

Chapter 5.28 SALE OF FIREWORKS

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5.28.005 Purpose.

The purpose of this chapter is to implement and supplement the state Fireworks Law, Chapter 70.77 RCW. The provisions of this chapter shall be construed and applied in accordance with the definitions, requirements and prohibitions of said state law and all rules and regulations issued by the State Fire Marshal pursuant thereto. (Sec. 1 of Ord. 1982-05-68)

5.28.010 Permit required.

It shall be unlawful for any person, firm or corporation within unincorporated areas of the county of Clark to manufacture, import, possess or sell at wholesale or retail for any use, to discharge fireworks at any place, to make a public display of fireworks or to transport fireworks except as a public carrier delivering to a licensee without first having obtained a permit pursuant to the provisions of this chapter; provided, that no permit is required for the sale and use of agricultural and wildlife fireworks exempted from licensing by the State Fire Marshal by the provisions of Chapter 70.77 RCW; and provided further, that no permit is required for the private possession, transportation or discharge of common fireworks as defined in WAC 212-17-035 during authorized use periods. (Sec. 1 of Ord. 1977-06-2; amended by Sec. 2 of Ord. 1982-05-68; amended by Sec. 1 of Ord. 1999-12-01)

5.28.015 Application requirements.

- (1) Applications for permits required by this chapter shall be submitted in such form and detail as reasonably prescribed by the fire marshal. Such applications shall include at a minimum the applicable permit fees and debris deposit(s); state license(s), a drawing of the stand and other key features on the site, insurance certificate(s),

storage sites and arrangements; and the names, addresses and phone numbers of the applicant(s) and responsible party(ies).

- (2) No later than 5:00 p.m. on the last official county workday of May in the calendar year for which the applicant is seeking a permit, the applicant shall file a fully complete application for the retail sale of fireworks; provided, all persons who held a permit the previous year who seek reissuance of permits shall file with the fire marshal a written "confirmation of intent to apply" by the last business day of January of the year for which a permit is sought to maintain their priority status. Those permit holders who do not follow this procedure will forfeit their priority status and the permit will automatically be set aside to be awarded through a lottery process; provided, that available permits will first be allocated to satisfy the requirements of Section 5.28.060(1). All persons interested in applying for available permits shall file with the fire marshal a fireworks lottery application by the last business day of January of the year for which a permit is sought.
- (3) Fully complete applications for a public display or other discharge of common or special fireworks must be received by the fire marshal no later than 5:00 p.m. fourteen (14) calendar days prior to the intended display. (Sec. 2 of Ord. 1999-12-01; amended by Sec. 1 of Ord. 2006-04-07)

5.28.020 Permit fee.

To cover administrative costs for permit processing and inspection, the annual permit fee for each permit required by Section 5.28.010 shall be as set forth in Chapter 6.120 per annum, payable in advance to the Clark County fire prevention bureau. (Section 2 of Ord. 1977-06-2; amended by Sec. 3 of Ord. 1982-05-68; amended by Sec. 2 of Ord. 1997-12-46)

5.28.030 Dangerous fireworks prohibited.

(Sec. 3 of Ord. 1977-06-2; repealed by Sec. 14 of Ord. 1982-05-68)

5.28.040 Dates when sale permitted.

No common fireworks shall be sold or offered for sale at retail, except as shown in Table 5.28.040 below. ~~from 12:00 noon on the 28th day of June to 11:00 p.m. on the 4th day of July of any year.~~ Further, the sale and discharge of common fireworks are expressly prohibited at any time surrounding the new year, including December 31st. (Sec. 4 of Ord. 1977-06-2; amended by Sec. 4 of Ord. 1982-05-68; amended by Sec. 1 of Ord. 1997-05-10; amended by Sec. 2 of Ord. 2006-04-07; amended by Sec. 1 of Res. 2009-04-10)

Table 5.28.040. Allowed dates and times for sale of fireworks.	
<u>2014</u>	<u>2015 and beyond</u>
<u>June 28, Noon to 11:00 p.m.</u>	<u>Not allowed</u>
<u>June 29, 9:00 a.m. to 11:00 p.m.</u>	<u>Not allowed</u>
<u>June 30, 9:00 a.m. to 11:00 p.m.</u>	<u>Not allowed</u>
<u>July 1, 9:00 a.m. to 11:00 p.m.</u>	<u>Not allowed</u>

<u>July 2, 9:00 a.m. to 11:00 p.m.</u>	<u>July 2, 9:00 a.m. to 11:00 p.m.</u>
<u>July 3, 9:00 a.m. to 11:00 p.m.</u>	<u>July 3, 9:00 a.m. to 11:00 p.m.</u>
<u>July 4, 9:00 a.m. to 11:00 p.m.</u>	<u>July 4, 9:00 a.m. to 11:00 p.m.</u>

5.28.050 Dates when use permitted.

No person shall use or explode any fireworks within the unincorporated areas of the county of Clark except as ~~shown~~ provided in Table 5.28.050 below; provided, that this prohibition shall not apply to duly authorized public displays where the same are authorized pursuant to the laws of the state of Washington.

Table 5.28.050. Allowed dates and times for use of fireworks.

<u>2014</u>	<u>2015</u>	<u>2016 and beyond</u>
<u>June 28, Noon to 11:00 p.m.</u>	<u>Not allowed</u>	<u>Not allowed</u>
<u>June 29, 9:00 a.m. to 11:00 p.m.</u>	<u>Not allowed</u>	<u>Not allowed</u>
<u>June 30, 9:00 a.m. to 11:00 p.m.</u>	<u>Not allowed</u>	<u>Not allowed</u>
<u>July 1, 9:00 a.m. to 11:00 p.m.</u>	<u>Not allowed</u>	<u>Not allowed</u>
<u>July 2, 9:00 a.m. to 11:00 p.m.</u>	<u>July 2, 9:00 a.m. to 11:00 p.m.</u>	<u>Not allowed</u>
<u>July 3, 9:00 a.m. to 11:00 p.m.</u>	<u>July 3, 9:00 a.m. to 11:00 p.m.</u>	<u>Not allowed</u>
<u>July 4, 9:00 a.m. to Midnight</u>	<u>July 4, 9:00 a.m. to Midnight</u>	<u>July 4, 9:00 a.m. to Midnight</u>

Table 5.28.050

June 28	12:00 noon — 11:00 p.m.
June 29	9:00 a.m. — 11:00 p.m.
June 30	9:00 a.m. — 11:00 p.m.
June 31	9:00 a.m. — 11:00 p.m.
July 1	9:00 a.m. — 11:00 p.m.
July 2	9:00 a.m. — 11:00 p.m.
July 3	9:00 a.m. — 11:00 p.m.
July 4	9:00 a.m. — 12:00 midnight

(Sec. 5 of Ord. 1977-06-2; amended by Sec. 3 of Ord. 2006-04-07; amended by Sec. 2 of Res. 2009-04-10)

5.28.060 Number of permits limited.

- (1) No persons, firm or corporation acting as principal shall receive more than one (1) permit for the retail sale of fireworks during any one (1) calendar year. For the purposes of this chapter, separate chapters of an organization shall not be considered the same person, firm or corporation, except that a maximum of six (6) permits are reserved for the Vancouver National Historic Reserve Trust (hereinafter "VNHRT") or its successor for the purpose of providing financial support for the community-wide fireworks display that takes place on the Fourth of July at the Fort Vancouver National Historic Reserve.
- (2) The maximum number of permits which may be issued pursuant to this chapter for retail sale of common fireworks is subject to the following provisions:
 - (a) The number of retail sale permits may be increased at a ratio of one permit to every five thousand (5,000) persons living in the unincorporated area as that number is provided in the year-end population estimate by Clark County Assessment and GIS in January of each year to be allocated pursuant to the process set out in Section 5.28.015.
 - (b) If the population decreases as a result of annexation, attempts shall be made to transfer permits for stands in the annexed area to the annexing city.
 - (c) The number of retail sale permits shall be decreased as applicants cease to seek reissuance only where the ratio of the number of permits to current population in the unincorporated area exceeds one to five thousand (1:5,000). (Sec. 6 of Ord. 1977-06-2; amended by Sec. 5 of Ord. 1982-05-68; amended by Sec. 1 of Ord. 1993-06-37; amended by Sec. 2 of Ord. 1997-05-10; amended by Sec. 3 of Ord. 1999-12-01; amended by Sec. 4 of Ord. 2006-04-07)

5.28.070 Permit coverage—Transfer of permit prohibited.

A separate permit granted pursuant to this chapter shall be obtained for each activity requiring a permit pursuant to Section 5.28.010 and for each location at which the same activity is undertaken. All permits issued, permission granted or rights obtained by acquiring a permit shall be used only by the designated permittee and shall not be assigned, sublet or otherwise transferred. Any such transfer or purported transfer of such permit, permissions granted or rights obtained by acquiring a permit shall be deemed a violation of this chapter and shall void the permit. (Sec. 7 of Ord. 1977-06-2; amended by Sec. 6 of Ord. 1982-05-68; amended by Sec. 2 of Ord. 1993-06-37; amended by Sec. 4 of Ord. 1999-12-01)

5.28.080 Prerequisite to issuance of license.

(Sec. 8 of Ord. 1977-06-2; repealed by Sec. 14 of Ord. 1982-05-68)

5.28.085 Retail sale of fireworks—Sale locations.

The retail sale of common fireworks shall be permitted only from:

- (1) Permanent buildings used for no other purpose than the importation, storage, wholesaling and/or retailing of fireworks; provided, that:
 - (a) Such structure shall be approved by the building official and fire marshal for Group H, Division I occupancy under Chapters 14.05 (International Building Code) and 15.12 (International Fire Code) of this code; and
 - (b) The use of such structure shall conform to zoning, health, fire, safety and other applicable ordinances and regulations; and

(c) The operational provisions of Chapter 212-17 WAC pertaining to the operation of temporary fireworks stands shall apply as well to retail sales from permanent structures.

- (2) Temporary stands; provided, that: ~~(a)~~ such stands shall comply with the applicable provisions of Chapter 70.77 RCW and Chapter 212-17 WAC. (Sec. 7 of Ord. 1982-05-68; amended by Sec. 5 of Ord. 1999-12-01)

5.28.090 Terms and conditions for issuance of retail sale permit.

A permit for retail sale of common fireworks shall be issued only upon the following terms and conditions:

- (1) The applicant shall have a valid license issued by the state of Washington authorizing the holder thereof to engage in the retail sale of fireworks. In addition, neither the applicant nor the responsible party for the permit shall have been convicted of a felony unless the conviction was discharged pursuant to RCW 9.94A.637 or 13.50.050; or a fire/fireworks-related misdemeanor within the last three (3) years.
- (2) In addition to the other requirements of Chapter 70.77 RCW, the applicant shall procure and maintain a policy or policies of public general liability, bodily injury and property damage insurance in a company or companies approved by the county in the minimum amount of one million dollars (\$1,000,000) single limit; Clark County shall be named as an additional insured. Certificates of coverage shall be filed with the county fire marshal upon application for a retail sales permit.
- (3) The applicant's location or place of business shall be only in those areas or zones within the county wherein commercial or industrial activities are authorized under the applicable zoning laws of the county; provided, that no fireworks shall be sold in any residential area where a commercial enterprise does not exist.
- (4) If the stand is not removed and debris cleaned up by 11:59 p.m., July 15th, the applicant will be subject to a fine not to exceed five hundred dollars (\$500).
- (5) Such permit shall be issued or denied by the county fire marshal and subject to the same appeal procedure and standard as an appeal of a Type I procedure under Sections 40.100.050(A) and 40.500.010(A). (Sec. 9 of Ord. 1977-06-2; amended by Sec. 8 of Ord. 1982-05-68; amended by Sec. 6 of Ord. 1999-12-01; amended by Sec. 5 of Ord. 2006-04-07; amended by Sec. 2 of Ord. 2014-01-08)

5.28.100 Temporary stands.

Temporary stands, structures or facilities used for the retail sale or temporary storage of common fireworks shall be in accordance with the applicable portions of Chapter 70.77 RCW and Chapter 212-17 WAC. In addition to the above requirements, each retail fireworks stand shall provide signage indicating the dates and times fireworks may be legally discharged in Clark County. Such signage must be placed where it is easily readable by the public where the sales transactions occur. The sign shall contain the following information: Fireworks may be discharged in Clark County only during the following dates and times as specified in Table 5.28.050. ~~— June 28th from 12:00 noon to 11:00 p.m.; June 29th through July 3rd from 9:00 a.m. to 11:00 p.m.; July 4th from 9:00 a.m. to midnight.~~ Letters for the sign must be at least one (1) inch tall on a contrasting background. (Sec. 10 of Ord. 1977-06-2; amended by Sec. 9 of Ord. 1982-05-65; amended by Sec. 7 of Ord. 1999-12-01; amended by Sec. 6 of Ord. 2006-04-07; amended by Sec. 3 of Res. 2009-04-10)

5.28.110 Application of chapter.

(Sec. 11 of Ord. 1977-06-2; repealed by Sec. 14 of Ord. 1982-05-68)

5.28.115 Approved storage facilities required.

Temporary fireworks storage locations and facilities shall be approved in conjunction with issuance of the permit authorizing the retail sale of fireworks pursuant to Chapter 70.77 RCW and Chapter 212-17 WAC. Stocks of common fireworks remaining unsold after the lawful period of retail sale provided for in Section 5.28.040 shall be removed on or before 11:59 p.m. July 15th of the same year to a storage facility approved pursuant to RCW 70.77.420 and 70.77.425. (Sec. 10 of Ord. 1982-05-68; amended by Sec. 8 of Ord. 1999-12-01)

5.28.120 Interpretation and construction of chapter.

(Sec. 12 of Ord. 1977-06-2; repealed by Sec. 14 of Ord. 1982-05-68)

5.28.130 Enforcement.

The Clark County fire marshal is hereby designated as the enforcing officer of the chapter. In addition, any penalty for violating any provision of Chapter 70.77 RCW, this chapter, or a permit issued hereunder, any failure or refusal on the part of a permittee to obey any rule, regulation or request of the fire marshal concerning fireworks shall be grounds for the revocation of a fireworks permit. (Sec. 13 of Ord. 1977-06-2; amended by Sec. 11 of Ord. 1982-05-68; amended by Sec. 7 of Ord. 2006-04-07)

5.28.135 Seizure of fireworks.

Any fireworks which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of this chapter shall be subject to seizure by the county fire marshal or any commissioned employee of the fire marshal's office. Any fireworks seized under this section may be disposed of by the fire marshal by summary destruction at any time subsequent to expiration of an applicable appeal deadline or on order/judgment approving destruction, if applicable, under the provisions of Section 5.28.137, whichever is later. (Sec. 12 of Ord. 1982-05-68; amended by Sec. 8 of Ord. 2006-04-07)

5.28.137 Seizure of fireworks—Judicial action.

Any person whose fireworks are seized under the provisions of Section 5.28.135 may within ten (10) days after such seizure petition the hearing examiner to return the fireworks seized upon the ground that such fireworks were illegally or erroneously seized. Any petition filed hereunder shall be considered by the hearing examiner within fifteen (15) days after filing and a hearing granted the petitioner, if requested. Notice of the examiner's decision shall be served upon the petitioner. The hearing examiner may order the fireworks seized under this chapter disposed of or returned to the petitioner if illegally or erroneously seized. The determination of the hearing examiner is final unless within thirty (30) days an action is commenced in the Superior Court for Clark County, state of Washington, for the recovery of the fireworks seized by the fire marshal. (Sec. 13 of Ord. 1982-05-68; amended by Sec. 9 of Ord. 2006-04-07; amended by Sec. 9 of Ord. 2009-10-19)

5.28.140 Penalty.

(1) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for a period not exceeding ninety (90) days or by both such fine and imprisonment.

(2) If, in the reasonable exercise of its discretion, the fire marshal believes that a civil citation is warranted, in lieu of prosecution, he shall issue a citation under Title 32 for minor violations by first-time offenders. (Sec. 13 of Ord. 1977-06-2; amended by Sec. 9 of Ord. 1999-12-01)