

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

**IN THE MATTER OF AMENDING ISLAND
COUNTY CODE CHAPTER 9.08A, FIREWORKS**

ORDINANCE NO. C- -23

WHEREAS, in 1961, the State of Washington adopted the State Fireworks Law;

WHEREAS, in 1982, the Washington State Legislature adopted Substitute House Bill 1149, which significantly amended the 1961 State Fireworks Law;

WHEREAS, pursuant to RCW 70.77.250(4), the State Fireworks Law as amended provides that a county may adopt an ordinance imposing more restrictive regulations than the state fireworks laws, but such regulations that are more restrictive than the state fireworks laws shall have an effective date no sooner than one year after its adoption;

WHEREAS, the Board of County Commissioners ("Board") has determined it to be in the best interests of the citizens of Island County, pursuant to the Washington State Constitution Article XI, Section 11, RCW 36.32.120(7), and RCW 70.77.250(4), to limit the use and discharge of consumer fireworks in unincorporated Island County to only those times as shown on Exhibit "A" attached herein beginning July 3 and ending July 4 and also on New Year's Eve as allowed per state law;

WHEREAS, the Board has also determined it to be in the best interests of the citizens of Island County to prohibit the use of mortar fireworks;

NOW, THEREFORE,

IT IS HEREBY ORDAINED that the Board hereby adopts the amendment to chapter 9.08A of the Island County Code as shown on Exhibit "A." Material underlined is added and stricken material is removed.

ADOPTED this _____ day of _____, 2023. Pursuant to RCW 70.77.250(4), the provisions of this ordinance that regulate fireworks in a manner more restrictive than the state fireworks law shall take effect one year from the date of adoption.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**

Janet St. Clair, Chair

Jill Johnson, Member

Melanie Bacon, Member

ATTEST:

Jennifer Roll,
Clerk of the Board

APPROVED AS TO FORM:



Pete Smiley
Civil Deputy Prosecuting Attorney and
Island County Code Reviser

EXHIBIT A

Amendments to ICC 9.08A

Chapter 9.08A – Fireworks

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9.08A.010 - Fireworks regulations.

Fireworks in Island County are governed by the state fireworks law, chapter 70.77 RCW, and accompanying state regulations provided in chapter 212-17 WAC, as well as by this chapter. The more restrictive provisions apply in case of any conflict between state and local regulations.

In addition to fireworks prohibited by state law as identified above, mortar fireworks are prohibited in Island County except as permitted in section 9.08A.040.C.

9.08A.020 - Local fire official.

In unincorporated Island County, the local fire official, as that term is defined in RCW 70.77.177, is the Island County Sheriff or his or her designee and the local fire authority for purposes of this chapter is the Island County Sheriff's Office.

9.08A.030 - Definitions.

The definitions in chapter 70.77 RCW are incorporated herein. Also, the following definitions apply to this chapter:

Mortar fireworks means any shell designed for use with a container that includes a lift charge, a time fuse, a burst charge, and stars/effects, that in combination is designed to lift the shell out of the container, ignite the burst charge in the air, and cause the effects of noise and/or light. These are commonly referred to as mortar shells, festival balls, canisters, ball shells, reloadable shells, and onion balls.

Severe dry weather conditions means weather conditions that are so severe and dry that the Island County Fire Marshal may determine it appropriate to issue a Type II Burn Ban. The following criteria may be taken into consideration, but are not limited to: fuel moisture levels; predicted relative humidity; predicted temperature; predicted winds; drought scale; wildfire response level and impact of fire resources, as well as other criteria that may assist the Fire Marshal in making his or her determination.

9.08A.040 - Limitations on the use and discharge of fireworks.

- A. Except as provided for in subsection B. below, consumer fireworks may only be lawfully used or discharged within the unincorporated areas of Island County, except within Island County park areas as prohibited in [section 9.40.420](#), during the following periods of time:

July 3 - between 9:00 a.m. and 11:00 p.m.

July 4 - between 9:00 a.m. and 12 midnight

~~July 5 - between 9:00 a.m. and 11:00 p.m.~~

December 31 - between 6:00 p.m. through 1:00 a.m. on January 1.

It is unlawful to use or discharge fireworks in Island County at all other times, except as may be provided in subsections B. and C. below.

- B. If the Island County Fire Marshal has declared a Type II burn ban which includes a ban on the use and discharge of all fireworks in unincorporated Island County to be in effect during any of the time periods otherwise allowed in subsection A. above, then it shall be unlawful to use or discharge consumer fireworks during those times in unincorporated Island County while the Type II burn ban is in effect, unless the use and discharge of such fireworks are authorized by a permit issued by the local fire official pursuant to section 9.08A.040.D. as provided below.
- C. The restrictions on the use and discharge of fireworks above shall not apply:
1. To the use of flares or fuses by motor or sail vessels or other transportation agencies for signal or illumination purposes or for use in forest protection activities as allowed under RCW 70.77.530 or those uses described in RCW 70.77.311;
 2. To the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio or television productions, or live entertainment such as theater and opera productions when such use and display is a necessary part of the production as authorized by RCW 70.77.146 and such person possesses a valid permit issued by the local fire official and meets the requirements of this chapter and RCW 70.77.535;
 3. To the public display of fireworks authorized by permit issued by the local fire official;
or
 4. To the sale and use of toy paper caps containing not more than twenty-five hundredths grain of explosive compound for each cap and trick or novelty devices not classified as consumer fireworks.

D. To obtain a permit as referenced in section 9.08A.040.C.2. and 3., a permit application must include the following, in addition to any other requirement imposed in chapter 70.77 RCW, chapter 212-17 WAC, or as required to be provided on the face of the permit application required by the Island County Sheriff's Office:

1. Must include a site plan of the surrounding area from the discharge point of the fireworks;
2. Must include the name and license number of the licensed pyrotechnic operator;
3. Must include proof of insurance and/or bond as required by law; and
4. Must include a description of the firework display and what will be used in the display.

9.08A.050 - Fireworks may be prohibited during severe dry weather conditions.

During periods of severe dry weather conditions, the Island County Fire Marshal may declare and issue a temporary ban on the use and discharge of consumer fireworks in unincorporated Island County due to the heightened fire dangers. This decision will be made by the Island County Fire Marshal after consultation with the representatives of the fire districts in Island County, and departments of Island County, including the Board of Island County Commissioners. The Island County Fire Marshal can lift the ban at his or her discretion. The Island County Fire Marshal may issue such a temporary ban on the use and discharge of consumer fireworks in the unincorporated areas of Island County by issuing a Type II burn ban as authorized by [chapter 14.03B](#) of the Island County Code.

9.08A.060 - Seizure and forfeiture of fireworks.

The local fire official, or designee, or any law enforcement officer may seize any fireworks if such fireworks are being used or discharged, and fireworks which are part of the same group of fireworks being used or discharged, in violation of the provisions of chapter 70.77 RCW, or the more restrictive provisions of this chapter. If fireworks are seized and subsequently forfeited, then the disposal and sale of such fireworks must be done in accordance with RCW 70.77.440.

9.08A.070 - Enforcement.

The Island County Sheriff acting as the local fire official, or any law enforcement officer, is a law enforcement officer within the meaning of chapter 7.80 RCW and is authorized to enforce all provisions of this chapter and he/she 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 local fire official or his/her designee.

9.08A.080 - Violations and penalties.

Any person violating or failing to comply with any provisions of this chapter is guilty of a Class I infraction and subject to a fine of up to two hundred fifty dollars (\$250.00).

9.08A.090 - Severability.

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance codified in this chapter and the applicability thereof to other persons and circumstance shall not be affected thereby.