

**CITY OF DEARBORN HEIGHTS
ORDINANCE NO. H-19-03**

AN ORDINANCE OF THE CITY OF DEARBORN HEIGHTS, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF DEARBORN HEIGHTS, BE AMENDED BY AMENDING SECTION 20-303, SECTION 20-304, SECTION 20-305, AND SECTION 20-306, ALL OF WHICH CONCERN FIREWORKS.

THE CITY OF DEARBORN HEIGHTS ORDAINS THAT THE CODE OF ORDINANCES OF THE CITY OF DEARBORN HEIGHTS, MICHIGAN, IS HEREBY AMENDED SUCH THAT SECTION 20-303, SECTION 20-304, SECTION 20-305, AND SECTION 20-306 ARE AMENDED TO READ AS FOLLOWS:

SECTION I.

Sec. 20-303. Definitions.

The following words, terms and phrases, when used in Section 20-303, Section 20-304, Section 20-305, Section 20-306, Section 20-307, and/or Section 20-308, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Agricultural and wildlife fireworks" means fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of the Interior or the department of natural resources of this state.
- (b) "APA Standard 87-1" means the "APA Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics", 2001 edition, published by the American Pyrotechnics Association of Bethesda, Maryland.
- (c) "Articles pyrotechnic" means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.
- (d) "Citation" means that term as described in section 17a of the Act.
- (e) "Commercial manufacturer" means a person engaged in the manufacture of consumer fireworks.
- (f) "Consumer fireworks" means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.
- (g) "Consumer fireworks certificate" means a certificate issued under section 4.
- (h) "Department" means the department of licensing and regulatory affairs.
- (i) "Display fireworks" means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA Standard 87-1, 4.1.

- (j) "Firework" or "fireworks" means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, homemade fireworks, and special effects.
- (k) "Fireworks safety fund" means the fireworks safety fund created in section 11.
- (l) "Homemade fireworks" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507.
- (m) "Local unit of government" means a city, village, or township.
- (n) "Low-impact fireworks" means ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.
- (o) "Minor" means an individual who is less than 18 years of age.
- (p) "NFPA" means the National Fire Protection Association headquartered at 1 Batterymarch Park, Quincy, Massachusetts.
- (q) "NFPA 1" means the "Uniform Fire Code", 2006 edition, developed by NFPA.
- (r) "NFPA 72" means the "National Fire Alarm Code", 2002 edition, developed by NFPA.
- (s) "NFPA 101" means the "Life Safety Code", 2009 edition, developed by NFPA.
- (t) "NFPA 1123" means the "Code for Fireworks Display", 2010 edition, developed by NFPA.
- (u) "NFPA 1124" means the "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles", 2006 edition, developed by NFPA.
- (v) "NFPA 1126" means the "Standard for the Use of Pyrotechnics Before a Proximate Audience", 2011 edition, developed by NFPA.
- (w) "Novelties" means that term as defined under APA Standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:
- (1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
 - (2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
 - (3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
 - (4) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box, and toy smoke devices.
- (x) "Permanent building or structure" is a building or structure that is affixed to a foundation on a site that has fixed utility connections and that is intended to remain on the site for more than 180 consecutive calendar days.
- (y) "Person" means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.
- (z) "Retailer" means a person that sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.
- (aa) "Retail location" means a facility listed under NFPA 1124, 7.1.2.

(bb) "Rule" means a rule, as that term is defined in section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207, promulgated by the department.

(cc) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(dd) "Serious violation" means a violation of this act, an order issued under this act, or a rule promulgated or adopted by reference under this act for which a substantial probability exists that death or serious impairment of a body function to an individual other than the violator may result unless the violator did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.

(ee) "Special effects" means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

(ff) "State fire marshal" means the state fire marshal appointed under section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b.

(gg) "The Act" of "the Act" means the Michigan Fireworks Safety Act, Public Act 256 of 2011, as amended.

(hh) "Warehouse" means a permanent building or structure used primarily for the storage of consumer fireworks or low-impact fireworks.

(ii) "Wholesaler" means a person that sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person that sells only display fireworks or special effects.

Sec. 20-304. Relationship between the Act and Section 20-305.

(a) Purpose. This Section 20-304 is intended to ensure that the City's regulation of fireworks is consistent with the Act.

(b) Consistency with the Act. Nothing contained in Sections 20-303 through 20-308 is intended to authorize any action prohibited by the Act. Further, nothing contained in Sections 20-303 through 20-308 is intended to prohibit any action expressly authorized by the Act.

(c) Applicability of Section 20-305. The general prohibition of the ignition, discharge, or use of any firework or fireworks as set forth at Section 20-305 shall be in force throughout the year except as follows. It shall not regulate the ignition, discharge, or use of consumer fireworks on the following days after 11 a.m.:

(1) December 31 until 1 a.m. on January 1.

(2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.

(3) June 29 to July 4 until 11:45 p.m. on each of those days.

(4) July 5, if that date is a Friday or Saturday, until 11:45 p.m.

(5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(d) Applicability of Section 20-306. Except as may otherwise be required by the Act, the miscellaneous regulations pertaining to the ignition, discharge, and use of any firework or fireworks set forth at Section 20-306 shall be in force generally throughout the year.

Sec. 20-305. General prohibition of the use, discharge, or ignition of all fireworks except for novelties.

(a) Generally. A person shall not ignite, discharge, or use any firework or fireworks within the City. Further, a person outside of the City shall not discharge any firework or fireworks such that the firework or fireworks, the embers of the firework or fireworks, or the debris from any firework or fireworks comes or come to rest within the City.

(b) Exceptions. The prohibitions set forth at subsection (a) of this Section 20-305 shall not apply to novelties or to the use, discharge, or ignition of any firework or fireworks that is expressly authorized by the Act.

(c) Penalty. Any person who violates any portion of subsection (a) of this Section 20-305 shall be responsible for a civil infraction punishable by a civil fine of \$1,000.00 for each such violation. As required by the Act, the local law enforcement agency responsible for enforcing Section 20-303, Section 20-304, Section 20-305, Section 20-306, Section 20-307, and/or Section 20-308 shall be remitted \$500.00 of the fine collected as the penalty under this Section.

Sec. 20-306. Miscellaneous regulations pertaining to the use, discharge, or ignition of fireworks.

(a) Use, discharge, or ignition of fireworks on property of another. A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises. Except as otherwise provided in this subsection, a person that violates this subsection (a) is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$500.00. However, if the elements of such an offense are otherwise present, nothing in this subsection (a) shall be deemed to prevent the prosecution of any person for trespass or any other applicable offense.

(b) Use, discharge, or ignition of fireworks while under the influence. An individual shall not discharge, ignite, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. A person that violates this subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$1,000.00. As used in this subsection:

(1) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

(2) "Controlled substance" means that term as defined in section 8b of the Michigan vehicle code, 1949 PA 300, MCL 257.8b.

(c) Specific regulations regarding minors. A person shall not sell consumer fireworks to a minor. Any person who violates this subsection (c) is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$1,000.00, or, for a second or subsequent violation of this subsection, a civil fine of not more than \$2,500.00. The age of an individual purchasing consumer fireworks shall be verified by any of the following:

(1) An operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(2) An official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(3) An enhanced driver license or enhanced official state personal identification card issued under the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.

(4) A military identification card.

(5) A passport.

(6) Any other bona fide photograph identification that establishes the identity and age of the individual.

(d) Specific regulations regarding smoking prohibition. An individual who violates the smoking prohibition described in NFPA 1124, 7.3.11.1, regardless of the type or quantity of consumer or low-impact fireworks present, is responsible for a civil infraction and shall be ordered to pay a civil fine of \$1,000.00. Signage stating the smoking prohibition described in subsection (4) satisfies the requirements of NFPA 1124.

(e) Specific regulations regarding livestock. A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks in a manner that is intended to harass, scare, or injure livestock. As used in this subsection, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705. A person that violates this subsection (e) is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

SECTION II.

REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION III.

SEVERABILITY

Should any section, subsection, clause, or phrase of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION IV.

EFFECTIVE DATE

This ordinance shall become effective upon publication as provided by law.

SECTION V.

AUTHENTICATION

This is to certify that the undersigned do hereby authenticate the foregoing record of the ordinance herein set forth.

DANIEL S. PALETKO, Mayor

WALTER J. PRUSIEWICZ, Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of this ordinance adopted by the Council for the City of Dearborn Heights at a regular meeting of the Council held on the 26th day of February, 2019, and became effective by publication in the official newspaper of the City of Dearborn Heights and/or by publication as otherwise permitted by the City Charter on the 13th day of March, 2019.

WALTER J. PRUSIEWICZ, Clerk

Publication Date: March 13, 2019.