 regarding the 1-year delay as follows:

Any local rules adopted by local authorities that are more restrictive than state law (~~as to the types of fireworks that may be sold~~) shall have an effective date no sooner than one year after their adoption.

By striking the language restricting the one-year delay to the “type of fireworks that may be sold” it appears that the applicability of the delay has expanded to include discharge of fireworks. County staff could not find any caselaw directly on point, but all subsequent county ordinances increasing restrictions have included a one-year delay.

May 14, 1997. County Council passes [Amended Ordinance 97-021](#) amending SCC 16.10.160 to limit discharge of fireworks to July 4 only. This change includes an effective date of June 1, 1998, to comply with the 1-year delay.

February 1, 2003. Effective date of the Unified Development Code ([Amended Ordinance 02-064](#)). This did not make any substantive changes to fireworks but moved the relevant code from Chapter 16.10 to become part 400 of Chapter 30.53A.

September 5, 2007. [Ordinance 07-087](#) updates and reformats Chapter 30.53A, moving provisions regarding fireworks to part 700. No substantive changes regarding fireworks. Relative to later actions, [SCC 30.53A.722](#) regulated discharge on the 4th of July to between 9:00 am and 11:59 pm. There were no restrictions on the location of discharge.

August 17, 2016. [Amended Ordinance 16-050](#) changes to 30.53A to establish a process where residents can petition to create a “no fireworks area” ([SCC 30.53A.728](#)). It also amended SCC 30.53A.722 to prohibit discharging in “no fireworks areas” but did not prohibit sales in these same areas. At this point in time, there were no “no fireworks areas”. This did not create any new restrictions, only the possibility of them, so there was no need for a delayed effective date in the ordinance.

July 24, 2019. The County Council passes [Amended Ordinance 19-039](#) which places a non-binding Advisory Proposition 1 to voters on for input with the November 5, 2019, election. This proposition asks:

Should the Snohomish County Council enact an ordinance prohibiting the discharge of consumer fireworks in the unincorporated urban growth areas of Snohomish County?

Yes

No

November 5, 2019. [Advisory Proposition 1](#) receives a 56% “yes” vote and a 44% “no” vote with 43% voter turnout.

December 4, 2019. [Amended Ordinance 19-037](#) Establishes the unincorporated parts of the Southwest County Urban Growth Area (SWUGA) as a “no fireworks area” with an effective date of December 9, 2020. This prohibits discharge in the unincorporated SWUGA. Sales are still allowed.