

ORDINANCE NUMBER 2012-006
AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE.

Chapter 22, Fire Prevention and Protection, Article III, Code of Ordinances, City of Clare, Michigan, is hereby added as follows:

Sec. 22-50 Fireworks.

(a) Definitions.

Consumer fireworks means fireworks devices that are designed to produce visible or audible 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.

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.

Firework or fireworks means any composition or device, except for a starting pistol, a flare gun, or a flare, designated 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.

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:

- i. 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 cup.
- ii. Toy pistols toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (1) 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.

- iii. Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(b) Prohibition on use of consumer fireworks.

No person shall ignite, discharge or use consumer fireworks within the City, except this prohibition shall not preclude any person from the ignition, discharge, and use of consumer fireworks on the day preceding, the day of, or the day after a national holiday consistent with Section 7(2) of Public Act 257 of 2011 and all other applicable local, state, or federal regulations. A person shall not ignite, discharge, or use consumer fireworks on a public property, school property, church property, or the property of another person without that organization's or person's express permission.

Formal fireworks displays for the benefit of the public may be allowed by special events permit.

- (c) It shall be unlawful for any person, firm, partnership or corporation to offer for sale, expose for sale, keep with the intent to sell at retail, or sell at retail to any person who has not yet attained the age of eighteen (18) years of age any blank cartridge, toy pistol, toy cannon, toy cane or toy gun in which explosives are used; the type of unmanned balloon which requires fire underneath to propel the same; firecrackers, torpedoes, skyrockets, roman candles, daygo bombs or other fireworks of like construction; or any fireworks containing any explosive or inflammable compound or any tablets or other devices commonly used and sold as fireworks, containing nitrates, chlorates, oxolates, sulfides of lead, barium, antimony, arsenic, mercury, nitroglycerin, phosphorous or any compound containing any of the same or other modern explosives.
- (d) Not included within the foregoing prohibition are model rockets and model rocket engines designed, sold and used for the purpose of propelling recoverable aero models. Also not included are sparklers containing not more than one hundred twenty-five ten thousandths (.0125) pounds of burning portion per sparkler, flitter sparklers in paper tubes not exceeding one-eighth (1/8) inch in diameter, toy snakes not containing mercury, if packed in cardboard boxes with not more than twelve (12) pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed thereon, toy pistols, toy canes, toy guns or other devices manufactured to utilize paper and/or plastic caps containing not more than twenty-five hundredths

(.25) of a grain of explosive content per cap, or said paper and/or plastic caps themselves, the sale of which shall be permitted at all times.

- (e) *Use While Under the Influence.* No person shall 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.
- (f) *Reckless Use of Fireworks.* No person shall ignite, discharge or use any fireworks in reckless disregard for the safety of persons or property.
- (g) *Enforcement.* In addition to Police officers, the Fire Chief, his designee, the fire marshal and any fire awareness officer are authorized to enforce the provisions of this ordinance.
- (h) *Penalties for violation.* Any person who is found guilty of violating any provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 1-13 of this Code.
- (i) *Severability.* The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of the ordinance shall not be affected.
- (j) *Repeal.* All regulatory fireworks provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance are repealed.

Chapter 52, Zoning, Article III, Division 4, Code of Ordinances, City of Clare, Michigan, is hereby amended as follows:

Sec. 52-181. – Purpose; uses

- (a) The C-1 commercial district classification is intended primarily for retail sales carried on within a building and service businesses.
- (b) Only the following principal uses without drive-through service to customers are permitted in C-1 districts:
 - (1) Retail uses up to 7,500 square feet of gross floor area, as follows:

- a. Automobile sales and services.
- b. Bake shops.
- c. Camera shops.
- d. Candy stores.
- e. Clothing stores.
- f. Dairy stores.
- g. Department store.
- h. Drive-in restaurants.
- i. Drugstores.
- j. Florist shops.
- k. Furniture stores.
- l. Grocery stores or supermarkets.
- m. Hardware stores.
- n. Home appliance stores.
- o. Jewelry stores.
- p. Liquor, beer and wine sales.
- q. Meat markets.
- r. Paint and wallpaper stores.
- s. Plant materials and seed stores.
- t. Print shops.
- u. Produce markets.
- v. Restaurants.
- w. Shoe stores.
- x. Sporting goods stores.
- y. Taverns.
- z. Used merchandise housed within a building.
- aa. Variety stores.

(2) Service businesses, as follows:

- a. Automobile courts.
- b. Banks.
- c. Barbershops.
- d. Beauty shops.
- e. Broadcasting stations.
- f. Cleaning and dying.
- g. Day care centers, state licensed.
- h. Frozen food lockers.
- i. Motels.
- j. Laundries, self-service.
- k. Parking lots.

- l. Pet grooming.
 - m. Professional and business offices.
 - n. Public utility substations.
 - o. Shoe repair shops.
- (3) Commercial recreation facilities, as follows:
- a. Auditoriums.
 - b. Bowling alleys.
 - c. Clubs and lodges.
 - d. Dancehalls.
 - e. Golf course, miniature.
 - f. Golf driving ranges.
 - g. Theaters.
- (4) Commercial schools, as follows:
- a. Art schools.
 - b. Business schools.
 - c. Dance studios.
 - d. Music studios.
 - e. Professional studios.
 - f. Trade schools.
- (5) Community facilities, as follows:
- a. Public and parochial schools.
 - b. Churches, convents and rectories.
 - c. Community center buildings.
 - d. Fire stations and water towers.
 - e. Hospitals.
- (6) Service stations, provided they are not within 100 feet of any building or ground of any school, public playground or institution dependent on children. No pump island shall be within 12 feet of a street line. There shall be a concrete curb, six inches in height, installed along all street lines except across authorized driveways. There shall be no open oil-draining pits.
- (7) Tourist homes, boardinghouses and convalescent homes.
- (8) Adult bookstores, adult motion picture theaters, massage parlors or cabarets (referred to in this section as "adult

entertainment establishments") via a special use permit when the following conditions are met:

- a. No adult entertainment establishment may be established, operated or maintained within 1,000 feet of an R-1 or R-2 residential zoning district or within 1,000 feet of any church, state-licensed day care facility, public library, public park, preschool, elementary school, middle school or high school.
 - b. No adult entertainment establishment may be established, operated or maintained within 500 feet of any other adult entertainment establishment.
 - c. Distance limitations shall be measured in a straight line from the respective parcel or lot line of both the subject parcels and/or parcels zoned R-1 or R-2, or occupied by special uses specified in this subsection.
 - d. If employees or patrons of an adult entertainment establishment promote, offer, solicit, allow or engage in acts of prostitution on the premises, the special use permit may be suspended or revoked. No criminal charge need be brought for suspension or revocation of the special use permit to occur. The acts described in this subsection may be shown to have occurred by a preponderance of the evidence.
 - e. A permit shall be required to establish, operate or maintain an adult entertainment establishment. Such permit shall be approved by the city commission subsequent to review and recommendation of approval of the planning commission of the city. Any required fees for such permit shall be set and determined by the city commission.
- (9) Any other building use or service similar to the uses listed in this section in the type of service or goods sold or similar in the effect upon adjacent areas in more restricted use districts, except those uses listed in C-2 and I districts.

- (c) Residential and multifamily uses on the second floor within blocks 16, 21, 22, 27 and 28, original plat of the city, shall be permitted as a special use, subject to the following imposed conditions for each use and subject to the review and approval of the planning commission.
 - (1) The special use application shall include a layout for each floor of the building and shall contain plans for dealing with tenant parking.
 - (2) The main entrance and exit for each apartment shall not interfere with the use of the main floor.
 - (3) Residential units shall comply with all building, electrical, plumbing and mechanical codes. Provisions regarding access and egress for each apartment shall comply with existing codes.
 - (4) Any apartment or use not conforming with this special regulated use at the time of the adoption of Ordinance No. 1996-2 shall be referred to as a nonconforming use.
- (d) Any use permitted within any of the subsections noted above which contains a drive-through service or retail facility shall be permitted in C-1 as a special use, subject to article IV of this Code [zoning chapter].
- (e) Retail uses shall be defined to include retail sales distribution or storage of fireworks as defined in Section 22-50, including all subsections, as provided by state law.

Chapter 52, Zoning, Article III, Division 5, Code of Ordinances, City of Clare, Michigan, is hereby amended as follows:

Sec. 52-211. – Purpose; uses.

- (a) The C-2 commercial district classification is intended primarily for warehouses, businesses that require large open and enclosed storage areas, and light industrial uses which possess few, if any, nuisance characteristics.
- (b) Only the following principal uses are permitted in C-2 districts:
 - (1) Retail uses up to 50,000 square feet.
 - (2) Animal hospitals.
 - (3) Beverage bottling distributors.

- (4) Body shops.
- (5) Building contractors' storage lots.
- (6) Coal yard storage.
- (7) Commercial greenhouses.
- (8) Dairy plants.
- (9) Electrical contractors.
- (10) Elevators.
- (11) Farm machinery sales and repairs.
- (12) Lumber and building materials sales and storage.
- (13) Machine shops.
- (14) Mobile home sales.
- (15) Newspaper printing.
- (16) Pet boarding.
- (17) Plumbing contractors.
- (18) Public garages.
- (19) Railway sidings and switches.
- (20) Road contractor storage lots.
- (21) Truck terminals.
- (22) Used car sale lots.
- (23) Warehouses.
- (24) Welding shops.
- (25) Woodworking shops.
- (26) Medical marijuana cultivation facility meeting the following requirements:

- a. Medical marijuana cultivation shall comply at all times with the Michigan Medical Marijuana Act and the general rules of the Michigan Department of Community Health, as they may be amended from time to time.
- b. All medical marijuana plants cultivated by each primary caregiver or qualifying patient shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or the qualifying patient.
- c. Cultivation shall be conducted so as not to create dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way.

- d. A medical marijuana cultivation facility shall not be located within 1,000 feet of an R-1 or R-2 residential zoning district or within 1,000 feet of any church, state-licensed day care facility, public library, public park, preschool, elementary school, middle school, high school or public recreation facility.
 - e. A medical marijuana cultivation facility shall obtain a zoning compliance certificate and if the applicant is not the owner of the parcel, such certificate shall include the property owners' consent to the use of the parcel as a medical marijuana cultivation facility.
 - f. No transfer of medical marijuana shall occur except medical marijuana plants pursuant to the Michigan Medical Marijuana Act.
 - g. No medical marijuana cultivation facility may be established, operated or maintained within 500 feet of any other medical marijuana cultivation facility.
 - h. Distance limitations shall be measured in a straight line from the respective parcel or lot line of both the subject parcels and/or parcels zoned R-1 or R-2, or occupied by special uses specified in this subsection.
 - i. If employees or patrons of a medical marijuana cultivation facility promote, offer, solicit, allow or engage in the use of marijuana for medical purposes or otherwise on the premises, the special use permit may be suspended or revoked. No criminal charge need be brought for suspension or revocation of the special use permit to occur. The acts described in this subsection may be shown to have occurred by a preponderance of the evidence.
 - j. No other products shall be sold on the site.
 - k. No person under 18 years will be admitted to the facility without his or her parent or legal guardian.
- (27) Any other building, use or service similar to the uses listed in subsections (1) through (25) in the type of service or goods sold or manufactured, or similar in the effect upon adjacent areas in more restricted use districts, except those uses listed in the I district.
- (28) No vested rights. A property owner shall not have vested rights or nonconforming use rights that would serve as a

basis for failing to comply with this section or any amendment of this section.

- (c) Retail uses shall be defined to include retail sales distribution or storage of fireworks as defined in Section 22-50, including all subsections, as provided by state law.

Effective Date

This Ordinance shall take effect thirty (30) days following date of publication as required by law. All Ordinances or part Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Adopted by the City Commission of the City of Clare on this 5th day of November, 2012.

Diane Lyon, Clerk