

FLUSHING CITY ORDINANCE  
GENESEE COUNTY, MICHIGAN

ORDINANCE NUMBER 2019-04

AN ORDINANCE TO AMEND CHAPTER 92 OF THE CITY CODE, “FIRE PREVENTION AND PROTECTION – FIREWORKS,” TO THE EXTENT PERMITTED BY THE MICHIGAN FIREWORKS SAFETY ACT, MCL 28.451 ET SEQ., AS AMENDED BY PUBLIC ACTS 634, 635 AND 636 OF 2018.

THE CITY OF FLUSHING ORDAINS:

**Section 1. Amendment at Section 92.01.** The Code of the City of Flushing is hereby amended at Chapter 92, Fire Prevention and Protection – Fireworks, Section 92.01, Statement of Purpose, which shall now read as follows:

“Section 92.01 – Statement of Purpose

This subchapter repeals existing sections of this Code dealing with fireworks and to adopt new sections to provide for the regulation of the ignition, discharge and use of consumer fireworks, as permitted by the Michigan Fireworks Safety Act, MCL 28.451 et seq., as amended.”

**Section 2. Amendment at Definitions.** The Code of the City of Flushing is hereby amended at Chapter 92, Fire Prevention and Protection – Fireworks, Section 92.02, Definitions, which shall now read as follows:

“The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*APA standard 87-1* means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.

*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 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. The term "consumer fireworks" does not include low-impact fireworks.

*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, and special effects.

*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.

*Minor* means an individual who is less than 18 years of age.”

**Section 3. Amendment at Ignition, Discharge and Use of Consumer Fireworks.** The Code of the City of Flushing is hereby amended at Chapter 92, Fire Prevention and Protection – Fireworks, Section 92.03, Ignition, Discharge and use of Consumer Fireworks, which shall now read as follows:

“A. Except as provided in this Section, a person shall not ignite, discharge, or use consumer fireworks at any time.

B. A person may ignite, discharge or use consumer fireworks on the following days during the following hours:

1. Between 11:00 am on December 31 and 1:00 am on the immediately following January 1.
2. Between 11:00 am and 11:45 pm on the Saturday immediately preceding Memorial Day.
3. Between 11:00 am and 11:45 pm on the Sunday immediately preceding Memorial Day.
4. Between 11:00 am and 11:45 pm on June 29, June 30, July 1, July 2, July 3 and July 4.
5. Between 11:00 am and 11:45 pm on July 5, if that date is a Friday or a Saturday.
6. Between 11:00 am and 11:45 pm on the Saturday immediately preceding Labor Day.
7. Between 11:00 am and 11:45 pm on the Sunday immediately preceding Labor Day.”

**Section 4. Amendment at Penalty.** The Code of the City of Flushing is hereby amended at Chapter 92, Fire Prevention and Protection – Fireworks, Section 92.08, Penalty, which shall now read as follows:

“A. violation of this subchapter is a municipal civil infraction, punishable by a fine of \$1,000, of which \$500 must be remitted to the Flushing Police Department.

B. If the Flushing Police Department determines through its investigation that a violation of this subchapter has occurred, the department may seize the firework as evidence of the

violation. The department shall store, or cause to be stored, the evidence seized under this section pending disposition of any proceedings arising from the violation. Following a final disposition of an appeal of a finding of responsibility under this subchapter that affirms the finding, the department may dispose of or destroy any fireworks retained as evidence in that proceeding. A person from whom fireworks are seized under this subchapter shall pay the actual costs of storage and disposal of the seized fireworks, if found responsible for a violation of this subchapter.”

**Section 5. Severability.** If any section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance and such holding shall not affect the validity of the remaining portions this ordinance.

**Section 6. Repealer.** All ordinances or part of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

**Section 7. Effective Date.** This Ordinance shall be effective twenty (20) days after adoption and after publication.

First Reading:	May 13, 2019
Second Reading:	June 10, 2019
Date Published:	June 13, 2019
Date Effective:	June 30, 2019

The City of Flushing

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Kevin J. Keane, Mayor

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Michelle M. King, City Clerk