

**CITY COUNCIL  
CITY OF NEWAYGO  
Newaygo County, Michigan**

At a regular meeting of the City Council of the City of Newaygo, Newaygo County, Michigan, held at the City Hall at 28 State Rd, Newaygo, Michigan, on the 10th day of June, 2013 at 7:00 p.m.

PRESENT: Members: Bumstead, Day, Fedell, Mast, Palmiter, Walerczyk, Wisner

ABSENT: Members: \_\_\_\_\_

It was moved by City Council Member Palmiter and supported by City Council Member Mast that the following Ordinance be adopted:

**ORDINANCE NO. 13-05**

**AN ORDINANCE TO REGULATE FIREWORKS AND SIMILAR USES  
WITHIN CITY OF NEWAYGO; TO PROVIDE PENALTIES FOR THE  
VIOLATION OF THIS ORDINANCE AND RELATED MATTERS.**

THE CITY OF NEWAYGO (“City”) ORDAINS:

Chapter 42 (Offenses Against Public Peace, Order and Safety), Section 42-107 (Display, possession or discharge of fireworks) of the Code of Ordinances of the City of Newaygo, Michigan is hereby amended to read as follows:

1. Intent, Purpose and Short Title.

1.1. Intent and Purpose. The City Council recognizes that there are certain uses and activities which can have significant negative impacts upon the community, as well as adjoining and nearby properties and residences. Such uses and activities include the use of fireworks. The City Council finds that it is in the best interests of the City and its property owners and residents to regulate fireworks uses and activities. The City Council also finds that this Ordinance will promote the public health, peace, safety and welfare of City residents, property owners, and visitors to the City.

1.2. Short Title. This Ordinance shall be known and may be cited and referred to as the “City of Newaygo Fireworks Ordinance,” and shall be referred to hereinafter as the “Ordinance.”

2. Scope and Application.

- 2.1. Minimum Standards. The terms and provisions of this Ordinance shall be interpreted and applied as minimum standards and requirements for the promotion and protection of the public health, safety and welfare, and for the public peace and preservation of natural resources and public and private property within the City.
- 2.2. Interpretation. This Ordinance is intended to supplement other laws and ordinances. If this Ordinance imposes more stringent requirements than other laws or City ordinances, the provisions of this Ordinance shall govern, except as otherwise expressly herein provided.

3. Definitions.

For the purposes of this Ordinance, the following definitions and meanings shall apply:

- 3.1. The “Act” shall mean the Michigan Fireworks Safety Act, Public Act No. 256 of the Public Acts of Michigan of 2011, as amended.
- 3.2. “Agricultural and wildlife fireworks” shall mean as defined in the Act.
- 3.3. “Articles pyrotechnic” shall mean as defined in the Act.
- 3.4. “Consumer Fireworks” shall mean as defined in the Act.
- 3.5. “Display fireworks” shall mean as defined in the Act.
- 3.6. “Firework” or “Fireworks” shall mean as defined in the Act.
- 3.7. “Special effects” shall mean as defined in the Act.

4. Fireworks Regulations.

The following shall be applicable throughout the City of Newaygo:

- 4.1. No person shall ignite, shoot off, discharge or use consumer fireworks in the City. This prohibition shall not preclude a person from igniting, discharging, shooting off or using consumer fireworks within the City on the day preceding, the day of, or the day after a national holiday, consistent with the Act. Nothing herein shall be construed or interpreted to limit the authority of the City to enforce those of its ordinances violated as a result of the discharge of consumer fireworks at any time, including, without limitation, any City noise or nuisance ordinance or fire code.

For purposes of this section 4.1, “national holiday” shall, in accordance with 5 USC Section 6103, be deemed the following:

- New Year’s Day, January 1;
- Birthday of Martin Luther King, Jr., the third Monday in January;
- Washington’s Birthday, the third Monday in February;
- Memorial Day, the last Monday in May;
- Independence Day, July 4;
- Labor Day, the first Monday in September;
- Columbus Day, the second Monday in October;
- Veterans Day, November 11;
- Thanksgiving Day, the fourth Thursday in November; and
- Christmas Day, December 25.

4.2. No person shall 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.

4.3. No person shall recklessly endanger the life, health, safety or well-being of any person or property by the ignition, shooting off, discharge or use of consumer fireworks.

4.4. No person shall sell consumer fireworks to a person under the age of 18 years.

No person under the age of 18 years shall use, possess, shoot off, explode or cause to explode any consumer fireworks within the City except while in the presence and under the direct control and supervision of a parent, guardian or other responsible adult.

No person under the age of 18 years shall buy, purchase, possess, acquire or obtain any consumer fireworks within the City.

4.5. No person shall use fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. As used in this subsection:

(a) “Alcoholic liquor means that term as defined in Section 1d of the Michigan Vehicle Code, Act 300 of the Public Acts of Michigan of 1949, as amended from time to time.

(b) “Controlled substance” means that term as defined in Section 8b of the Michigan Vehicle Code, Act 300 of the Public Acts of Michigan of 1949, as amended from time to time.

4.6. Regardless of the calendar date, no person shall use, shoot off, ignite or discharge modified, enhanced or altered consumer fireworks not otherwise authorized by the Act.

5. Display and Articles Pyrotechnic Fireworks.

5.1. Pursuant to the “Act”, the City may grant a permit, upon application in writing on forms provided by the Department of Licensing and Regulatory Affairs, for the use of the following:

- Agricultural or wildlife fireworks,
- Articles pyrotechnic,
- Display fireworks, or
- Special effects manufactured for outdoor pest control.

5.2. Such a permit granted by the City shall be subject to payment of a fee, as set by resolution of the City Council, to the City, and shall be for either public or private displays within the City by the City, fair associations, amusement parks, or other organizations or individuals approved by the City, as long as the applicable conditions and requirements of the Act are complied with.

5.3. Before a permit for display fireworks or articles pyrotechnic firework ignition is granted, the person, firm, or corporation applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the City to satisfy any claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, and to protect the public.

5.4. The City shall not approve or otherwise grant a permit for display fireworks or pyrotechnic fireworks ignition to a nonresident person, firm, or corporation until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.

5.5. Pursuant to the Act, the City shall rule on the competency and qualification of articles pyrotechnic and display fireworks operators as required under NFPA 1123, as the operator has furnished in his or her application form, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks before granting permits.

6. Penalties and Enforcement.

6.1. Penalty. A violation of this Ordinance constitutes a criminal misdemeanor. Upon conviction, any person found to be in violation of this Ordinance shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) or up to ninety-three (93) days in jail or both such fine and jail sentence at the discretion of the Court involved. The Court may also order a defendant convicted of violating this Ordinance to pay restitution for damages or injury. Each day that a violation occurs shall constitute a separate offense. Aiding and abetting a violation of this Ordinance shall also constitute a violation of this Ordinance.

6.2. Injunction. Any violation of this Ordinance is also hereby declared to be a nuisance *per se*. The remedies are deemed to be cumulative, not exclusive or elective. In addition to, or in lieu of, seeking to enforce this Ordinance by proceeding under Subsection 5.1 above, the City or any City resident may institute an appropriate action in a court of general jurisdiction seeking injunctive or equitable relief.

6.3. Enforcement and Administration. This Ordinance shall be enforced and administered by the Chief of Police, any city police officer or such other City official as may be designated from time to time by resolution by the City Council.

7. Severability.

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance and they shall remain valid and in full force and effect.

8. Effective Date.

The provisions of this Ordinance shall take effect upon publication of this Ordinance or a summary of its provisions in accordance with law.

The vote in favor of adopting this Ordinance was as follows:

YEAS: City Council Members: Bumstead, Day, Fedell, Mast, Palmiter, Walerczyk, Wisner

NAYS: City Council Members: \_\_\_\_\_

ABSTAIN/ABSENT: City Council Members: \_\_\_\_\_

ORDINANCE DECLARED ADOPTED.

**CERTIFICATION**

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the City Council of the City of Newaygo at a regular meeting held on Monday, June 10, 2013, pursuant to the required statutory procedures.

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Kim Biegalle  
Newaygo City Clerk