

ORDINANCE NO. 458--20
CITY OF LATHRUP VILLAGE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND CHAPTER 46, MISCELLANEOUS OFFENSES, PROVISIONS, FORFEITURES AND PENALTIES, AMENDING ARTICLE III, OFFENSES AGAINST THE PERSON, SEC. 46-81 USE AND SALE OF FIREWORKS AND 46-82, PERMIT FOR USE AND SALE OF FIREWORKS.

THE CITY COUNCIL OF THE CITY OF LATHRUP VILLAGE ORDAINS:

SECTION 1. AMENDMENT.

Chapter 46, Article III, is amended to replace and repeal Sections 46-81 and 46-82 by adding Sections 46-81 through 46-86 to read as follows:

Sec. 46-81. Definitions.

As used in this section, the following terms shall be defined as follows:

(A) *APA standard 87-1* means 2001 APA standards 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties and Theatrical Pyrotechnics, published by the American Pyrotechnics Association of Bethesda, MD.

(B) *Consumer fireworks* means fireworks devices that are designed to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Protection 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 do not include low-impact fireworks.

(C) *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.

(D) *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.

(E) *Minor* means an individual who is less than 18 years of age.

Sec. 46-82. Ignition, Discharge or Use of Consumer Fireworks.

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

C. A minor shall not possess consumer fireworks

D. A violation of this Section is a civil infraction, punishable by a fine of \$1,000.

Sec. 46-83. Ignition, Discharge or Use of Consumer Fireworks on Public Property, School Property, Church Property or the Property of Another Person.

A. 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.

B. A violation of this Section is a civil infraction, punishable by a fine of not more than \$500.

Sec. 46-84. Ignition, Discharge, or Use of Consumer Fireworks While Under the Influence.

A. A person shall not ignite, discharge, 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.

B. As used in this Section, “alcoholic liquor” means that term as defined in Section 1d of the Michigan Vehicle Code, MCL 257.1d, as may be amended, and “controlled substance” means that term as defined in Section 8b of the Michigan Vehicle Code, MCL 257.8b, as may be amended.

C. A violation of this Section is a civil infraction, punishable by a fine of not more than \$1,000.

Sec. 46-85. Determination of Violation; Seizure; Destruction; Storage Costs.

A. If a police officer determines that a violation of this Article 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.

B. Following a final disposition of an appeal of a finding of responsibility under this Article that affirms the finding, the Department may dispose of or destroy any fireworks retained as evidence in that proceeding.

C. A person from whom fireworks are seized under this Article shall pay the actual costs of storage and disposal of the seized fireworks if found responsible for a violation of this Article.

Sec. 46-86. Permit for use or sale of fireworks.

A. The city council, upon application in writing, on forms provided by the bureau of fire services created in section 1b of the Fire Prevention Code, 1941 PA [207](#), MCL 29.1b, as amended, may grant a permit for the use of fireworks otherwise prohibited by section 46-82 or 46-83, within the city, manufactured for outdoor pest control or

agricultural purposes, or for public display by municipalities, fair associations, amusement parks, or other organizations or groups of individuals approved by the city, if the applicable provisions of this Act are complied with. The permits shall be on forms provided by the bureau of fire services. After a permit has been granted, sales, possession, or transportation of fireworks for the purposes described in the permit only may be made. A permit granted under this subsection is not transferable and shall not be issued to a person under the age of 18 years.

- B. The city council, upon application in writing, may grant a permit, on forms provided by the bureau of fire services, to a resident wholesale dealer or jobber to have in his possession within the city fireworks otherwise prohibited by section 46-82 or 46-83, for sale only to holders of permits as provided in this section. A permit granted under this subsection is not transferable, nor shall a permit be issued to a person under the age of 18 years.
- C. Before a permit for a pyrotechnic display is issued, 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 council to satisfy 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 thereof, and to protect the public.
- D. A permit shall not be issued under this Act to a nonresident person, firm, or corporation for conduct of a pyrotechnic display in this city 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.

- E. The city council shall rule on the competency and qualifications of operators of pyrotechnic displays, as the operator has furnished in his application form, and on the time, place, and safety aspects of the displays before granting permits.

Section 2 of Ordinance. Repealer.

This ordinance repeals any ordinances in conflict thereof.

Section 3 of Ordinance. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4 of Ordinance. Savings Clause.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5 of Ordinance. Publication and Effective Date.

This ordinance shall be effective 10 days after publication. The City Clerk is hereby ordered and directed to cause this ordinance or a summary of this ordinance to be published in the manner required by law.

Section 6 of Ordinance. Adoption.

That this ordinance was duly adopted by the City of Lathrup Village City Council at its regular meeting called and held on August 17, 2020 and was ordered given publication in the manner required by law.

CITY OF LATHRUP VILLAGE

YVETTE TALLEY, City Clerk

Introduction Date: July 27, 2020

Adoption Date: August 17, 2020

Publication Date: September 2, 2020

Effective Date: September 12, 2020