

CITY OF COVINGTON WASHINGTON

ORDINANCE NO. 21-2019

AN ORDINANCE OF THE CITY OF COVINGTON, WASHINGTON, REPEALING CHAPTER 15.15 ENTITLED "FIREWORKS"; AMENDING THE COVINGTON MUNICIPAL CODE TO ADD A NEW CHAPTER 15.15 ENTITLED "FIREWORKS"; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State of Washington regulates the sale, discharge, and display of fireworks by means of Chapter 70.77 RCW; and

WHEREAS, City of Covington City Council passed Resolution No. 2019-09 on July 23, 2019, requesting a Special Election on the November 5, 2019 General Election for an Advisory Proposition asking Covington voters to recommend whether the sale, possession, and discharge of consumer fireworks should be prohibited in the City of Covington; and

WHEREAS, the election results of the Advisory Proposition No. 1 was "Yes," (2,691 votes, 53.44%) and "No" (2345 votes, 46.56%); and

WHEREAS, in light of voter recommendation and after review and discussion, the City Council has determined it appropriate to repeal and replace Covington Municipal Code Chapter 15.15 Fireworks in order to prohibit the sale, possession, and discharge of consumer fireworks, with exceptions for public display of fireworks with an approved permit and exemptions authorized by Chapter 70.77 RCW; and

WHEREAS, in accordance with RCW 70.77.250, this ordinance will become effective one year from the date of its adoption;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Repeal Chapter 15.15. Chapter 15.15 of the Covington Municipal Code entitled "Fireworks" is repealed in its entirety.

Section 2. Enact New Chapter 15.15. The Covington Municipal Code is amended to add a new Chapter 15.15 entitled "Fireworks," as provided in the attached Exhibit A.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Savings. The existing Chapter 15.15 of the Covington Municipal Code, which is repealed and replaced by this Ordinance, shall remain in full force and effect until the effective date of this Ordinance.

Section 5. Effective Date. In accordance with RCW 70.77.250(4), this ordinance shall take effect one year after adoption of this ordinance.

Passed by the City Council on the 10th day of December 2019.



Mayor Jeff Wagner

Date of Publication: December 20, 2019

Effective Date: December 10, 2020

ATTESTED:



Sharon Scott, City Clerk

APPROVED AS TO FORM:



Kathy Hardy, City Attorney

15.15
FIREWORKS

ORDINANCE NO. 21-2019
EXHIBIT A

Sections:

15.15.010 Definitions.

15.15.020 Local Fire Official designated.

15.15.030 State provisions adopted.

15.15.040 Sale and discharge of fireworks prohibited; exceptions.

15.15.050 Permit required for public display of fireworks.

15.15.060 Issuance – Nontransferable – Voiding.

15.15.070 Public display permit fee.

15.15.080 Standards for public fireworks display.

15.15.090 Special effects for entertainment media.

15.15.100 Nonprohibited acts – Signal purposes, forest production.

15.15.110 Fire Official may grant or deny permit conditions.

15.15.120 Applicability.

15.15.130 Chapter in connection with state law.

15.15.140 Enforcement.

15.15.150 Seizure of fireworks.

15.15.160 Penalty for violations.

15.15.170 Revocation or suspension of permit.

15.15.010 Definitions.

The definitions of Chapter 70.77 RCW as now stated or hereinafter amended shall govern the construction of this chapter, when applicable, and are hereby adopted by this reference. A copy of the same shall be kept on file in the office of the City Clerk for public use and inspection.

15.15.020 Local Fire Official designated.

The Local Fire Official as defined in RCW 70.77.177 for the City of Covington is the Fire Marshal appointed under CMC 15.05.050 or such person as the Fire Marshal may designate to fulfill the duties of a Local Fire Official set forth in Chapter 70.77 RCW.

15.15.030 State provisions adopted.

Except as otherwise provided in this chapter 15.15 CMC, Chapter 70.77 RCW as now stated or hereafter amended is adopted by reference, except as amended in this chapter, and a copy of the same shall be kept in the office of the City Clerk for public use and inspection.

15.15.040 Sale and discharge of fireworks.

It is unlawful for any person to sell, possess, use, transfer, discharge, ignite or explode any fireworks within the City; provided, that this prohibition shall not apply to the following activities, when authorized by a State license and City permit:

- A. Duly authorized public display of fireworks, as provided in RCW 70.77.290; and
- B. Duly authorized use by religious organizations or private organizations or persons, as provided in RCW 70.77.311(2), if:
 - 1. Purchased from a licensed manufacturer, importer, or wholesaler;
 - 2. For use on prescribed dates and locations; and
 - 3. For religious purposes.

15.15.050 Permit required for public display of fireworks.

- A. It is unlawful for any person to hold, conduct or engage in any public display of fireworks within the City without having obtained and being a holder of a valid permit under the provisions of this chapter.
- B. The applicant shall show proof of the issuance of a bond or insurance coverage in the amounts set forth in RCW 70.77.295 or proof that such bond or insurance coverage has been provided under a state general license for public display.
- C. Applications for a public display of fireworks shall be made in writing at least 45 days in advance of the proposed display and shall have authorization from the State Fire Marshal.

15.15.060 Issuance – Nontransferable – Voiding.

Each public display of fireworks permit issued pursuant to this chapter shall be valid for the specific authorized public display event only. Such permits shall be used only by the designated permittee and shall not be transferable. Any transfer or unauthorized use of a permit is a violation of this chapter and shall void the permit granted and shall subject the permit holder and permit transferee or user to all other sanctions provided in this code.

15.15.070 Permit fee.

The per-event fee for a public display of fireworks permit shall be \$100.00 and shall be payable to the City of Covington for administrative and inspection costs; provided, there shall be no fee charged to a religious or private organization pursuant to RCW 70.77.311.

15.15.080 Standards for public display of fireworks.

All public display of fireworks shall conform to the following minimum standards and conditions:

- A. All public displays of fireworks must be planned, organized and discharged by a licensed pyrotechnician.
- B. A permit must be obtained from the Fire Marshal prior to any public display of fireworks. The permit shall include the name of the applicant and his/her address; the name of the pyrotechnician and his/her 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 display of fireworks; and shall include the name and address of the insurance company providing the bond required.
- C. A drawing shall be submitted to the Fire Marshal showing a plan 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 any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.
- D. The Fire Marshal may require that a fire engine and two trained firefighters be on-site from fireworks set-up and through at least 30 minutes after the discharge of the fireworks for a minimum of four hours, billable to the entity holding the fireworks display.
- E. All combustible debris and trash shall be removed from the area of discharge for a distance of 300 feet in all directions.
- F. All unfired or undischarged fireworks shall be disposed of in a safe manner.
- G. A minimum of two 2A rated pressurized water fire extinguishers shall be at the fireworks discharge site.
- H. The permit may be immediately revoked at any time deemed necessary by the Fire Marshal due to any noncompliance, or weather conditions such as extremely low humidity or wind factor. The display may be cancelled by accidental ignition of any form of combustible or flammable material in the vicinity due to falling debris from the display.
- I. Areas of public access shall be determined by the Fire Marshal and maintained in an approved manner.
- J. Public displays of fireworks undertaken by religious organizations or private organizations or persons pursuant to RCW 70.77.311 shall be limited to class C common fireworks and special fireworks as defined in RCW 70.77.131 and 70.77.136.
- K. A permit for a public display of fireworks must be applied for at least 45 days before the planned day of the public display. A public notice of any public display of fireworks must be published by the permit holder at least once 30 days or more prior to the intended display in a newspaper of general circulation in the City.
- L. The permit holder will pay the full-cost reimbursement for all time that the Fire Marshal spends on overseeing all aspects of the fireworks permitting, preparation and display.

15.15.090 Special effects for entertainment media.

This chapter does not prohibit the assembling, compounding, use and display of special effects of whatever nature by a pyrotechnic operator licensed by the State of Washington 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 pyrotechnic operator possesses a valid public display of fireworks permit issued by the City.

15.15.100 Nonprohibited acts – Signal purposes, forest production.

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 emergency, illumination or signal purposes, or for forest protection activities.

15.15.110 Fire Marshal may grant or deny permit conditions.

The Fire Marshal shall have the power to grant or deny any application for a permit or to subject the same to such reasonable conditions.

15.15.120 Enforcement.

The Police Chief, Fire Marshal, or their designee is authorized to enforce all provisions of this chapter.

15.15.130 Seizure of fireworks.

Any fireworks that are illegally sold, offered for sale, used, discharged, possessed, or transported in violation of the provisions of this chapter and Chapter 70.77 RCW shall be subject to seizure by the Police Department. The provisions for seizure of fireworks, petition for return, hearing decision, and judicial action for recovery shall be set forth in RCW 70.77.435 and 70.77.440; provided, that the Police Chief shall have the powers and obligations set forth in said statutes.

15.15.140 Penalty for violations.

Any person violating or failing to comply with the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided therefor.

15.15.150 Revocation or suspension of permit.

A. The Fire Marshal may at any time suspend or revoke any permit issued under the provisions of this chapter, if the permittee or permittee's agents or employees have:

1. Violated any of the provisions of this chapter.
2. Made any false statement or misrepresentation of fact in connection with obtaining the permit.
3. Failed to obtain or had suspended or revoked any license required by the State under Chapter 70.77 RCW.
4. Had any insurance coverage required by this chapter cancelled, revoked, or lapsed.

B. Effective Date of Revocation. When the Fire Marshal determines that there is cause for revoking or suspending any permit issued pursuant to this chapter, the Fire Marshal shall notify the person holding such permit. The notice shall specify the grounds for the suspension or revocation of the permit. The suspension or revocation shall become effective immediately upon receipt of the notice by the permittee.

15.15.160 Appeals.

A. Permit denial. Any person denied a permit under the provisions of this chapter may appeal to the Hearing Examiner pursuant to the procedures outlined in Chapter 14.45 CMC.

B. Suspension or revocation. The decision of the Fire Marshal with respect to the suspension or revocation of any permit issued under this chapter shall be final. Any permittee whose permit has been suspended or revoked may appeal the decision of the Fire Marshal to the King County Superior Court by filing such appeal within 10 days of the date of the final decision of the Fire Marshal. This shall be the exclusive remedy of any permittee under this chapter.