

ORDINANCE NO. 2020--011

AN ORDINANCE OF THE CITY OF ARLINGTON, WASHINGTON
AMENDING AND REPEALING CERTAIN SECTIONS OF THE ARLINGTON MUNICIPAL CODE
CHAPTER 15.16 PERTAINING TO FIREWORKS

WHEREAS, state law and the municipal code currently permit the possession and use of many consumer fireworks; and

WHEREAS, for many years the city and its elected officials have received numerous complaints regarding the discharge of both legal and illegal fireworks; and

WHEREAS, the complaints include complaints about excessive noise, fire hazards, cleanup and safety risks created by the discharge of fireworks; and

WHEREAS, on August 5, 2019, the City Council adopted Resolution 2019-015 requesting the Snohomish County Auditor to place the following proposition on the November 2019 ballot as an advisory measure:

Should the City Council of Arlington ban the possession, sale and discharge of all fireworks within the City of Arlington?

WHEREAS, on November 5, 2019, Proposition 1 appeared on the ballot and was approved by voters with 50.7% voting in favor of the measure; and

WHEREAS, the Council believes that prohibiting fireworks would enhance the health, safety, and welfare of the public; and

WHEREAS, chapter 70.77 RCW authorizes cities to adopt fireworks ordinances that are more restrictive than state law, but such ordinances may only become effective one year after their adoption;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF ARLINGTON, WASHINGTON AS FOLLOWS:

Section 1. Arlington Municipal Code section 15.16.010 shall be and hereby is amended to read as follows:

15.16.010 - Intent.

It is expressly the purpose of this ordinance to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should

be especially protected or benefited by the terms of this ordinance. It is the specific intent of this ordinance that no provision or term used in this ordinance is intended to impose any duty whatsoever upon the city or any of its officers or employees. Nothing contained in this ordinance is intended nor will be construed to create or form the basis of any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this ordinance by its officers, employees or agents.

Section 2. Arlington Municipal Code section 15.16.030 shall be and hereby is amended to read as follows:

15.16.030 - Definitions.

The definitions of chapter 70.77 RCW, as now enacted or subsequently amended, are adopted by reference and shall govern the construction of this chapter, when applicable.

Section 3. Arlington Municipal Code section 15.16.040 shall be and hereby is amended to read as follows:

15.16.040 - Possession, use and discharge of fireworks unlawful.

A. It is unlawful for any person to possess, use, sell, transfer, discharge, ignite, or explode any fireworks within the city; provided that this prohibition shall not apply to the following activities, when authorized by a state license and city permit:

1. Duly authorized public displays, as provided in chapter 70.77 RCW; and
2. Duly authorized use by religious organizations or private organizations or persons for religious or other specific purposes on an approved date and in an approved location, as provided in RCW 70.77.311, and authorized by the Arlington fire marshal.

B. Trick and novelty devices, as defined by state law, are not fireworks for the purposes of this chapter.

C. This chapter does not prohibit the use of torpedoes, flares, or fuses by motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities.

Section 4. Arlington Municipal Code section 15.16.050 shall be and hereby is amended to read as follows:

15.16.050 - Public displays, when permitted.

It is unlawful for any person to hold, conduct or engage in a public display of fireworks within the city without first having obtained and being the holder of a valid permit issued pursuant to the provisions of this chapter.

Section 5. Arlington Municipal Code section 15.16.060 shall be and hereby is amended to read as follows:

15.16.060 - Public display permit—applications, permits.

A person desiring to make a public display of fireworks shall apply in writing for a permit to hold, conduct or operate a public display of fireworks to the Arlington fire marshal at least sixty (60) days prior to the scheduled event. Applicants shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display. Applicants shall pay permit fees as required by the city fee resolution.

The application must include:

- (1) a copy of the applicant's Washington state pyrotechnic operator license (or the pyrotechnic operator license of the applicant's employee who will conduct the public display);
- (2) evidence of a bond issued by an authorized surety or a certificate of public liability insurance;
- (3) a drawing showing a plan view of the fireworks discharge site and the surrounding area within a 500-foot radius;
- (4) the exact location, date and time of the proposed display; and
- (5) the number, type and class of fireworks to be displayed, the manner in which the fireworks are being stored prior to the public fireworks display.

The fire marshal shall investigate whether the character and location of the display as proposed would be hazardous to property or dangerous to any person.

The fire marshal may grant a permit, deny the same, or impose other requirements on the applicant as needed to protect the public safety.

Section 6. Arlington Municipal Code section 15.16.070 shall be and hereby is amended to read as follows:

15.16.070 - Public display permits--transfer .

Each public display permit issued pursuant to this chapter 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 chapter and shall void the permit granted in

addition to all other sanctions provided in this code.

Section 7. Arlington Municipal Code section 15.16.080 shall be and hereby is amended to read as follows:

15.16.080 - Violation penalties.

A. Any person possessing, using, discharging, igniting, or exploding any consumer firework in violation of this chapter has committed a civil infraction.

1. For a period of 365 days after the effective date of this ordinance, a violation of this subsection shall be a class 3 civil infraction.

2. For the period beginning on the 366th day after the effective date of this ordinance until the 730th day after the effective date of this ordinance, a violation of this subsection shall be a class 2 civil infraction.

3. Beginning on the 731st day after the effective date of this ordinance, a violation of this subsection shall be a class 1 civil infraction.

4. The penalties and assessments for each class of infraction shall be as set by state law. Base penalties shall be as set forth in RCW 7.80.120 as now enacted or subsequently amended. Public Safety and Education Assessments shall be as set forth in RCW 3.62.090 as now enacted or subsequently amended. The base penalty amounts and Public Safety and Education Assessments at the time of the adoption of this ordinance are shown in the table below. The table is for illustrative purposes only and the amount of the base fine and the Public Safety and Education Assessments shall be as provided by state law.

Class	Base penalty per RCW 7.80.120	Public Safety and Education Assessment per RCW 3.62.090(1)	Public Safety and Education Assessment per RCW 3.62.090(2)	Total Fine
Class 1	250	175	88	513
Class 2	125	88	44	257
Class 3	50	35	18	103

B. Any person selling or transferring any consumer firework in violation of this chapter is guilty of a misdemeanor.

C. Any person possessing, using, selling, transferring, discharging, igniting, or

exploding any display firework in violation of this chapter is guilty of a gross misdemeanor.

D. Any person possessing, using, selling, transferring, discharging, igniting, or exploding any dangerous firework, as defined by state law, is guilty of a gross misdemeanor.

E. Any fireworks that are possessed or used in violation of this chapter may be confiscated.

Section 8. Arlington Municipal Code sections 15.16.090 through 15.16.150 shall be and hereby are repealed.

Section 9. Severability. If any provision, section, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 10. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force one year after publication pursuant to RCW 70.77.250(4).

PASSED BY the City Council and APPROVED by the Mayor this 18th day of May, 2020.

CITY OF ARLINGTON

Barbara Tolbert, Mayor

Attest:

Wendy Van Der Meersche
City Clerk

Approved as to form:

Steven J. Peiffle
City Attorney