

**CITY OF LOWELL
KENT COUNTY, MICHIGAN**

ORDINANCE NO. 14-01

Councilmember Hall supported by Councilmember Schwab moved the adoption of the following ordinance:

AN ORDINANCE TO ADD ARTICLE V, “FIREWORKS,” TO CHAPTER 10, “FIRE PREVENTION AND PROTECTION,” OF THE CODE OF ORDINANCES OF THE CITY OF LOWELL

THE CITY OF LOWELL ORDAINS:

Section 1. Addition of Article V to Chapter 10. Article V, “Fireworks,” is added to Chapter 10, “Fire Prevention and Protection,” of the Code of Ordinances of the City of Lowell to read as follows:

ARTICLE V. – FIREWORKS

Sec. 10.60. - Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

Act 256 means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2001 as amended from time-to-time.

Consumer fireworks mean fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition and labeling requirements promulgated by the United States Consumer Product Safety Commission and are identified as such in Act 256. Consumer Fireworks do not include low-impact fireworks.

Display fireworks mean large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible and audible effects by combustion, deflagration or deterioration and are identified as such in Act 256.

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 are classified as provided in Act 256.

Fireworks mean 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 and special effects.

Low-impact fireworks mean ground and handheld sparkling devices as provided in Act 256.

National holiday means the following legal public holidays:

- (a) New Years' Day, January 1.
- (b) Birthday of Martin Luther King, Jr., the third Monday in January.
- (c) Washington's Birthday, the third Monday in February.
- (d) Memorial Day, the last Monday in May.
- (e) Independence Day, July 4.
- (f) Labor Day, the first Monday in September.
- (g) Columbus Day, the second Monday in October.
- (h) Veteran's Day, November 11.
- (i) Thanksgiving Day, the fourth Thursday in November.
- (j) Christmas Day, December 25.

Minor means any individual who is less than 18 years of age.

Retailer means a person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

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.

Wholesale means any person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person who sells only display fireworks or special effects.

Sec. 10.61. Sale of consumer fireworks.

A retailer or other person may not sell consumer fireworks within the city unless such person has obtained and has in effect a valid consumer fireworks certificate issued by the Michigan Department of Licensing and Regulatory Affairs and otherwise complies with the requirements of Act 256 and any rules and regulations promulgated thereto included those related to storage.

Sec. 10.62. - Sale of low-impact fireworks.

A retailer or other person may not sell low impact fireworks unless such person is actively registered, in accordance with Act 256, with the low-impact fireworks retail registry maintained by the Michigan Department of Licensing and Regulatory Affairs.

Sec. 10.63. - Compliance with applicable ordinances and codes.

Unless otherwise provided in this chapter, a retailer or wholesaler of fireworks located within the city must comply with the applicable requirement of the city's zoning ordinance and building codes and regulations.

Sec. 10.64. - Use of consumer fireworks.

Except as otherwise provided in this chapter, a person may ignite, discharge or use consumer fireworks in the city on the day proceeding, the day of, or the day after a national holiday. On any other day, no person may ignite, discharge or use consumer fireworks.

Sec. 10.65. - Fireworks safety.

No person shall endanger the life, health or safety of any other person by the sale, use, possession, transport, display or discharge of any fireworks.

Sec. 10.66. - Prohibition on or near certain property.

No person shall, at any time, ignite, discharge, use or display any fireworks upon another person's property or within 15 feet of another person's property without such property owner's permission. No person shall, at any time, ignite, discharge, use or display any fireworks in a public street or right-of-way, a public park, school property or any other place of public assembly without the approval of the owner of such property or, in the case of a public park, street or right-of-way, the approval of the city.

Sec. 10.67. - Permits.

Provided the applicable provisions of Act 256 are complied with, upon application in accordance with this section, the city may issue a non-transferrable permit for the use of agricultural or wildlife fireworks (as defined in Act 256), articles pyrotechnic, display fireworks or special effects manufactured for outdoor pest control or agricultural purposes or for public or private display. After a permit has been issued, the sale, possession, transportation or use of such fireworks for the purpose described in the permit only may be made. A permit may not be issued to a minor. The issuance of a permit shall be approved by the city council and shall be based on the competency and qualifications of the operator of such fireworks as required by Act 256 and the time, place and safety aspects of the proposed use.

Sec. 10.68. - Permit application.

An application for a permit, on the form prescribed by the city, shall be made for use of fireworks requiring a permit at least 45 days in advance of such use.

Sec. 10.69. - Permit fee.

The fee for a fireworks permit as established from time-to-time by the city council shall accompany the application for a permit.

Sec. 10.70. - Proof of financial responsibility.

In order to receive a permit for articles pyrotechnic or display fireworks use, the applicant shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the city manager or his/her designee to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant or an agent or employee of the applicant, and to protect the public.

Sec. 10.71. - Storage of fireworks.

The storage of fireworks by retailers and wholesalers shall at all times be in compliance with the requirements of Act 256.

Sec. 10.72. - Possession of consumer fireworks by minor.

A minor shall not possess consumer fireworks.

Section 2. Publication. After its adoption, the City Clerk shall publish this ordinance, or a summary thereof as permitted by law, along with the date of its adoption, in the *Lowell Ledger*, a newspaper of general circulation in the City, at least ten (10) days before its effective date.

Section 3. Effective Date. This ordinance shall take effect ten (10) days after it, or a summary thereof as permitted by law, along with the date of its adoption, is published in a newspaper of general circulation of the City.

YEAS: Councilmembers Ellison, Hall, Schwab and Mayor Hodges

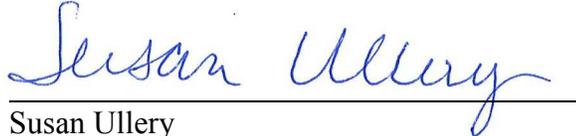
NAYS: Councilmembers Altoft

ABSTAIN: Councilmembers None

ABSENT: Councilmembers None

ORDINANCE DECLARED ADOPTED.

Dated: June 2, 2014



Susan Ullery
Deputy City Clerk