

NORTHGLENN POLICE DEPARTMENT MEMORANDUM
#13-2019

DATE: October 14, 2019

TO: Honorable Mayor Antonio B. Esquibel and City Council Members

THROUGH: Heather Geyer, City Manager *Hmg*

FROM: James S. May, Jr., Chief of Police *JSM/217*
Mike Prange, Patrol Commander

SUBJECT: CB-1938 – Fireworks Ordinance

PURPOSE

To consider an amendment to Chapter 9 of the Northglenn Municipal Code concerning fireworks enforcement to provide the Northglenn Police Department with a localized and targeted option to effectively enforce violations for the sale, possession, and use of fireworks within the City of Northglenn.

BACKGROUND

Northglenn's current enforcement efforts are governed by the International Fire Code which prohibits all use of fireworks. State statute allows limited use but is typically restricted to fountains, ground spinners, and sparklers.

Establishing probable cause to charge violators under the International Fire Code is often problematic. The most seamless way to charge a violator is for an officer to witness the violation, however, this seldom occurs when an officer is present. Other more challenging ways to charge violators are to endorse a witness of the violation or obtain a statement (confession) from the suspect who used the fireworks.

In 2019, the Police Department received and responded to hundreds of service calls of firework complaints. The majority of these calls were received during June and July. Although officers did witness some violations, it was limited. Of the calls received, most of the reporting parties (residents) did not want contact with officers. Many of our reporting parties did not wish to be endorsed as witnesses against their neighbors.

Although the International Fire Code charging options are available and have been used by the Department in the past, they have also proven not to be the most effective way to control the use of illegal fireworks in the City.

At a study session on September 30, 2019, a draft ordinance was presented to Council, which provides for more applicable and targeted enforcement as a local means to control illegal fireworks. The proposed ordinance addresses possession, intent to sell, and the use of illegal fireworks within the City. Additionally, the ordinance makes the homeowner responsible for any illegal fireworks used from their property. Lastly, the ordinance includes mandatory minimum penalties. Any person who pleads guilty or is found guilty shall be subject to the following penalties:

1. A mandatory minimum fine of \$1,000 for a first violation;
2. A mandatory minimum fine of \$1,500 for a second violation within a two-year period;
and
3. A mandatory minimum fine of \$2,000 for a third violation within a two-year period.

The level of probable cause to charge violators is less challenging as the ordinance allows officers to cite homeowners and individuals in possession of fireworks.

STAFF RECOMMENDATION

Staff recommends approval of CB-1938 on first reading. If CB-1938 is approved on first reading, a public hearing and second reading of the proposed ordinance will be scheduled for October 28, 2019.

BUDGET/TIME IMPLICATIONS

The City's Director of Communications, Diana Wilson, will prepare a communications plan/strategy for the new ordinance, once adopted, and a plan to outline steps the City will take throughout the year and over the 4th of July holiday.

STAFF REFERENCE

If Council Members have any comments or questions, they may contact Chief James S. May, Jr., at 303.450.8967, jmay@northglenn.org, or Commander Mike Prange at 303.450.8964, mprange@northglenn.org.

SPONSORED BY: MAYOR ESQUIBEL

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1938
Series of 2019

Series of 2019

A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE 7 OF CHAPTER 9 TO THE NORTHGLENN MUNICIPAL CODE REGARDING FIREWORKS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The Northglenn Municipal Code is amended by the addition thereto of a new Article 7 of Chapter 9 to read as follows:

Section 9-7-1. Definitions.

As used in this Article, the following terms shall have the meanings indicated herein:

"Authorized Officer" shall mean and include any police officer and any code enforcement officer of the City.

"Fireworks" means any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, Roman candles, dayglo bombs, and torches, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

"Fireworks" does not include:

- (1) Toy caps which do not contain more than twenty-five hundredths (0.25) of a grain of explosive compound per cap;
- (2) Sparklers, trick matches, cigarette loads, trick noisemakers, toy smoke devices, and novelty auto alarms;
- (3) Highway flares, railway fuses, ship distress signals, smoke candles, and other emergency signal devices.

"Government-sponsored or co-sponsored" shall mean the City of Northglenn, the State of Colorado, or any political subdivision of the state or the federal government or an agency thereof.

Section 9-7-2. Sale and use prohibited.

(a) Except as specifically provided in this Article, it is unlawful for any person to offer for sale, expose for sale or sell any fireworks, fountains, or cones; or to have fireworks, fountains, or cones in their possession with the intent to offer said items for sale.

(b) Except as specifically provided in this Article, it is unlawful for any person to possess, store, handle, use or explode any fireworks.

(c) The provisions of this Section 9-7-2 may be enforced by any Authorized Officer.

Section 9-7-3. Fireworks displays.

Fireworks displays are allowed in the City only for government sponsored or co-sponsored events. Permitting of any such fireworks display shall be done in accordance with the version of the International Fire Code then in effect.

Section 9-7-4. Seizure of fireworks.

Any Authorized Officer of the City shall be authorized to seize, take and remove at the expense of the violator, all stocks of fireworks or combustibles offered or exposed for sale, or otherwise possessed, held or stored in violation of this Article.

Section 9-7-5. Penalty.

(a) It shall be unlawful for any person to violate any provision of this Article. A violation of this Article shall be a criminal offense, punishable by imprisonment, or fine or both as provided in Section 1-1-10 of the Northglenn Municipal Code.

(b) Any violation of this Article shall also be deemed a public nuisance within the meaning of Section 9-11-3 of the Northglenn Municipal Code. In addition to an individual who is observed to be violating the provisions of this Article, any person who owns or possesses the property upon which fireworks are sold or used in violation of Section 9-7-2 of this Article shall be deemed to be the author of the public nuisance, and shall be subject to the penalties set forth herein.

(c) **Mandatory Minimum Penalty.** Any person who pleads guilty or is found guilty shall be subject to the following mandatory minimum penalties:

- (1) A mandatory minimum fine of \$1,000 for a first violation;
- (2) A mandatory minimum fine of \$1,500 for a second violation within a two-year period; and
- (3) A mandatory minimum fine of \$2,000 for a third violation within a two-year period.

(d) All remedies set forth herein are cumulative, and the exercise of any one shall not be deemed to prevent the exercise of another, nor to bar, nor abate, any prosecution or petition for injunction hereunder.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____,
2019.

ANTONIO B. ESQUIBEL
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2019.

ANTONIO B. ESQUIBEL
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney