

ORDINANCE 289

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFIELD,
WASHINGTON, ESTABLISHING A POLICY FOR THE USE OF FIREWORKS

WHEREAS, The Town of Fairfield for statutory provisions regarding fireworks, adopts RCW ch. 70.77, State Fireworks Law, by reference, including any amendments to the same which may hereafter be enacted by the State of Washington.

THE TOWN COUNCIL OF THE TOWN OF FAIRFIELD DOES ORDAIN as follows:

Dangerous fireworks prohibited – Definitions.

- A. Definitions. All fireworks are prohibited except those certain “common fireworks” (safe and sane”) defined in this section.
1. The term “fireworks” means any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks.
 2. The term “common fireworks” means any fireworks designed primarily to produce visual or audible effects by combustion, and includes:
 - a. Ground and hand-held sparkling devices, including items commonly known as dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches and flutter sparklers;
 - b. Smoke devices.
 3. The term “special fireworks” means any fireworks designed primarily for exhibition display by producing visible or audible effects, and includes:
 - a. Fireworks commonly known as bottle-rockets, skyrockets, missile-type rockets, firecrackers, whistling petes, salutes, chasers, ground spinners, wheels; and
 - b. Fireworks not classified as common fireworks.
- B. Special fireworks may be publicly displayed only by a person who is duly licensed as required by Chapter 70.77, the State Fireworks Law.
- C. All fireworks are prohibited except common fireworks, and special fireworks for which a state permit has been issued pursuant to RCW ch. 70.77.

Enforcing official designated – Obedience required

The fire chief or his duly authorized representative is hereby designated as the enforcing officer.

Seizure and forfeiture-When

Any fireworks in the possession of one who is discharging fireworks before July 1st or after July 5th of any year or at any time on any day of the year, and any fireworks prohibited by law, shall be subject to seizure and forfeiture and no property rights will exist in them.

Seizure without process-Permitted when.

Seizure of fireworks without process may be made if the seizure is incident to discharge of fireworks in a manner or at a time not permitted by this chapter, in the presence of or witnessed by a law enforcement officer; or law enforcement officer has probable cause to suspect that the seized fireworks were used or intended to be used in violation of this chapter.

Proceedings for forfeiture-Notice of seizure.

In the event of a seizure of fireworks, proceedings for forfeiture will be deemed commenced by the seizure. The law enforcement officer who seized the fireworks shall notify the owner of the seized fireworks, the person in charge thereof, and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized fireworks. The notice of seizure shall be served by any method authorized by law, including, but not limited to, service by mail. Service by mail shall be deemed complete upon mailing within five days following the seizure/

Declaration of forfeiture.

If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possess the seized fireworks within ten days of the seizure, the items seized shall be deemed forfeited.

Claim of ownership – Hearing-burden of proof.

If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized fireworks within ten days of the seizure, the person shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the law enforcement officer or his designee. A hearing and any appeal therefrom shall be under RCW Title 34. The claimant shall have the burden of proving his claim of ownership or right to possession and that the fireworks seized were not used or intended to be used in violation of this chapter. Upon such proof, the seized items shall be promptly returned to claimant.

Disposal of forfeited fireworks.

When fireworks are forfeited, the seizing law enforcement agency may:

- A. Sell the items and use the proceeds for the payment of all proper expenses of the investigation leading to the procedure and of the proceeding for forfeiture and sale, including court costs and distribute any money remaining to the special account of the town; or
- B. Destroy them.

Fire department personnel authorized to seize fireworks.

For purposes of this chapter, the term "law enforcement officer" shall be deemed to include the fire chief and all regular firefighters of the Town of Fairfield's fire department, and the term "law enforcement agency" shall be deemed to include Fairfield fire department.

Passed by the Town Council of the Town of Fairfield on this 15th day of June 1999.

Melford "Bud" Robinson

Attest:

Approved as to Form:

Sue Adams, Clerk Treasurer

Brian Ragen, Town Attorney