

**CITY OF MELVINDALE
ORDINANCE NO. 766**

AN ORDINANCE TO REPEAL SECTIONS 11-111 THROUGH 11-140 OF CHAPTER 11 (FIRE PREVENTION AND PROTECTION), ARTICLE V, OF THE CITY OF MELVINDALE CODE OF ORDINANCES AND TO ADOPT IN ITS PLACE NEW SECTIONS 11-111 THROUGH 11-140 TO PROVIDE FOR THE REGULATION OF THE IGNITION, DISCHARGE AND USE OF CONSUMER FIREWORKS AS PERMITTED UNDER THE MICHIGAN FIREWORKS SAFETY ACT, MCL 28.451, ET. SEQ., AS AMENDED.

THE CITY OF MELVINDALE ORDAINS:

ARTICLE I. Existing Sections 11-111 through 11-140 of Chapter 11, Article V of the Code of Ordinances, City of Melvindale, Michigan, are hereby repealed in their entirety.

ARTICLE II. New Sections 11-111 through 11-140 are adopted as follows:

Sec. 11-111. – Definitions.

As used in this Ordinance, the following definitions shall apply:

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 efforts 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 do 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. The term shall not mean “novelty fireworks” as defined below.

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.

Novelty or novelties fireworks mean 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:

(a) Toy plastic or paper caps for toy pistols in sheets, trips, 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 cap.

(b) Toy pistols, toy cannons, toy canes, toy trick noisemakers and toy guns in which toy caps as described in paragraph (a) above 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.

(c) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

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

Sec. 11-112. – Prohibition on use of consumer fireworks.

A person shall not ignite, discharge or use consumer fireworks, except the day preceding, the day of, or the day after a national holiday. This prohibition shall not apply to any municipal-sponsored fireworks display that is also insured and properly licensed through the Michigan Department of Licensing and Regulatory Affairs Bureau of Fire Services.

Sec. 11-113. – Possession of fireworks by a minor. A minor shall not possess fireworks.

Sec. 11-114. – Property of others.

(a) A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property or the property of others without that organization's or person's express permission to use those fireworks on those premises.

(b) No person shall ignite, discharge or display fireworks on public park property. This prohibition shall not apply to novelty fireworks or display fireworks allowed by permit.

Sec. 11-115. – Fireworks display permits. The City Council may, by resolution, establish an application fee for a permit for articles pyrotechnic or display fireworks consistent with the applicable provisions of PA 256 of 2011, MCL 28.466 of the Michigan Fireworks Safety Act.

Sec. 11-116. – Enforcement. This Article may be enforced by the City's Fire Marshal, any Police Officer, any Ordinance Officer or any firefighter designated by the City's Fire Marshal and approved by the City's Chief of Police.

Sec. 11-117. – Penalty. Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished as prescribed in Chapter 1, Section 1-13 of this Code.

Sec. 11-118 – Sec. 11-140. – Reserved.

ARTICLE III. Severability: Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any Court of competent jurisdiction or by any agency having authority to do so for any reason whatsoever, such holding shall be construed and limited to such word, sentence, phrase or any portion of the Ordinance held to be invalid and shall not be construed as affecting the validity of any remaining words, sentences, phrases or portions of the Ordinance.

ARTICLE IV. Conflicting Ordinances: All prior existing ordinances adopted by the City of Melvindale inconsistent or in conflict with the provisions of this Ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

ARTICLE V. Reading and Publication. This Ordinance shall be adopted on August 20, 2014 and shall be effective on August 20, 2014. The City Clerk shall post three (3) copies of the Ordinance in three (3) conspicuous places in the City. The Clerk shall also publish a summary of this Ordinance and include in the publication notice that a true copy of the Ordinance can be inspected or obtained at the City Clerk's office within one week after the adoption of this Ordinance.

ADOPTED, APPROVED AND PASSED by the Common Council of the City of Melvindale this 20 day of August, 2014.

The undersigned hereby certifies that the foregoing is a true and accurate copy of the ordinance adopted by the Common Council of the City of Melvindale at a regular meeting held on August 20, 2014.

Diana Zarazua, City Clerk

The undersigned hereby certifies that the foregoing Ordinance was duly published by posting copies thereof in three (3) conspicuous places in the City of Melvindale on the _____ day of _____, 2014, to wit:

- 1.
- 2.
- 3.

Diana Zarazua, City Clerk