

CHAPTER 3-6 FIREWORKS

3-6-1 Finding

(a) Major sources of economic activity on the Colville Reservation are forest products and grazing of livestock;

(b) The possibility of forest or range fires is potentially disastrous to the future of the forest and grazing lands of the Colville Reservation; and

(c) The detonation of fireworks of all kinds substantially increases the danger of fire on the Colville Reservation.

(Amended 6/3/10, Resolution 2010-385)
(Amended 5/16/02, Resolution 2002-314)

3-6-2 Use of Fireworks

Only consumer fireworks may be discharged within the Colville Reservation, and only in approved areas, as designated by the Colville Business Council. The Business Council shall designate areas on or before the first Friday in June of each year.

(Amended 6/3/10, Resolution 2010-385)
(Amended 6/3/04, Resolution 2004-377)

3-6-3 Permit Required

No person, within the Colville Reservation, without securing the required permits as hereinafter provided, shall do any of the following:

(a) Manufacture, import, export, possess, or sell any fireworks at wholesale or retail for any use, including agricultural purposes or wildlife control;

(b) Discharge fireworks at any place for which a permit is required under section 3-1-199;

(c) Make a public display of fireworks; or

(d) Transport fireworks, except as a public carrier.

(Amended 6/3/10, Resolution 2010-385)
(Amended 6/19/03, Resolution 2003-405)
(Amended 5/16/02, Resolution 2002-314)

3-6-4 Definitions

For the purposes of this Chapter the following definitions shall govern the construction of this Chapter, unless the context otherwise requires.

(a) "Consumer fireworks" means any small firework device designed to produce visible effect combustion and which must comply with the construction, chemical composition, and label regulations of the United States Consumer Product Safety Commission, as set forth in 16 CFR 1500 and 1507 and including some small devices designed to produce audible effects, such as whistling devices, ground devices containing 50 mg or less of explosive material. Consumer fireworks is also referred to as 1.4G or UN0336 by the United States Department of Transportation at 49 CFR § 172.101.

**Consumer Fireworks legislative history - Consumer Fireworks was formerly known as Common Fireworks and explosives Class C fireworks. This type of firework is now known as "Consumer Fireworks", United Nations Category UN0336, and new explosives class in the U.S. of 1.4G. The Business Council has further limited the types of fireworks for which permits may be issued by excluding Ground Spinners, Ground Flowers, Rolling Tanks and Cars, and any other type of fireworks which stay on the ground during its primary display.*

(Amended 6/3/04, Resolution 2004-377)

(b) "Fireworks" means blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, fire balloons (balloons of a type that have burning material of any kind attached thereto of which require fire underneath to propel them), firecracker, torpedoes, skyrockets, rockets, roman candles, day-go, or other fireworks of like construction; and any fireworks containing any combustible or

explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation; but

(c) "Fireworks" does not include toy pistol, toy canes, toy guns, or other similar devices in which paper caps containing not more than twenty-five hundredths grain of explosive compound per cap are used.

(d) "Fireworks" does not mean explosive or flammable compound, blasting caps and similar items used for industrial purposes, provided that otherwise applicable laws and Chapters are complied with.

(e) "Sales" means that only Consumer Fireworks may be sold at retail within the Colville Reservation.

(Amended 6/3/04, Resolution 2004-377)

(Amended 6/19/03, Resolution 2003-405)

(Amended 5/16/02, Resolution 2002-314)

3-6-5 Application for Permit

Any person required to obtain a permit under this Chapter shall first make written application for a permit to the Colville Tribes Planning Department.

(a) The TOSHA department shall charge a \$100.00 fee for a permit to manufacture, import, export, possess or sell any fireworks for any purpose, as well as safety inspection of the vendors stand prior to any sale of fireworks

(b) The Tribal Planning department shall charge a \$5.00 fee for a discharge permit for any private purpose.

(Amended 6/3/10, Resolution 2010-385)

(Amended 6/3/04, Resolution 2004-377)

(Amended 6/19/03, Resolution 2003-405)

(Amended 5/16/02, Resolution 2002-314)

(Amended 3/18/99, Resolution 1999-178)

3-6-6 Investigation and Report on Permit Application

It shall be the duty of the Planning Department to whom the application for a permit was made, under section 3-6-5(a), to make an investigation, to include consultation with Fire Management, and submit the report of findings and recommendations for or against the issuance of a permit, together with reasons therefore to the file record.

(Amended 6/3/10, Resolution 2010-385)

(Amended 5/16/02, Resolution 2002-314)

3-6-7 Tribal Planning Department May Deny or Grant Permit

The Tribal Planning Department shall have the power in his or her discretion to grant or deny the application, subject to such reasonable conditions, if any, as he or she shall prescribe. In the event that any permit be granted by the Tribal Planning Department, the permit shall be limited to one occasion and shall not be transferable.

(Amended 6/3/10, Resolution 2010-385)

(Amended 6/19/03, Resolution 2003-405)

(Amended 5/16/02, Resolution 2002-314)

3-6-8 Revocation of Permit

If it shall appear to the regulatory staff (Tribal Planning Department and/or TOSHA) that any person to whom a permit has been granted under this Chapter has not taken proper precautions to insure the safety of lives and property on the Colville Indian Reservation he shall, after giving the person reasonable opportunity to be heard, revoke any permit issued pursuant to this Chapter.

(Amended 6/3/10, Resolution 2010-385)

(Amended 5/16/02, Resolution 2002-314)

3-6-9 Seizure of Fireworks

Any fireworks which are illegally sold, offered for sale, used, discharged, stored, possessed or transported in violation with the provisions of this Chapter, section 3-1-199 or any rule or regulation of the Colville Indian Reservation and which, if sold or utilized in an unlawful manner pose a significant threat to the health and safety of the residents of the Reservation, shall be subject to immediate seizure and summary destruction. Those authorized to seize fireworks pursuant to this section shall include the Colville Tribal Police, and persons duly commissioned by the Colville Tribal Police to carry out this function, including

Fire Management personnel, members of other Colville law enforcement agencies, and fire and law enforcement officials from other state and local governments when commissioned by the Chief of Police to carry out this function under Colville law. Any fireworks seized under this Chapter anywhere on the Reservation may be disposed of by tribal police, Fire Management or by another authorized agency by summary destruction at any time subsequent to thirty days from such seizure or ten days from the final termination of proceedings under the provisions of this Chapter.

(Amended 6/19/03, Resolution 2003-405)
(Amended 5/16/02, Resolution 2002-314)

3-6-10 Seizure of Fireworks—Proceedings for Forfeiture—Disposal of Confiscated Fireworks

(a) In the event of a seizure pursuant to this Chapter, proceedings for forfeiture shall be deemed commenced by the seizure. The Chief of Police, or his designee, shall cause notice to be served within fifteen days following the seizure on the owner of the fireworks seized, and the person in charge thereof and any person having any known right or interest therein of the seizure and intended forfeiture of the seized property and the reasons for the forfeiture. The notice may be served by any method authorized by law or court rule including, but not limited to, service by registered or certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure.

(b) If no person notifies the Chief of Police, or his designee in writing of the person's claim of lawful ownership or right to lawful possession of seized fireworks within thirty days of the seizure, the seized fireworks shall be deemed forfeited.

(c) If any person notifies the Chief of Police or any regulatory staff (the Planning Department and or TOSHA) in writing of the person's claim of lawful ownership or possession of the fireworks within thirty days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The Chief of Police may designate an administrative law judge to hear such a matter, and to decide the appeal. All decisions made by the Chief of Police or any regulatory staff (the Tribal Planning Department and or TOSHA) shall be final, and unappealable.

(Amended 6/3/10, Resolution 2010-385)
(Amended 6/19/03, Resolution 2003-405)

3-6-11 Civil Infraction

(a) Violations of any provision of CTC § 3-6-1 et seq. shall constitute a civil infraction under Chapter 2-3-1 et seq.

(b) Penalties:

- (1) First violation \$250.00;
- (2) Second Violation \$500.00; and
- (3) Third and each subsequent violation \$1,000.00.

(c) In addition to the penalties listed under subsection (b), costs for fire suppression and resource damage (including timber and other property loss) will be assessed if caused by the violation.

(Amended 6/3/04, Resolution 2004-377)
(Amended 6/19/03, Resolution 2003-405)
(Amended 5/16/02, Resolution 2002-314)

3-6-12 Dates and Times for Selling Fireworks

Persons may sell fireworks during the following dates and times:

(a) Fourth of July: from noon the third Friday in June until midnight on July 4. Fireworks stands must be removed or sealed by noon on July 5. No fireworks shall be sold on July 5th during the removal and area clean up of the firework stand. The area in which the Firework Stand occupied will be cleared of all firework vending, stand materials, debris, etc. by the same date as the stand removal.

(b) New Years: from noon the third Friday in December until 9:00 p.m. on January 2. Stands must be removed by 5:00 p.m. the second Monday in January.

(c) Fireworks stands not removed by the times and dates specified will be subject to a \$250 per day civil penalty until such stands are removed.

(Amended 6/3/10, Resolution 2010-385)
 (Amended 6/13/06, Resolution 2006-264)
 (Amended 6/14/05, Resolution 2005-262)
 (Amended 6/3/04, Resolution 2004-377)
 (Amended 6/19/03, Resolution 2003-405)
 (Amended 5/16/02, Resolution 2002-314)

3-6-13 Application

This Chapter shall apply to all persons both natural and artificial, Indian and non-Indian, within the Colville Reservation. Only Colville tribal members may apply for and receive a permit under this Chapter. All retail fireworks stands authorized under this Chapter must be located on trust or Colville tribal member-owned fee land within the jurisdiction of the Confederated Tribes of the Colville Reservation. The permittee or a family member as defined in Chapter 10-1-1 et seq. of the Colville Tribal Code, or another Colville tribal member must be present in the retail fireworks stand at all times the stand is open for operation. Persons wishing to locate a retail fireworks stand on tribal trust land must seek separate permission from the Tribes for such use; a fireworks permit is not permission to use tribal land.

(Amended 6/3/10, Resolution 2010-385)
 (Amended 6/19/03, Resolution 2003-405)

3-6-14 Fireworks Stand Locations

(a) Activities or uses subject to this rule shall not be limited in location except where such activities or uses are prohibited, or controlled by local development regulation, traffic safety, or road construction standards.

(b) Temporary retail fireworks stands shall not be located more than one hundred fifty feet from a private way, fire department access road, public road, street or highway as measured by an approved route around the exterior of the stand. The minimum requirements for a private way shall be determined by the local authority having jurisdiction but shall not exceed the requirements of locally adopted street, road and access standards.

(c) Any two retail fireworks stands shall be at least one hundred feet apart or shall be separated by a road, street or highway not less than thirty feet in width.

(d) Retail fireworks stands shall be located as required by Table 1 in this section. The minimum required area surrounding the stand shall be marked or flagged (except that flagging and marking shall not block a sidewalk or pedestrian pathway). Flagging need not exceed twenty feet in any direction.

TABLE 1
 Retail Fireworks Stands—Minimum Clearances

	Buildings	Combustibles	Property Line	Parking	Motor Vehicle Traffic Public Road *	Motor Vehicle Traffic Private Road
Back of Stand	20'	20'	5'	0'	20'	5'
Side of Stand	20'	20'	5'	0'	20'	5'
Front of Stand	40'	40'	**20'**	0'	20'	20'

Note: Clearance distances are not cumulative

* Measured from the outer edge of the nearest traffic lane.

** If stand is equipped with 135 fusible links which will automatically close all sales doors in case of fire, or is equipped with a wire-mesh screen with openings of not more than one inch which covers not less than 90% of all sales openings.

e) Retail fireworks stands shall not be located closer than one hundred feet from any motor vehicle dispensing station, retail propane dispensing station, flammable liquid storage, or combustible liquid storage. Retail fireworks stands shall not be located closer than three hundred feet from any bulk storage of flammable or combustible liquid or gas, including bulk dispensing areas.

(f) Violations of this section will result in a stop work order until such time as the defect is corrected. Failure to abide by such an order will result in permit revocation and or seizure of all fireworks subject to the stop work order.

(Amended 6/19/03, Resolution 2003-405)

3-6-15 Area Around the Retail Fireworks Stand

(a) The minimum areas around the retail fireworks stand specified in section 3-6-14 shall be kept free of accumulation of dry grass, dry brush and combustible debris. No parking shall be permitted within this minimum area.

(b) No motor vehicle or trailer may be parked within twenty feet of a retail fireworks stand except when delivering, loading or unloading fireworks. This area shall be barricaded to prevent any vehicle access.

(c) Fireworks shall not be discharged within one hundred feet of a retail fireworks stand.

(d) Signs reading "NO FIREWORKS DISCHARGE WITHIN 100 FEET" in letters at least two inches high with a principal stroke of not less than one-half inch on contrasting background, shall be conspicuously posted on all four sides of the stand. All signs shall be of a professional nature and not hand drawn with markers or other.

(e) No smoking shall be allowed within the retail fireworks stand or within the minimum flagged off area. Signs reading "NO SMOKING WITHIN 20 FEET" in letters at least two inches high with principal stroke of not less than one-half inch on a contrasting background, shall be conspicuously posted on all four sides of the stand.

(f) Violation of this section shall result in an issuance of a work stoppage order and up to a \$50 dollar fine for each violation. Continued violation will result in seizure or forfeiture, or both of confiscated fireworks.

(Amended 6/3/10, Resolution 2010-385)
(Amended 6/19/03, Resolution 2003-405)

3-6-16 Operation of Retail Fireworks Stands

(a) A clear aisle or walkway not less than twenty-four inches wide shall be maintained inside the full length of the structure. Customers shall only be permitted inside a temporary retail fireworks stand that is greater than four hundred square feet and which meets minimum exit requirements of Chapter 6-3 Colville Tribal Building Code/International Building Code and Fire Code, as now or amended hereafter.

(b) Each temporary retail fireworks stand must have at least two exits, at least twenty-eight inches in width and located at opposite ends of the structure. Exits must remain unlocked and unobstructed during the hours of operation or when the stand is occupied.

(c) Sleeping inside a retail fireworks stand or an associated temporary fireworks storage facility is prohibited.

- (d) The location of the nearest permanently mounted telephone must be posted inside the retail fireworks stand and persons working in the stand shall be informed of that location.
- (e) The local emergency telephone number shall be conspicuously posted inside the retail fireworks stand.
- (f) Each retail fireworks stand shall be equipped with two approved, pressurized two and one-half gallon water-type fire extinguishers.
- (g) No open flames nor any type of open flame equipment shall be allowed in any retail fireworks stand.
- (h) Retail fireworks stands shall be secured when unoccupied and not open for business if fireworks are kept in the structure during these times. Retail fireworks stands shall never be locked when occupied. The fireworks may be removed and transferred to a temporary storage structure or a location approved as a part of the license and permit.
- (i) At least one adult person eighteen years of age or older shall be present at all times in every retail fireworks stand during the hours of sale to the public and shall be responsible for supervision of the retail fireworks stand and its operation. No person, other than customers, under the age of sixteen shall be allowed within a retail fireworks stand when it is open to the public. Fireworks, except for prepackaged assortments, boxes, or similarly packaged containers of more than one item, whether of the same or different kind, must be displayed in a manner which prevents the fireworks from being handled by the public or a customer without the direct intervention of the licensee or his or her representative who shall maintain visual contact.
- (j) Retail fireworks stands shall be required to be inspected by the TOSHA Office prior to opening for business. Other inspections may occur on other days as warranted, but shall not be an additional charge for any additional inspections.
- (k) In order to obtain a return clean-up bond, when required by the Chief of Police as a condition of permit, the cleanup of debris associated with the retail fireworks activity and the removal of all structures authorized by the license and permit shall occur on or before the last day of the storage period specified in this Chapter.
- (l) Fireworks retailers shall not knowingly sell fireworks to persons under the age of sixteen.
- (m) A sign reading "NO SALES OF FIREWORKS TO PERSONS UNDER THE AGE OF SIXTEEN YEARS. PHOTO ID REQUIRED" in letters at least two inches high with a principal stroke of not less than one-half inch on contrasting background, shall be conspicuously posted on the front of each retail fireworks stand.
- (n) Sellers shall require proof of age by means of display of a driver's license or photo identification card showing date of birth issued by a public or private school, state, federal or foreign government. No other forms of identification shall be accepted.
- (o) Violation of this Chapter shall result in an issuance of a work stoppage order. Continued violation will result in seizure or forfeiture, or both of confiscated fireworks.
- (p) Violation of this section shall result in an issuance of a work stoppage order and up to a \$50 dollar fine for each violation. Continued violation will result in seizure or forfeiture, or both of confiscated fireworks.
(Amended 6/3/10, Resolution 2010-385)
 (Amended 6/19/03, Resolution 2003-405)

3-6-17 Temporary Fireworks Storage Associated with the Retail Fireworks Stand Operation

(a) Temporary fireworks storage is not permanent fireworks storage. Temporary fireworks storage is defined as storage associated with retail fireworks sales and may only be utilized in accordance within the specified time pursuant to section 3-6-12. Permanent fireworks storage is associated with retail or wholesale fireworks activities when the period of time of storage is other than, or longer than that specified

for temporary storage. Temporary fireworks storage shall be in accordance with this section. Permanent fireworks storage is subject to Chapter 6-3 Colville Tribal Building Code/International Building Code/Fire Code and local ordinances.

(b) Delivery of fireworks to a location, or storage of fireworks in a facility, not authorized by the license or permit, or both is prohibited.

(c) A temporary fireworks storage facility or a temporary fireworks storage location shall be authorized as a part of a license and permit if it meets the requirements specified here in.

(d) No open flames nor any type of open flame equipment shall be allowed in any temporary fireworks storage structure.

(e) Storage of fireworks authorized by a retail license and permit is legal only during the periods specified in this section.

(f) Fireworks may be stored:

(1) In a locked or secured retail fireworks stand; or

(2) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from the retail fireworks stand during hours of retail sales; or

(3) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from an inhabited building as the term "inhabited building" is defined in the International Fire Code.

(4) In a magazine which meets the minimum standards of Type 4 as prescribed by the International Fire Code, and which is not less than ten feet from an inhabited building as the term "inhabited building" is defined as in the International Fire Code; or

(5) In a locked or secured metal or wooden garage, shed, barn or other accessory building, or anything similar which is not less than:

(A) 20 feet from an inhabited building for storage of fireworks for one or two retail stands; or

(B) 30 feet from an inhabited building for storage of fireworks for three or more stands as the term "inhabited building" is defined as in the International Fire Code.

(g) The TOSHA Officer may reduce the minimum separation requirements of this section provided that safety of life and property is not diminished.

(h) No cooking is permitted in a retail fireworks stand or in a temporary fireworks storage structure.

(i) Temporary fireworks storage structures may be inspected prior to use and other inspections may occur on other days as warranted. There shall be no additional charge for all such inspections.

(j) Violation of this section shall result in an issuance of a work stoppage order and up to a \$250 dollar fine for each violation. Continued violation will result in seizure or forfeiture, or both of confiscated fireworks.

(Amended 6/3/10, Resolution 2010-385)

(Amended 6/19/03, Resolution 2003-405)

3-6-18 Long Term Storage

(a) Long term Storage of fireworks shall be free from any condition which increases or may cause an increase of the hazard or menace of fire or explosion or which may obstruct, delay or hinder, or may become the cause of any obstruction, delay or hindrance, to the prevention or extinguishments of fire.

(b) All areas to be utilized for long term storage of fireworks must be permitted by the Colville Tribes Planning Department , and must be inspected by the TOSHA Officer and or Building Inspector prior to issuance of the permit.

(c) All fireworks storage areas must be clearly marked as such, and must bear such signage as designated by the Chief of Police, such that firefighters and other emergency responders have adequate knowledge of the materials stored in the facility.

(d) Violation of this section shall result in an issuance of a work stoppage order and up to a \$250 dollar fine for each violation. Continued violation will result in seizure or forfeiture, or both of confiscated fireworks.

(Amended 6/3/10, Resolution 2010-385)
(Amended 6/19/03, Resolution 2003-405)

3-6-19 Short Title

This Chapter shall be known and may be cited as the Colville Indian Fireworks Chapter.

3-6-20 Effective Date

This Chapter shall be effective upon its adoption by the Colville Tribal Council.

3-6-21 No Relinquishment of Jurisdiction

Nothing in this Chapter shall be construed as a waiver or relinquishment of the sovereign authority and jurisdiction of the Confederated Tribes of the Colville Reservation.

(Amended 6/19/03, Resolution 2003-405)
(Chapter 3-6 Amended 5/16/02, Resolution 2002-314)
(Enacted 7/1/74, Resolution 1974-433)

3-6-22 Unlawful Discharge or Display of Fireworks (3-1-199)

(a) No person shall discharge or display fireworks on or within the following areas:

- (1) Parks;
- (2) Forest Lands;
- (3) Range Lands;
- (4) Celebration Grounds;
- (5) Recreational Areas;
- (6) Any other lands not owned by the person discharging or displaying the fireworks unless designated by the Colville Business Council

(b) This section does not apply to the following:

- (1) Those areas specifically designated by the Colville Business Council for Controlled Firework Displays; or
- (2) When an individual has obtained a permit from the Colville Tribes Planning department.

(C) Unlawful discharge or display of fireworks is a Class C Offense.

(Amended 6/3/10, Resolution 2010-385)

3-6-23 Ignition Dates for Firework Discharge and or Display

Fireworks will only be discharged or displayed on dates specified by the Colville Business Council. If not specified then firework discharge or display will only be on the 4th of July from noon on July 4 until midnight to keep order in near communities.

(Amended 6/3/10, Resolution 2010-385)

3-6-24 Controlled Displays and Discharge or Display Areas

(a) Firework displays or discharge will only be allowed in areas designated by the Colville Business Council or on Private property owned by the individual discharging or displaying the fireworks.

To eliminate the fire danger and threat it is encouraged for the communities in each district to plan and hold controlled displays in each district during the 4th of July. A planned controlled display will also confine the waste left behind following firework discharge or display.

(Amended 6/3/10, Resolution 2010-385)