



## Legislation Text

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**File #:** 2010-0350, **Version:** 2

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Clerk 06/23/2010

AN ORDINANCE relating to limiting the sale and discharge of fireworks in the city of Kirkland's Finn Hill/Juanita/Kingsgate Potential Annexation Area; prescribing penalties; and declaring an emergency.

**SECTION 1. Findings:**

- A. Washington state law allows the sale and discharge of legal fireworks during specific periods. Washington state law allows a city or county to adopt regulations that are more restrictive than state law concerning the sale and discharge of fireworks, but does not allow those more restrictive regulations to go into effect until one year after they are enacted.
- B. Upon annexation, the city of Kirkland's development regulations will apply in the newly annexed area.
- C. The city of Kirkland has adopted regulations that are more restrictive than state law and generally bans the sale or discharge of fireworks within its city limits.
- D. King County has adopted regulations that are more restrictive than state law, but does allow the sale and discharge of fireworks for a more limited period of time than state law allows.
- E. The city of Kirkland has initiated the annexation of the Finn Hill/Juanita/Kingsgate Potential Annexation Area.
- F. The city of Kirkland has requested King County adopt a ban on the sale and discharge of all fireworks in the Finn Hill/Juanita/Kingsgate Potential Annexation Area in time for the ban to take effect by July 1, 2011.

G. To avoid any situation where fireworks are not banned in Kirkland's Potential Annexation Area by July 1, 2011, King County is adopting this legislation now.

H. In order for the ban to take effect before the July 4 holiday in 2011, King County must enact the ban before the July 4 holiday in 2010.

SECTION 2. The definitions of chapter 70.77 RCW, as now stated or hereafter amended, shall govern the construction of this ordinance, when applicable. RCW 70.77.120 through and including RCW 70.77.230, as now stated or hereinafter amended, is adopted by this reference. In addition, the following definitions apply to this ordinance:

A. "Dangerous fireworks" means any fireworks not defined as a "common fireworks" under RCW 70.77.136.

B. "Finn Hill/Juanita/Kingsgate Potential Annexation Area" means the area in Attachment A to this ordinance.

SECTION 3. It is unlawful for any person, firm or corporation to sell any fireworks within the Finn Hill/Juanita/Kingsgate Potential Annexation Area; provided, that this prohibition does not apply to duly authorized public displays.

SECTION 4. Except as authorized by state license and county permit granted pursuant to RCW 70.77.260(2) (public display) or 70.77.311(2) (use by group or individual for religious or other specific purpose on approved date and at an approved location), it is unlawful for any person, firm or corporation to engage in the retail sale of, or to sell, possess, use, transfer, discharge or explode any fireworks of any kind within the Finn Hill/Juanita/Kingsgate Potential Annexation Area.

SECTION 5. It is unlawful for any person, firm or corporation to hold, conduct or engage in a public display of fireworks within the Finn Hill/Juanita/Kingsgate Potential Annexation Area without first having obtained and being the holder of a valid permit issued pursuant to the provisions of this ordinance.

SECTION 6. A. Each public display permit issued pursuant to this ordinance shall be valid for the

specific authorized public display event only, 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 ordinance and shall void the permit granted in addition to all other sanctions provided in this ordinance.

B. No person under eighteen years of age may apply for or receive a permit under this ordinance.

C. An application for a permit shall be made in writing to the fire marshal who shall investigate the application pursuant to RCW 70.77.265 or 70.77.280 in the case of proposed public displays of fireworks. Permits for retail sales and public display of fireworks shall be granted within fifteen days of the application and the chief of the fire protection district in which the permitted activity is to take place shall be notified. After a permit is granted, transportation, storage, discharge, sale, possession, use and distribution of fireworks shall be lawful only for the purpose stated on the permit.

D. A permit shall not be denied unless the application fails to meet the conditions required under this ordinance.

E. In the event of drought or other fire hazard conditions that pose a threat to the public health, safety and welfare, the King County executive may, by executive order, declare an emergency and prohibit the sale or use of fireworks for that immediate year or until such conditions no longer exist.

SECTION 7. A. Any person desiring to give public displays of fireworks, shall make an application for a permit to operate the public display, in writing, to the King County fire marshal. Such application shall set forth:

1. The name of the organization sponsoring the display, together with the names of persons actually in charge of the firing of the display;
2. The date and time of day at which the display is to be held;
3. The exact location planned for the display;
4. The number and kind of fireworks to be discharged;
5. The manner and place of storage of such fireworks prior to the display;

6. A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication within two hundred feet of the point of discharge, the lines or other overhead obstructions.

B. The fee for the permit shall be the maximum authorized by the laws of the state of Washington. The permit required by this ordinance shall be in addition to the license required by the state Fire Marshal.

SECTION 8. All public fireworks displays shall conform to the following minimum standards and conditions:

A. All public fireworks displays must be planned, organized, and discharged by a state-licensed pyrotechnician.

B. The applicant for a public display of fireworks permit shall include with the application evidence of a bond issued by an authorized surety or a certificate of public liability insurance. Such bond or certificate shall conform to the requirements set forth in RCW 70.77.285 and 70.77.355.

C. All combustible debris and trash shall be removed by the applicant from the area of discharge for a distance of three hundred feet in all directions.

D. Applicant shall dispose of all unfired or "dud" fireworks in a safe manner.

E. Applicant shall provide the fireworks discharge site a minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket.

F. The permit may be immediately revoked at any time deemed necessary by the fire marshal or designee due to any noncompliance, weather conditions such as extremely low humidity or wind factor. The display may also be canceled by accidental ignition of combustible or flammable material in the vicinity due to fall debris from the display.

G. Areas of public access shall be determined by the fire chief or designee and maintained by the applicant in an approved manner.

SECTION 9. The discharge of any fireworks in King County parks in the Finn Hill/Juanita/Kingsgate

Potential Annexation Area is prohibited unless approved by the manager of the King County parks and recreation division and the fire marshal.

SECTION 10. This ordinance does not prohibit 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, theatricals or operas when such use and display is a necessary part of the production and such person possesses a valid permit issued by the county to purchase, possess, transport or use such fireworks.

SECTION 11. This ordinance does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities.

SECTION 12. This ordinance is intended to implement chapter 70.77 RCW, and shall be construed in connection with that law and any and all rules or regulations issued pursuant thereto.

SECTION 13. A. The fire marshal, or designee, is authorized to enforce all provisions of this ordinance and, in addition to criminal sanctions or civil remedies, he/she may revoke any permit issued pursuant to this ordinance upon any failure or refusal of the permittee to comply with the orders and directives of the fire marshal or designee, and/or to comply with any provisions of this code relating to temporary structures.

B. Any violation of this ordinance constitutes a misdemeanor and all violations are punishable as prescribed by law.

C. As an alternative to any criminal penalty provided herein or by law, any person who violates any provision of this ordinance shall be subject to a civil penalty in an amount not to exceed two hundred fifty dollars per violation to be directly assessed by the fire marshal. The fire marshal, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator; the gravity of the violation; the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties

assessed will be enforced pursuant to K.C.C. Title 23.

D. A person commits a separate offense for each day during which the person commits, continues or permits a violation of any provision of this ordinance.

SECTION 14. If any provision of this ordinance or its application to any person or circumstance is held to be invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

SECTION 15. The county council finds as a fact and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of public peace, health or safety or for the support of county government and its existing public institutions.

SECTION 16. This ordinance applies only within the Finn Hill/Juanita/Kingsgate Potential Annexation Area. This ordinance expires December 31, 2012.

Official paper, 10 days prior

Newspaper: Seattle Times

Publish: Wed. June 16, 2010

Public hearing: 6/28/10