

**Project title:** Amendment to Ordinance Governing Fireworks Infraction Enforcement

**Council Bill #**

CB 2207-27

**Agenda dates requested:**

July 13, 20, 27, 2022

Briefing

Proposed action 7/13, 7/20

Consent

Action 7/27

Ordinance X

Public hearing

Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

Yes X No

**Attachments:**

Proposed Ordinance

**Department(s) involved:**

Legal, Fire

**Contact person:**

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**Initialed by:**

DH

Department head

Administration

Council President

**Project:** Fireworks Infraction Enforcement

**Partner/Supplier:** NA

**Location:** Citywide

**Preceding action:** NA

**Fund:** NA

**Fiscal summary statement:**

NA

**Project summary statement:**

Amend EMC 16.60.090 and EMC 16.60.140 to grant limited authority to the Fire Marshal and Fire Marshal Designees to issue citations for unlawful discharge and possession of fireworks within the city limits of Everett.

**Recommendation (exact action requested of Council):**

Adopt the Proposed Ordinance amending EMC 16.60.090 and EMC 16.60.140 granting limited authority to the Fire Marshal and Fire Marshal Designees.

**ORDINANCE NO.** \_\_\_\_\_

**An ORDINANCE relating to Fireworks Enforcement, AMENDING EMC 16.60.090**

**WHEREAS,**

- A. The City's fireworks code, Chapter 16.60 EMC, provides in EMC 16.60.090 that no person may discharge fireworks at any place within the city limits of Everett except as authorized by the fireworks code.
- B. The City's fireworks code, Chapter 16.60 EMC, provides in EMC 16.60.140 that it is unlawful to possess any class or kind of fireworks within the city limits of Everett except as authorized by the fireworks code.
- C. It is in the public interest to grant limited authority for the Fire Marshal and the Fire Marshal's designees to enforce EMC 16.60.090 and EMC 16.60.140. Under the current code, this enforcement is limited to commissioned officers. The purpose of this ordinance is to amend EMC 16.60.090 and EMC 16.60.140 to grant limited authority to the Fire Marshal and the Fire Marshal's designees to issue citations for violation of EMC 16.60.090 and EMC 16.60.140.

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** EMC 16.60.090 is amended as follows:

A. No person may discharge fireworks at any place within the city limits of Everett except as authorized by this chapter; provided, that consumer fireworks and such audible ground devices as firecrackers, salutes and chasers may be purchased and/or used by religious organizations or private organizations or persons if purchased from a licensed manufacturer, importer, or wholesaler for use on prescribed dates and locations, for religious or specific purposes, upon obtaining a permit therefor from the city fire marshal or his designee pursuant to Section 16.60.030(B). A violation of this section shall be punished as follows:

B. Except as otherwise provided in Chapter 16.03 EMC or RCW 70.77.488, violation of this section is a nontraffic infraction, punishable by a fine of two hundred fifty dollars. All public safety and education assessments (PSEA) required by state law shall be added to the base penalty described herein. Remission of PSEA money shall be as set forth in state law and cannot be suspended or waived. Municipal court judges and judges pro tem shall have discretion to assess additional penalties for failure to pay or respond to notices of infraction issued under this section as otherwise allowed by law.

C. The city's fire marshal and the fire marshal's designees shall be empowered to exercise the authority of peace officers to the extent necessary to enforce this section, which power shall include issuance of citations. The fire marshal and the persons so designated by the fire marshal to enforce this section shall bear identification reflecting the authority under which they act, which identification shall be shown to any person requesting the same.

**Section 2.** EMC 16.60.140 is amended as follows:

A. Unless otherwise allowed under the provisions of this chapter, it is unlawful to possess any class or kind of fireworks within the city limits of Everett. A violation of this section shall be punished as follows:

B. Except as otherwise provided in Chapter 16.03 EMC or RCW 70.77.485, violation of this section is a nontraffic infraction, punishable by a fine of two hundred fifty dollars. All public safety and education assessments (PSEA) required by state law shall be added to the base penalty described herein. Remission of PSEA money shall be as set forth in state law and cannot be suspended or waived. Municipal court judges and judges pro tem shall have discretion to assess additional penalties for failure to pay or respond to notices of infraction issued under this section as otherwise allowed by law.

C. The city's fire marshal and the fire marshal's designees shall be empowered to exercise the authority of peace officers to the extent necessary to enforce this section, which power shall include issuance of citations. The fire marshal and the persons so designated by the fire marshal to enforce this section shall bear identification reflecting the authority under which they act, which identification shall be shown to any person requesting the same.

**Section 3.** The following is provided for reference and may not be complete:

EMC Amended by this Ordinance	Ordinance History of EMC Amended by this Ordinance
EMC 16.60.090	(Ord. 3796-21 § 4, 2021; Ord. 3076-08 § 9, 2008; Ord. 2624-02 § 4, 2002; Ord. 2179-96 § 3, 1996; Ord. 1146-85 § 1, 1985; Ord. 1041-84 § 3, 1984.)
EMC 16.60.140	(Ord. 3796-21 § 5, 2021; Ord. 3076-08 § 12, 2008; Ord. 2179-96 § 4, 1996; Ord. 1041-84 § 13, 1984.)

**Section 4.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

**Section 5.** The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

**Section 6.** The enactment of this Ordinance shall not affect any case, proceeding, appeal, or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 7.** 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 any 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 shall 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.

\_\_\_\_\_  
Cassie Franklin, Mayor

ATTEST:

\_\_\_\_\_  
Marista Jorve, City Clerk

PASSED: \_\_\_\_\_

VALID: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_