

ORDINANCE NO. 1960

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, AMENDING THE REGULATIONS ASSOCIATED WITH FIREWORKS AND REPEALING AND AMENDING CHAPTER 9-28 OF THE DAYTON MUNICIPAL CODE.

WHEREAS, THE CITY OF DAYTON ("CITY"), HAS ADOPTED RULES, REGULATIONS, AND ORDINANCES RELATED TO THE SALES, USE, STORAGE AND DISCHARGE OF FIREWORKS WITHIN THE CITY LIMITS OF DAYTON, WASHINGTON; AND,

WHEREAS, THESE REGULATIONS WERE ADOPTED WITHIN ORDINANCE NOS. 1789, 1840, AND 1891; AND,

WHEREAS, NEW AND ONGOING SAFETY CONCERNS IN REGARDS TO POTENTIAL FIREWORKS HAZARDS IN THE CITY LIMITS OF DAYTON REQUIRED REVIEW AND UPDATE OF THE EXISTING REGULATIONS; AND,

WHEREAS, THE CITY PUBLIC SAFETY COMMITTEE HAS REVIEWED THESE CHANGES ENTIRELY AND RECOMMENDS THESE CHANGES TO CITY COUNCIL FOR ADOPTION; AND,

WHEREAS, ALONGSIDE STRONGER ENFORCEMENT OF THIS CODE AND OTHER LOCAL, STATE, AND FEDERAL CODES, IT IS ANTICIPATED THAT THE CITY WILL BE BETTER ENABLE TO ADDRESS FIREWORK SAFETY CONCERNS WHILE ENSURING PRIVATE ENJOYMENT OF FIREWORKS DURING ALLOWED PERIODS OF USE TO CONTINUE.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. REPEAL. ORDINANCE NOS. 1789, 1840, AND 1891 ARE HEREBY REPEALED ENTIRELY.

SECTION 2. ADOPTION: CHAPTER 9-28 - FIREWORKS OF THE DAYTON MUNICIPAL CODE SHALL BE ADOPTED TO READ AS FOLLOWS:

CHAPTER 9-28. - FIREWORKS

9-28.010. - Adoption of sections of Revised Code of Washington by reference.

The following laws contained within the Revised Code of Washington (RCW) are hereby adopted by reference as currently enacted and as hereafter amended from time to time, and shall be

given the same force and effect as if set forth herein in full: Provided, that any provision in the RCW dealing solely and exclusively with the investigation, prosecution, or sentencing of a felony crime is not adopted herein.

RCW 70.77.126	Definitions-"Fireworks."
RCW 70.77.131	Definitions-"Display fireworks."
RCW 70.77.136	Definitions-"Consumer fireworks."
RCW 70.77.138	Definitions-"Articles pyrotechnic."
RCW 70.77.141	Definitions-"Agricultural and wildlife fireworks."
RCW 70.77.146	Definitions-"Special effects."
RCW 70.77.160	Definitions-"Public display of fireworks."
RCW 70.77.165	Definitions-"Fire nuisance."
RCW 70.77.170	Definitions-"License."
RCW 70.77.175	Definitions-"Licensee."
RCW 70.77.180	Definitions-"Permit."
RCW 70.77.182	Definitions-"Permittee."

RCW 70.77.190	Definitions—"Person."
RCW 70.77.200	Definitions—"Importer."
RCW 70.77.205	Definitions—"Manufacturer."
RCW 70.77.210	Definitions—"Wholesaler."
RCW 70.77.215	Definitions—"Retailer."
RCW 70.77.230	Definitions—"Pyrotechnic operator."
RCW 70.77.236	Definitions—"New fireworks item."
RCW 70.77.255	Acts prohibited without appropriate licenses and permits—Minimum age for license or permit—Activities permitted without license or permit.
RCW 70.77.260	Application for permit.
RCW 70.77.265	Investigation, report on permit application.
RCW 70.77.270	Governing body to grant permits—State-wide standards— Liability insurance.
RCW 70.77.280	Public display permit—Investigation—Governing body to grant—Conditions.
RCW 70.77.285	Public display permit—Bond or insurance for liability.

RCW 70.77.290	Public display permit—Granted for exclusive purpose.
RCW 70.77.295	Public display permit—Amount of bond or insurance.
RCW 70.77.345	Duration of licenses and retail fireworks sales permits.
RCW 70.77.355	General license for a public display.
RCW 70.77.381	Wholesalers and retailers—Liability insurance requirements.
RCW 70.77.386	Retailers—Purchase from licensed wholesalers.
RCW 70.77.401	Sale of certain fireworks prohibited.
RCW 70.77.405	Authorized sales of toy caps, tricks, and novelties.
RCW 70.77.410	Public displays not to be hazardous.
RCW 70.77.415	Supervision of public displays.
RCW 70.77.420	Storage permit required—Application—Investigation—Grant or denial—Conditions.
RCW 70.77.425	Approved storage facilities required.
RCW 70.77.435	Seizure of fireworks.
RCW	Seizure of fireworks—Proceedings for forfeiture—

70.77.440	Disposal of confiscated fireworks.
RCW 70.77.480	Prohibited transfers of fireworks.
RCW 70.77.485	Unlawful possession of fireworks—Penalties.
RCW 70.77.488	Unlawful discharge or use of fireworks—Penalty.
RCW 70.77.495	Forestry permit to set off fireworks in forest, brush, fallow, etc.
RCW 70.77.510	Unlawful sales or transfers of display fireworks— Penalty.
RCW 70.77.515	Unlawful sales or transfers of consumer fireworks— Penalty.
RCW 70.77.517	Unlawful transportation of fireworks—Penalty.
RCW 70.77.520	Unlawful to permit fire nuisance where fireworks kept—Penalty.
RCW 70.77.525	Manufacture or sale of fireworks for out-of-state shipment.
RCW 70.77.535	Articles pyrotechnic, special effects for entertainment media.
RCW 70.77.540	Penalty.
RCW 70.77.545	Violation a separate, continuing offense.

RCW 70.77.547	Civil enforcement not precluded.
RCW 70.77.580	Retailers to post list of fireworks.

9-28.020. - City-Local public agency-Local government-Defined.

The terms "city," "local public agency," and "local government," as used in the sections of chapter 70.77. RCW that are adopted by reference in this chapter, shall mean the City of Dayton.

9-28.030. - Local fire official-Defined.

The term "local fire official," as used in the provisions of the Revised Code of Washington adopted by this chapter shall mean the designated Fire Marshal of the City of Dayton.

9-28.040. - Designee-County Fire marshal.

Pursuant to RCW 70.77.270, the City Council hereby designates the County Fire Marshal or his/her designee as the person with authority to grant or deny permits that are sought pursuant to this chapter.

9-28.045. - "Consumer fireworks" and "display fireworks"-
Additional definitions.

1. The term "consumer fireworks," shall, in addition to the definition set forth in RCW 70.77.136, include the types of fireworks set forth in section 212-17-198 of the Washington Administrative Code.
2. The term "display fireworks," shall, in addition to the definition set forth in RCW 70.77.131, include the types of fireworks set forth in sections 212-17-295 through 212-17-345 of the Washington Administrative Code.

9-28.050. - State license and city permit required.

1. Pursuant to Chapter 70.77 and this chapter, a permit issued by the designated fire marshal or his/her designee shall be required for any activity enumerated in RCW 70.77.255(1) or DMC 9-28.140.
2. No permit for the activities set forth in RCW 70.77.255(1) shall be issued until (a) a license issued by the Chief of the Washington State Patrol is filed with the designated

Fire Marshal or his/her designee, and (b) a certificate of insurance as required by DMC 9-28.070 and Chapter 70.77. RCW is filed.

9-28.055. - Inspections required.

Prior to the issuance of any permit, the designated fire marshal or his/her designee shall perform an inspection of any structure or building intended for retail activity, wholesale activity, manufacturing activity, fireworks storage, or public display of fireworks, to determine whether such structures or buildings comply with the requirements of the Revised Code of Washington, the Washington Administrative Code or the City Code. No permit shall be issued until such structures or buildings comply with applicable laws.

9-28.060. - Copy of license to be filed.

Any person who obtains a permit as required by this chapter shall file with the designated fire marshal, a copy of each license for such activity required by Chapter 70.77. RCW.

9-28.070. - Certificate of insurance required.

1. As a condition of the issuance of any permit required by this chapter, and at all times during the sale, storage, or display of fireworks pursuant to the authority granted by a permit issued pursuant to this chapter, every retailer, wholesaler, manufacturer, or pyrotechnic operator operating within the city limits of Dayton shall obtain and have in effect a bond or insurance in the amounts required by RCW 70.77.270, RCW 70.77.285 and RCW 70.77.295. The designated fire marshal shall approve the bond or insurance if it meets the requirements of this section.
2. Any certificate of insurance or bond required by this chapter or the sections of chapter 70.77 RCW adopted by this chapter shall provide that (a) the insurer will not cancel the insured's coverage without 15 days prior written notice to the Fire Designated Fire Marshal of the City of Dayton and the chief of the Washington State Patrol through the director of fire protection; (b) the City of Dayton, its employees, officer, agents, volunteers, and officials are included as additional insureds; and (c) the City of Dayton is not responsible for any premiums or assessments on the policy.
3. Nothing in this section shall relieve any person of the insurance requirements in Chapter 70.77 RCW.

9-28.080. - Activities to be conducted in a safe and reasonable manner.

1. All retailers of fireworks or persons publicly displaying fireworks shall be responsible for conducting activities in a manner that is safe and responsible and in compliance with all federal, state, and local laws and regulations. The issuance of any permit required by this chapter shall in no way relieve any person from the duty of complying with all federal, state, and local laws and regulations or conducting activities in a safe and reasonable manner. The issuance of a permit shall not be deemed an endorsement by the City of Dayton of the activity engaged in.
2. The city shall not be liable to any person, corporation, entity or holder of property for any damage that is caused by or derived from the display of fireworks, and the person displaying fireworks assumes all risks of such display, and shall hold the city and its employees and officials harmless from any and all claims or causes of action for damage caused by or derived from such display.

9-28.090. - Permit required for sales-Application.

An application for a permit to sell fireworks shall be made in writing to the designated fire marshal or his/her designee no later than June 15th of the year for which permit is sought, on forms provided for that purpose. Permit fees, inspection, and plan review charges shall be charged as required by resolution of the city council. The designated fire marshal or his/her designee shall deny or grant any such application in writing. The designated fire marshal or his/her designee may place reasonable conditions on any permit issued. The person applying for a permit may appeal in writing the denial of the permit or the conditions of the permit to the designated fire marshal. The appeal shall be based solely upon written information provided by the applicant and information obtained or held by the designated fire marshal, and no hearing shall be required. The determination of the designated fire marshal of the appeal shall be final.

9-28.100. - Retail firework stands.

The following requirements shall apply to the operation of retail fireworks stands (hereinafter "stand"):

1. Prior to opening for business, a stand must be inspected and approved by the designated fire marshal or his/her designee.

2. Inspections of stands shall not be conducted until the designated fire marshal or his/her designee has received the following:
 - a. A temporary use application;
 - b. A business license;
 - c. A copy of the state license required by Chapter 70.77. RCW; and,
 - d. Proof of insurance as required by DMC 9-28.070.
3. Fire lanes and hydrants shall always be maintained clear of obstruction and provide access.
4. No decorations shall be used unless flameproof.
5. Electrical extension cords shall not be used without specific approval of the state electrical inspector or the fire marshal or his/her designee.
6. No stand shall be located within 25 feet of any other building, including motor homes and trailers, nor within 50 feet of any gasoline or LPG dispensing device.
7. Each stand shall have at least two exits. Exits must be doors that open outward and must be clear and unlocked when the stand is occupied.
8. Each stand shall have at least two properly operating 2A, 20BC extinguishers mounted on the stand and easily accessible. Occupants must be physically capable of using the extinguishers and must know how to operate the extinguishers.
9. Smoking is prohibited inside stands and within 25 feet of the exterior of stands. "No Smoking" signs shall be posted on the exterior front, back and sides, and interior of the stand.
10. No stand shall be located closer than 600 feet from another stand.
11. All weeds and combustible material shall be cleared from the location of the stand, including a distance of at least 20 feet surrounding the stand.
12. Stands shall be operated by adults; 18 years of age or older only. No fireworks shall be left unattended in a stand.
13. Every stand shall have a sign stating "NO FIREWORKS MAY BE SOLD TO ANY PERSON UNDER THE AGE OF SIXTEEN YEARS. THE DISCHARGE OF FIREWORKS IS ONLY PERMITTED BETWEEN THE HOURS OF 9:00 A.M. AND 11:00 P.M., JUNE 28 THROUGH JULY 3

AND 9:00 A.M. AND 12:01 A.M. ON JULY 5. DAYTON MUNICIPAL CODE SECTION 9-28.130." Signs shall be 12 inches by 18 inches and shall have letters and background of contrasting colors, readily readable from at least ten feet. Signs shall be affixed to the front of the stand and shall always be visible to the public the stand is open for business.

14. Overnight sleeping in a stand is prohibited.
15. Heating appliances are prohibited in stands.
16. All unsold fireworks, accompanying litter, and the stand shall be removed from the location by 7:00 pm two following the last legal date fireworks may be sold per DMC 9-28.110 (2).

9-28.110. - Sale and discharge of fireworks.

1. Except as permitted by this chapter and state law, it is unlawful to possess, discharge or sell at wholesale or retail any fireworks other than consumer fireworks.
2. Consumer fireworks may be sold and purchased between the following dates and times:
 - a. June 28: 12:00 - 11:00 pm
 - b. June 29 - July 4: 9:00 am - 11:00 pm
 - c. December 27 - 31: 10:00 - 11:00 pm
3. It is unlawful for a person to ignite, discharge, use or explode any common fireworks except between the following dates and times:
 - a. June 28: 12:00 - 11:00 pm
 - b. June 29 - July 3: 9:00 am - 11:00 pm
 - c. July 4: 9:00 am - 12:00 am on July 5
 - d. December 31: 6:00 pm - 1:00 am on January 1
4. It is unlawful for a person to ignite, discharge, use or explode any common fireworks on any street within the City of Dayton For the use of this Chapter, "street" shall include improved and unimproved City Right-of-Way that is used solely for the purpose of vehicular traffic, and does not include improved or unimproved City sidewalks and/or improved or unimproved shoulders utilized for parking.
5. Any person that ignites, discharges, uses or explodes any common fireworks must remove all firework waste material by 7:00 pm the following day from the public right-of-way adjoining and/or abutting the property where said fireworks

were ignite, discharged, used or exploded. Refusal to remove waste material will subject the responsible party to prosecution per RCW 70.83.060 - Littering prohibited and/or Civil Penalties per Dayton Municipal Code Title 21 - Code Compliance.

6. It is unlawful for any person to discharge fireworks on the property of another without permission of the owner of such property. It is unlawful for any person to discharge fireworks in a public park without the express written permission of the City Council of the City of Dayton. It is unlawful for any person to discharge fireworks on city property that is not a park without the express written permission of the city council.
 7. No person shall sell any consumer fireworks to a consumer or user thereof under the age of 16 years.
 8. No person under the age of 16 years shall possess or discharge any fireworks unless directly supervised by an adult who is responsible for the person under the age of 16 years.
 9. The transfer of fireworks ownership, whether by sale at wholesale or retail, by gift or by other means of conveyance of title, or the delivery of any fireworks to any person who does not possess a valid permit at the time of such transfer where a permit is required by this chapter, is prohibited.
 10. The sale, transportation, possession, or discharge of fireworks not marked with the manufacturer's license number and state fire marshal's classification, as required by Chapter 70.77 RCW is prohibited.
 11. This section shall take precedence over and shall preempt any conflicting provision of the Revised Code of Washington or the Washington Administrative Code.
- 9-28.120. - Special purchase and use permits.

1. Religious organizations or private organizations or persons may purchase or use consumer fireworks on dates and at times other than that specified in DMC 9-28.130 if:

- a. Purchased from a manufacturer, importer or wholesaler licensed pursuant to Chapter 70.77 RCW;
- b. for use on prescribed dates and locations;
- c. For religious or specific purposes; and

d. A permit is obtained from the designated fire marshal or his/her designee.

2. Applications for a permit required under this section shall be made in writing to the designated fire marshal or his/her designee on forms provided for that purpose and shall be accompanied by a fee as required by resolution for each private or religious use of fireworks authorized by this section. The designated fire marshal or his/her 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, and after consultation with the Director of Planning and Community Development, the designated fire marshal or his/her designee may grant or deny such permit and may place reasonable conditions on any permit issued.
3. No permit issued pursuant to this section shall be transferable. If such permit is issued it shall be lawful only for the prescribed uses. A permit authorized by this section shall not be issued unless the applicant is over the age of 18 years.

9-28.130. - Permit for public display.

1. An application to make a public display of fireworks shall be made in writing to the designated fire marshal or his/her designee on forms provided for that purpose and shall be accompanied by a fee as required by resolution for each display. Application shall be submitted at least ten days in advance of the proposed display.
2. The designated fire marshal or his/her designee shall investigate whether the character and location of the display would be hazardous or dangerous to any person or property.
3. If the designated fire marshal or his/her designee grants a permit for the public display of fireworks, the sale, possession and use of fireworks for the public display is lawful for that purpose only. No such permit shall be transferable. Every public display of fireworks shall be conducted or supervised by a competent and experienced pyrotechnic operator approved by the fire marshal or his/her designee.
4. The person applying for a permit may appeal in writing the denial of the permit or the conditions of the permit to the designated fire marshal. The appeal shall be based solely upon written information provided by the applicant and information obtained or held by the designated fire marshal

and no hearing shall be required. The determination of the designated fire marshal of the appeal shall be final.

9-28.150. - Permit revocation.

Violations of any provision of Chapter 70.77 RCW, this chapter, or a permit issued hereunder, or any failure or refusal on the part of the permittee to obey any rule, regulation or request of the designated fire marshal or his/her designee concerning fireworks, shall be grounds for the revocation of a fireworks permit.

9-28.155. - Fireworks—During periods of extreme fire danger or exigent circumstances.

During times of extreme fire danger or exigent circumstances, the fire marshal may prohibit the igniting, firing, setting-off, or otherwise discharging of all fireworks after consultation with the mayor, Columbia Designated Fire District 3, Columbia Designated Sheriff's Office and any other applicable agencies.

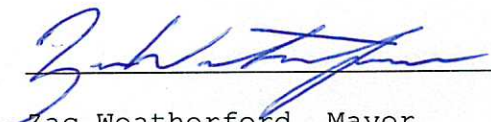
SECTION 3: SEVERABILITY. IF ANY SECTION, SENTENCE, CLAUSE, OR PHRASE OF THIS ORDINANCE SHOULD BE HELD TO BE INVALID BY A COURT OF COMPETENT JURISDICTION, SUCH INVALIDITY OR UNCONSTITUTIONALITY SHALL NOT AFFECT THE VALIDITY OR CONSTITUTIONALITY OF ANY OTHER SECTION, SENTENCE, OR PHRASE OF THIS ORDINANCE.

SECTION 4: EFFECTIVE DATE. THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECTIVE 365 DAYS AFTER ITS' PASSAGE AS REQUIRED BY RCW 70.77.250(4).

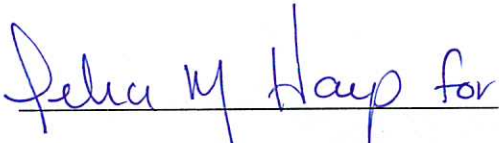
PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF DAYTON, WASHINGTON, AT A REGULAR MEETING OF THE DAYTON CITY COUNCIL ON DECEMBER 18, 2019.

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APPROVED:

 12/24/2019
Zac Weatherford, Mayor Date

ATTEST:


Trina D. Cole, City Clerk

APPROVED AS TO FORM:


Quinn Plant, City Attorney

ORDINANCE SUMMARY BY TITLE ONLY FOR PUBLICATION PURPOSES

ORDINANCE NO. 1960

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON,
AMENDING THE REGULATIONS ASSOCIATED WITH FIREWORKS AND REPEALING AND
AMENDING CHAPTER 9-28 OF THE DAYTON MUNICIPAL CODE.

The full text of Ordinance 1960 adopted the 18th day of December, 2019 is available for examination at the City Administrator/Clerk-Treasurer's Office, 111 S. 1st St., Dayton, WA during normal business hours, Monday - Thursday, 7:00 a.m. to 4:00 p.m. Full text of the Ordinance shall be mailed upon request.

SECTION 1. REPEAL.
SECTION 2. ADOPTION
SECTION 3: SEVERABILITY.
SECTION 4: EFFECTIVE DATE.

By: /s/ Zac Weatherford, Mayor
Attest: /s/ Trina Cole, City Clerk-Treasurer
Approved as to form: /s/ Quinn Plant, City Attorney

Published:
Dayton Chronicle,