

BINGEN MUNICIPAL CODE

Chapter 8.16

FIREWORKS

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8.16.010 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. (Ord. 512 § 2, 2005)

8.16.020 Fireworks prohibited.

Except as authorized by a state license and city permit granted by the local fire official pursuant to RCW 70.77.260(2) (public display) and this ordinance or except as authorized by RCW 70.77.311(2) (use by individual or group for religious or other specified purpose on approved date and at approved location) and this ordinance, no person shall ignite, explode, use or discharge any fireworks within the City. For the purposes of this ordinance, the local fire official shall be the city council or its designee. (Ord. 512 § 2, 2005)

8.16.030 Permit required for public display of fireworks.

It is unlawful for any person to hold, conduct or engage in any public display of fireworks within the City without first having obtained and being the holder of a valid permit under the provisions of this chapter.

- A. Permit for public display. It is unlawful for any person to make a public display of fireworks within the City of Bingen without having first obtained a permit to do so.

Application to make such a display shall be made in writing to the City Clerk on forms provided for that purpose and shall be accompanied by a fifty-dollar (\$50.00) fee for each display; provided, however, that the City Council may waive the fifty-dollar (\$50.00) application fee for non-profit organizations. Application shall be made at least forty-five days in advance of the proposed display.

The City's designee shall investigate whether the character and location of the display as proposed would be hazardous or dangerous to any person or property. Based on the investigation, the designee shall submit a report of findings and a recommendation for or against the issuance of a permit, together with reasons, to the City Council. The City Council may grant or deny the application and may place reasonable conditions on any such permit issues.

A permit for a public display of fireworks shall not be issued unless the person applying for the permit is a holder of a valid license issued by the State Fire Marshal to make such a display. If the City Council grants a permit for the public display of fireworks, the use of fireworks is lawful only for the purpose of the permitted public display. No such permit shall be transferable. Every public display of fireworks shall be handled or supervised by a competent and experienced pyrotechnic operator approved by the local fire official or its designee.

- B. Standards for public fireworks displays. 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) Approval must be obtained from the fire chief or designee prior to any display of public fireworks. The permit shall include the name of the applicant and address; the name of the pyrotechnician and 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; and shall include the name and address of the insurance company providing the bond required;
 - (3) A drawing shall be submitted to the fire chief or designee, showing a plan view of the fireworks discharges 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;
 - (4) The fire chief or designee may require that a fire department pumper and a minimum of two trained firefighters shall be on site 30 minutes prior to and after the discharge of any fireworks;
 - (5) All combustible debris and trash shall be removed from the area of discharge for a distance of 300 feet in all directions;

- (6) All unfired or un-discharged fireworks shall be disposed of in a safe manner;
 - (7) A minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket shall be required to be at the fireworks discharge site;
 - (8) The permit may be immediately revoked at any time deemed necessary by the fire marshal or designee due to any noncompliance, or weather conditions such as extremely low humidity or wind factor. The display may also be canceled by accidental ignition of any form of combustible or flammable material in the vicinity due to falling debris from the display; and
 - (9) Area of public access shall be determined by the fire chief or designee and maintained in a manner approved by the fire chief.
- C. Public display employee compensation insurance - Liability insurance. The applicant for a permit for a public display of fireworks shall, at the time of application, submit his license issued by the State Fire Marshal for inspection. In addition, the applicant shall submit to the City council or its designee a certificate of insurance in an amount not less than fifty thousand dollars (\$50,000.00) and one million dollars (\$1,000,000.00) for each person and event respectively, and not less than twenty-five thousand (\$25,000.00) for property damage liability for each event. Such certificate of insurance shall also name, as additional insured parties, the City of Bingen, its officers and employees acting in their capacity as agents of the city. The City Council or its designee, with the assistance of the city attorney, shall approve such certificate of issuance if it meets the requirements of this section. The requirements of this section include applicant compliance with RCW 70.77.285 and RCW 70.77.295, as now or later amended.
- D. Permit fee. The annual fee for a “public display” permit for the public display of fireworks shall be \$100.00, and shall be payable to the City of Bingen. (Ord. 512 § 2, 2005)

8.16.040 Special purchase and use permits.

- A. Permit for religious and private organizations. Religious organizations or private organizations or persons may use common fireworks and such audible ground devices as firecrackers, salutes and chasers if:
 - 1. Purchased from a manufacturer, importer or wholesaler licensed pursuant to RCW Chapter 70.77;
 - 2. For use on prescribed dates and locations;
 - 3. For religious or specific purposes; and
 - 4. A permit is obtained from the local fire official or its designee.

- B. Permit Applications. Applications for a permit required under this section shall be made in writing to the city clerk on forms provided for that purpose.

The local fire official or its designee shall investigate whether the character and location of the proposed use would be hazardous or dangerous to any person or property. Based on such investigation, the City Council may grant or deny such permit and the City Council may place reasonable conditions on any permit they may issue.

No such permit shall be transferable. If such permit is issued it shall be lawful only for the uses set forth in it.

A permit authorized by this section shall not be issued unless the applicant is over the age of eighteen years and files with the city a certificate of insurance in the amount to be set by the local fire official or its designee based upon the nature and extent of the proposed fireworks use and the risks involved. Such insurance shall be combined single limit covering bodily injury liability, property damage liability, including products liability, premises liability and contractual liability, with the applicant named as insured thereon and which insurance certificate shall also name, as additional insured parties, the City of Bingen, its officers and employees acting in their capacity as agents of the city. (Ord. 512 § 2, 2005)

8.16.050 Sale and Manufacture of Fireworks.

- A. Manufacture of Fireworks. The manufacture of fireworks is prohibited.
- B. Sale of Fireworks Other Than Consumer Fireworks. The sale of fireworks other than consumer fireworks is prohibited.
- C. Sale of Consumer Fireworks. The retail sale of consumer fireworks is unlawful without first having obtained and being the holder of a permit issued by the city council. Application shall be made in writing to the city clerk on forms provided for that purpose, shall be made at least twenty-five days in advance of the first day of sale and shall be accompanied by a twenty-five dollar (\$25.00) fee. At a minimum, the applicant must be licensed pursuant to RCW Chapter 70.77 and shall comply with RCW 70.77.270 as now or later amended. The city council shall review the application and may grant or deny the request for a permit and may place reasonable conditions on any permit issued. No such permit is transferable. The City shall not issue a permit for retail sale of consumer fireworks in an area that is zoned residential. (Ord. 512 § 2, 2005)

8.16.060 Issuance - Nontransferable - Voiding.

Each and every permit issued pursuant to this chapter shall be valid only for the specific authorized use or event, 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 in addition to all other sanctions provided in this code. (Ord. 512 § 2, 2005)

8.16.070 Applicability.

The provisions of this chapter shall apply to the sale and use of all fireworks except “toy caps,” and as is otherwise exempt pursuant to RCW 70.77.311 as now stated or as may be amended. The provisions of this chapter do not and are not intended to apply to RCW 70.77.311(1) as now or hereafter amended or to the purchase or use of any agricultural or wildlife fireworks by agencies of the United States of America or the State of Washington. (Ord. 512 § 2, 2005)

8.16.080 Chapter in connection with state law.

This chapter is intended to be consonant with Chapter 70.77 RCW, and shall be construed in connection with that law and any and all rules or regulations issued pursuant thereto. (Ord. 512 § 2, 2005)

8.16.090 Enforcement.

The fire chief, or designee, is authorized to enforce all provisions of this chapter and, in addition to criminal sanctions or civil remedies, he 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 chapter or other laws or regulations. The Bingen-White Salmon Police Department is authorized to enforce section 8.16.020 hereof as well such other section or sections as directed by the fire chief or designee. (Ord. 512 § 2, 2005)

8.16.100 Violations - Penalties.

- A. The first violation of BMC 8.16.020, BMC 8.16.030 or BMC 8.16.040 by any person shall be a civil infraction with a base penalty of no more than \$500.00 and no less than \$55.00.
- B. The second violation of BMC 8.16.020, BMC 8.16.030 or BMC 8.16.040 by any person within a three year period shall be a civil infraction with a base penalty of no more than \$750.00 and no less than \$150.00.
- C. Any person violating any of the provisions of BMC 8.16.020, BMC 8.16.030 or BMC 8.16.040 for a third time within a three year period shall be deemed guilty of a misdemeanor and upon conviction shall be subject to punishment by a fine of not more than \$1,000.00, or by imprisonment for not more than ninety days, or both.
- D. Any person violating any of the provisions of BMC 8.16.050 or 8.16.060 shall be deemed guilty of misdemeanor, and upon conviction of such violation such person shall be subject to punishment by a fine of not more than \$1,000.00, or by imprisonment for not more than ninety days, or both such fine and imprisonment.

- E. A person shall be deemed guilty of a separate offense for each day and every day or portion any day during which any violations of the provisions of this code is committed, continued or permitted. (Ord. 512 § 2, 2005)

8.16.110 Severability.

If any provision of this chapter, or its application to any person or circumstance, is held invalid, the remainder of the chapter or the application of the provisions to other persons or circumstances is not affected. (Ord. 512 § 2, 2005)

8.16.120 Revised Code of Washington references.

Any references to the Revised Code of Washington shall refer to the referenced section of subsection as it now reads or as it is hereafter amended to read. (Ord. 512 § 2, 2005)

8.16.130 Effective date.

Ordinance 05-04-512 shall be effective one year from its adoption. (Ord. 512 § 2, 2005)