



< [15.34.050 - Violation.](#)

[Chapter 15.39 - DANGEROUS FIREWORKS](#) >

Chapter 15.38 - Fireworks^[3]

Footnotes:

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Editor's note— Ord. No. 22-938, adopted April 26, 2022, replaced Ch. 15.38 in its entirety to read as herein set out. Former Ch. 15.38 pertained to the same subject matter, and derived from Ord. No. 695, 1994; Ord. No. 751, 2000; and Ord. No. 18-893, adopted September 11, 2018.

15.38.010 - Permit fee.

The permit fee for the sale of fireworks within the city shall be set by resolution of the city council. No part of the fee shall be refunded upon revocation of a license.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.020 - Fireworks stand permit required to sell fireworks.

It is unlawful for any person to sell any "safe and sane" fireworks, as defined in Section 12529 and Section 12562 of the Health and Safety Code, without first having applied for and received a permit therefor.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.030 - Prerequisites to issuance of permit for a fireworks stand; eligibility requirements.

A fireworks stand permit shall only be issued to an "applicant" who meets all of the following qualifications:

1. At the time of application and during the proposed and actual operation of the fireworks stand, an applicant must be a nonprofit corporation recognized by the state of California and organized under Section 501(c)(3), (c)(4), or 501(c)(6) of the Internal Revenue Code, that has been organized and established for a minimum period of three consecutive years



pending the filing of the application for a permit, that has been organized primarily for veteran, patriotic, welfare, city betterment, religious or charitable purposes within the boundaries of the Fillmore Unified School District;

2. The applicant has submitted to the city evidence of its current nonprofit status from either the IRS, California Secretary of State, or the State Attorney General;
3. The applicant's principal and permanent meeting place is within the city;
4. A minimum of seventy-five percent of the applicant's membership must reside within or be employed within the city at the time of the filing of the application for a permit;
5. If the applicant operated a fireworks stand in the city the prior year, the applicant shall demonstrate that it has paid all required sales taxes;
6. If the applicant operated a fireworks stand in the city the prior year, the applicant submitted a copy of the cost of goods statement or settlement statement provided by the fireworks company to the city's administration department no later than August 31 of that year; and
7. The applicant has submitted the documentation required in Section [15.38.080](#) including evidence to the city that the applicant has spent and intends to spend seventy-five percent or more of the net proceeds from the sale of fireworks on activities within, or for the benefit of persons living within, the boundaries of the Fillmore Unified School District.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.035 - Revocation of a fireworks stand permit by city manager. :

1. If the city manager receives credible evidence that any person or organization issued a permit under this chapter that does not meet any of the qualifications described in this section, the city manager shall conduct a revocation hearing.
2. The holder of the permit shall be given written notice of the place, time and grounds for the revocation hearing not less than seventy-two hours in advance. The permit holder shall have the opportunity to testify and right to present evidence on its own behalf and to be represented by legal counsel at its own expense. The failure of the permit holder to appear at the hearing is deemed a failure to exhaust his or her administrative remedies.
3. The city manager may continue the hearing, request additional information, or revoke the permit effective immediately or effective at twelve midnight on July 4th. Any person or organization whose permit is revoked shall be ineligible for a fireworks permit for a period of three years, or ten years if the reason for revocation involves a determination that a member of the permit holder's organization embezzled funds or committed fraud in connection with the funds raised by the fireworks stand.

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Permit is revoked or other adverse action taken by the city manager, the permit holder may appeal the decision to the city council. The filing of an appeal shall stay the decision of the city manager, who shall schedule the matter to be heard by the city council in accordance with Section [15.38.038](#) of this chapter. Such appeal must be filed with the city clerk not more than ten calendar days after receipt of the city manager's decision and shall set forth the basis for the appeal and the appellant must pay the appeal fee. Failure to file a timely appeal or pay the appeal fee shall constitute a waiver and the city manager's decisions shall be final.

5. Nothing in this chapter shall be construed as requiring a hearing prior to revocation of a fireworks permit or other action under the city's police powers. In the case of a finding by the city manager that his or her order is necessary for the immediate protection of the health, welfare, or safety of the residents of Fillmore, filing of an appeal shall not stay the order of the city manager.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.038 - Revocation/appeal hearing by city council.

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1. The city council may hear an appeal of a decision by the city manager pursuant to Section [15.38.035](#) of this chapter, or it may conduct a hearing to determine whether any fireworks permit shall be revoked.
2. At least ten days prior to the hearing, notice of the time and place of the public hearing shall be given to the permit holder via personal delivery or via U.S. mail to the person listed as the responsible agent for the permit holder. Unless the hearing is an appeal, the hearing notice shall contain a general description of the grounds for the revocation.
3. The city council may revoke the permit effective immediately or effective at twelve midnight on July 4th, and revocation must be based upon a finding that one of the following is true:
 - A. The permit holder does not meet the qualifications described in this chapter;
 - B. The permit holder has violated any provision of this chapter or and law; or
4. Revocation is necessary to protect the health, safety and general welfare of the city.
5. The decision of the city council may be challenged by filing a petition for a writ of mandate pursuant to Code of Civil Procedure Section 1094.5 within ninety days after issuance of the decision.
6. Any person or organization whose permit is revoked shall be ineligible for a fireworks permit for a period of five years.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.040 - Application for fireworks stand permit.

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any year in which an applicant seeks to operate a fireworks stand, an application for a permit under this chapter shall be made to the city clerk on the city's form as follows:

- (1) Submitted in writing accompanied by a tender of the permit fee;
- (2) Submitted between the first Tuesday in May and before the last business day of May;
- (3) The application shall include:
 - (a) The name and address of the applicant and all of the officers of the applicant;
 - (b) A description, including the street address, of the proposed location of the fireworks stand for which the permit is requested;
 - (c) The designation of two independent (unrelated) individuals who will serve as the applicant's fiduciary agent to verify deposits for the fireworks stand;
 - (d) A statement of when the applicant was organized and established;
 - (e) A statement of the purpose for which the applicant is primarily existing and for which it was organized and proof from the State of California of nonprofit status; and
 - (f) The location of the applicant's principal and permanent meeting place.
- (4) The application shall be accompanied by:
 - (a) A certificate of insurance for a policy of commercial general liability insurance using insurance services office "commercial general liability" policy form CG 00 01, with an edition date prior to 2004, or the exact equivalent. Coverage for an additional insured shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits. Limits shall be no less than one million dollars per occurrence for all covered losses and no less than two million dollars general aggregate. The policy must be primary insurance and shall name the city, its officers, employees, and agents ("city parties") as additional insureds and shall waive all rights of subrogation and contribution it may have against the city and the city's parties and their respective insurers. Should the primary insured not satisfy the self-insured retention, the insurance policy must specify that any additional insured may satisfy the self-insured retention;
 - (b) Evidence of the applicant's status as a nonprofit corporation;
 - (c) A writing signed by the property owner stating that the fireworks stand will be allowed on this property and the business telephone number at which the property owner can be reached;
 - (d) A declarations shall be submitted by the applicant stating, under penalty of perjury, that:
 - i.



less than seventy five percent of any net revenue earned from the sale of fireworks shall be spent on activities within or for the benefit of persons living within the boundaries of the Fillmore Unified School District; and

- ii. The applicant, if issued a permit, will neither sell nor purvey, nor suffer or permit any person to sell or purvey, at the location of the permittees fireworks stand any "dangerous fireworks," as defined in Section 12505 of the Health and Safety Code.
 - (e) If the applicant had a fireworks stand permit the prior year, a copy of the applicant's bank statements from June and July of the prior year; and March of the current year
 - (f) A copy of the applicant's most recent bank statement; and
 - (g) A list of all nonprofit associations or corporations to which the applicant intends to distribute the net proceeds of its fireworks sales for that year.
- (5) If the applicant has previously operated a fireworks stand in the city, the applicant shall have paid all required sales taxes.
- (6) The city clerk shall notify each applicant whether the permit has been granted or denied no later than the first Thursday in June.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.045 - Issuance of a fireworks stand permit.

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1. Final approval of any applicant shall be subject to the following requirements:
 - A. Each applicant must submit to the designated city department, on or before the first Thursday in May, a plot plan approved by the owner of the property, showing the location of the temporary fireworks stand and all related structures;
 - B. The permittee shall procure the required insurance and shall file a certificate of such insurance with the city no later than the first Thursday in May; and
 - C. A sales tax permit or evidence of exemption shall be obtained from the board of equalization of the state and shall be submitted to city no later than the first Thursday in May.
2. The complete application and all site information shall be referred to the fire chief and police chief, who shall make an investigation of the site to ensure compliance with this chapter and shall submit a report with findings to the assistant city manager prior to the first Monday in June.
3. Any permit issued shall be valid only for the premises or location for which issued, shall not be transferable, assignable or renewable, and shall be valid only for the dates specified in the permit.

(Ord. No. 22-938, § 1, 4-26-2022)



15.38.050 - Operation of fireworks stand.

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- (a) No person other than the permittee shall operate the stand for which the permit is issued or share or otherwise participate in, the profits of the operation of such stand unless otherwise approved through the city's application review and permit issuance for multiple organizations to share a fireworks stand.
- (b) No person other than the individuals who are the members or volunteers on behalf of a permittee's association or corporation, described in Section [15.38.030](#) shall participate in the operation of a fireworks stand.
- (c) No person shall be paid or given any valuable consideration for participating in the operation of a fireworks stand by a permittee described in Section [15.38.030](#), except for a person compensated as nighttime security.
- (d) Fireworks may be sold only at the stand location stated in the permit.
- (e) No later than August 31 the permittee shall submit to the city's administration department a copy of permittee's settlement statement provided to the applicant by the fireworks company and the following post financial reports: June and July bank statements and a profit loss statement. The city will not remind permittees of this deadline.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.060 - General requirements for permittee.

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It is unlawful for any person to sell or otherwise distribute fireworks without complying with each of the following provisions:

- (1) Fireworks stands need not comply with the provisions of [Chapter 5.04](#) of this Code (Uniform Building Code), provided that: all stands are erected under the supervision of the fire chief (or his designee) who shall require that stands be constructed in a manner which will reasonably assure the safety of attendants and patrons and permittee strictly complies with all of the provisions of the State Fireworks Law (Health and Safety Code Sections 12500, et seq.), as may be amended from time to time. Provided further that if a temporary power pole is required an electrical permit shall first be obtained.
- (2) If in the judgment of the city's fire chief (or his/her designee) the construction or the location of a stand, or the conduct of operations therein do not conform with the provisions of this chapter, such officer shall deny the permit applicable to that stand and the stand shall not open for business. If a permittee has materially falsified any statement in the application or has failed to perform any agreement, assurance or representation made in connection with the application, the city's city manager (or his/her designee) shall



consider revoking the permittee's permit pursuant to Section [15.38.035](#) and may order the stand immediately closed and neither the permittee nor any successor to the permittee shall be permitted to receive a fireworks stand during the next three years.

- (3) The front of all stands shall be completely enclosed, from the counter to the roof, with hardware wire cloth, the openings of which do not exceed one-fourth inch in size; except for opening to permit delivery of merchandise to customers, which openings are not larger than twelve inches by eighteen inches in size.
- (4) No person shall be allowed in the interior of the stand except those directly participating in its operation.
- (5) No person under the age of eighteen years shall be allowed to sell fireworks or work in any way, including unloading firework supplies, or otherwise be in the stand or involved in its operation.
- (6) All merchandise shall be stored or displayed at a safe distance from the front and side walls of the stand, according to the direction of the fire chief.
- (7) No stand shall be constructed with a depth of more than twelve feet.
- (8) Each stand in excess of twenty feet in length must have at least two exits; and each stand in excess of thirty feet in length must have at least three exits spaced approximately equally along the length of the stand; provided, that in no case shall the distance between exits exceed twenty feet.
- (9) Exit doors must swing in the direction of egress.
- (10) Exits shall be arranged so that there will be egress available in at least two directions from any place within the stand, which exits shall be approximately diametrically opposed.
- (11) The stand must be equipped with at least one fire extinguisher rated minimum 2A 10BC and one five-gallon pail of water at each exit. The fire extinguisher must be approved as to efficiency, adequacy and safety by the city fire chief.
- (12) No stand may be located closer than one hundred feet from any other stand.
- (13) No stand shall be located closer than ten feet from any side or rear property line, or closer than one hundred feet to any building, or closer than thirty feet to any structure other than a building.
- (14) All weeds and combustible materials must be cleared from the location of the stand before a stand is constructed and to a distance of one hundred feet surrounding the stand.
- (15) No food, beverage or merchandise other than Safe and Sane fireworks may be sold in the fireworks stand and no sales of any kind are allowed outside of a stand.
- (16) No temporary fireworks stand may be erected prior to June eighteenth of any given year.



- (17) As limited by California Health and Safety Code Section 12599, the sale of fireworks shall not begin before twelve o'clock noon on the twenty-eighth of June and shall stop as of twelve o'clock noon on the fifth day of July.
- (18) All unsold stock and accompanying litter shall be removed from the stand location by twelve noon on the seventh day of July.
- (19) The stand shall be removed from its temporary location by twelve noon on the tenth day of July and all accompanying litter shall be cleared from the stand location at the time of such removal.
- (20) "No Smoking" signs shall be prominently displayed inside and outside of the structure.
- (21) Each temporary fireworks stand shall be responsible for their own daily dust abatement, in some locations, dust abatement may have to occur multiple times during the day.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.070 - Number of permits and permitted stands.

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No association may receive more than one permit for fireworks sales during any one calendar year or operate more than one fireworks stand under permit during any one calendar year.

No more than twenty permits will be issued by the city in any calendar year.

The city's administration department shall maintain a list of the applicants granted permits each year. A returning applicant will be given priority. All other applicants will be eligible for permits, up to a total of 20 permits citywide, via a lottery to be held to randomly determine which organization(s) shall receive a permit.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.080 - Financial statements documenting use of sales proceeds required.

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- A. Each applicant that had a fireworks stand the prior year must submit to the city clerk, no later than the last business day in May, a verified financial statement of its operations under its fireworks stand permit for the prior which includes a copy of its state sales and use tax return (or equivalent) and a report, signed by the organization's financial officer, showing to whom and for what purpose the net proceeds were distributed. The report must include:
 1. A profit and loss statement (P&L), income statement, or statement of operations;
 2. Back-up documentation for all donations such as copies of June and July bank statements;
 3. Receipts for each expense exceeding five hundred dollars incurred by the organization in connection with the fireworks stand; and
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Additional back-up documentation (such as cancelled checks, bank statements, financial reports, confirming receipts of donations) requested by the city relating to the prior year's sales and use of the sales proceeds when needed.

- B. Such statements shall be made on forms uploaded to the city's online fireworks stand application portal, furnished by the administration department, or photocopied directly from the organization's financial report. Applicants unable to upload the forms online must contact the city's administration department sufficiently in advance of all deadlines to make alternative arrangements.
- C. The filing of such verified financial statement shall be a condition precedent to the granting of any subsequent permit to any such permittee.
- D. In the event it is determined by a majority of the city council at a regular meeting of the city council that seventy-five percent of the net revenue to any applicant from the sale of fireworks is not spent in support of the required types of activities within the boundaries of the Fillmore Unified School District, then such applicant shall be barred from receiving a fireworks stand for a period of three years thereafter, provided that such applicant shall receive at least ten days prior written notice of the city council consideration of such action.
- E. Within seven months of the submission of the accounting of proceeds to the city pursuant to subsection a of this section, a majority of the city council, at a regular meeting of the city council, may request that any organization that submitted an accounting submit to an audit by city finance staff. When a request for an audit is made, the organization shall be required to provide city finance staff with complete access to the organization's financial records regarding the organization's use of all funds generated at the fireworks stand. The purpose of this audit is to allow city staff to verify that the organization used its sales proceeds in the manner required by Section [15.38.030](#). Should an organization fail to submit to an audit requested pursuant to this subsection or fail to provide all of the documentation necessary for city staff to complete the audit, the organization shall be barred from receiving a fireworks stand permit for a period of five years thereafter. Should an audit reveal that an organization has not used its sales proceeds in the manner required by Section [15.38.030](#) of this chapter or that the organization fails to meet the membership requirements set forth in Section [15.38.030](#), the organization shall be barred from receiving a fireworks stand permit for a period of five years thereafter.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.090 - Approval of location of firework stand required before final permit approval.

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rior to the installation of any stand for which a permit has been conditionally awarded, the city clerk must submit the proposed location of each stand to the city police chief and fire chief who have the authority to disapprove of the location and to refuse to finalize the permit if, in their sole determination, a traffic, fire, or other hazard will be created by the proposed location or if the stand will not comply with the requirements of Section [15.38.060](#).

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.100 - Discharge of fireworks.

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Discharge of "safe and sane" fireworks (as defined in Section 12529 and Section 12562 of the state of California Health and Safety Code) shall only be permitted in the City of Fillmore beginning at noon on the twenty-eighth day of June through noon on the 5th day of July on your private property and at least ten feet away from any dwelling or structure.

(Ord. No. 22-938, § 1, 4-26-2022)

15.38.110 - Strict liability for the illegal discharge of fireworks; administrative penalties.

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A property owner, tenant, or other person in control of property is strictly liable for any person who ignites, explodes, projects, or otherwise discharges fireworks from said property in violation of Sections [15.38.100](#) and/or [15.39.010](#).

In addition to any other remedies set forth in this code, administrative penalties may be imposed against any person for violating any of the requirements set forth in this section. The administrative penalty shall be one thousand dollars for each specific act found to be in violation of this section.

(Ord. No. 22-938, § 1, 4-26-2022)

< [15.34.050 - Violation.](#)

[Chapter 15.39 - DANGEROUS FIREWORKS](#) >