

**CITY OF CEDAR SPRINGS
CITY COUNCIL
Kent County, Michigan**

ORDINANCE NO. 231

**AN ORDINANCE TO AMEND Chapter 16 FIRE PREVENTION AND PROTECTION,
ARTICLE IV FIREWORKS OF THE CITY CODE OF ORDINANCES**

THE CITY OF CEDAR SPRINGS ORDAINS:

Section 1. Amendment to Modify Chapter 16- Fire Prevention and Protection and that the Code of Ordinances of the City of Cedar Springs is amended to read in its entirety as follows;

This ordinance amends the City Code to the extent permitted by the Michigan Fireworks Safety Act, MCL Section 28.451 *et seq*, as has been amended by Public Acts 634, 635 and 636 of 2018.

Sec. 16-60. - Definitions.

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

Act 256 means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011 as amended from time to time.

Alcoholic liquor means that term as defined in Section 1d of the Michigan Vehicle Code, MCL 257.1d, as may be amended.

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.

Articles pyrotechnic means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as provided in Act 256.

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 requirements promulgated by the United States Consumer Product Safety Commission and are identified as such in Act 256. Consumer fireworks do not include low-impact fireworks. Consumer fireworks are often commonly known as, but not limited to, sky rockets, bottle rockets, missile-type rockets, helicopters, aerial spinners, roman candles, mine and shell devices, aerial shell kits, firecrackers, chasers, and certain

multiple tube fireworks devices. Consumer fireworks does not include low-impact fireworks.

Controlled substance means that term as defined in Section 8b of the Michigan Vehicle Code, MCL 257.8b, as may be amended.

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 deterioration and are identified as such in Act 256.

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 provided in Act 256. Low impact fireworks are often commonly known as, but not limited to, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers, certain toy smoke devices, certain wire sparklers/dipped sticks, and certain multiple tube fireworks devices.

Marihuana means that term as defined in IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq.*, as amended.

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

Retailer means a person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

Special effects means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

Wholesale means any person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person who sells only display fireworks or special effects.

Sec. 16-61. - Fireworks regulations.

- a) Sale of consumer fireworks. A retailer or other person may not sell consumer fireworks within the city unless such person has obtained and has in effect a valid consumer fireworks certificate issued by the Michigan Department of Licensing and Regulatory Affairs and otherwise complies with the requirements of Act 256 and any rules and regulations promulgated thereto included those related to storage.

- b) Sale of low-impact fireworks. A retailer or other person may not sell low-impact fireworks unless such person is actively registered, in accordance with Act 256, with the low-impact fireworks retail registry maintained by the Michigan Department of Licensing and Regulatory Affairs.
- c) Compliance with applicable ordinances and codes. Unless otherwise provided in this section, a retailer or wholesaler of fireworks located within the city must comply with the requirements of the city's zoning ordinance, building codes and regulations and temporary business ordinance.
- d) The storage of fireworks by retailers and wholesalers shall at all times be in compliance with the requirements of Act 256.
- e) Except as provided in this Section, a person shall not ignite, discharge, or use consumer fireworks at any time.
- f) 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.
- g) A minor shall not possess, ignite, discharge or use consumer fireworks.
- h) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, marihuana, a controlled substance or any combination thereof.
- i) No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued pursuant to this section, any fireworks upon another person's property or within 15 feet of another person's property without such property owner's permission. No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued pursuant to this section, any fireworks in a public street or right-of-way, a public park, school property or any other place of public assembly.
- j) Provided the applicable provisions of Act 256 are complied with, upon application in accordance with this section, the city may issue a nontransferable permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks or special effects manufactured for outdoor pest control or agricultural purposes or for public or private display. After a permit has been issued, the sale, possession or transportation of fireworks for the purposes described in the permit only may be made. A permit may not be issued to a person under 18 years of age. The issuance

of a permit shall be based on the competency and qualifications of the operator of such fireworks as required by Act 256 and the time, place and safety aspects of the proposed use.

- k) An application for a permit, on the form prescribed by the city, shall be made for use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks or special effects manufactured for outdoor pest control or agricultural purposes or for public or private display fireworks requiring a permit at least 15 days in advance of such use.
- l) The fee for a fireworks permit as established from time to time by the city council shall accompany the application for a permit.
- m) In order to receive a permit for articles pyrotechnic or a display fireworks use, the applicant shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the city manager or his/her designee to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant or an agent or employee of the applicant, and to protect the public.
- n) If the department of natural resources fire division elevates fire conditions to 1) extreme or 2) very high for 72 consecutive hours, the commanding fire officer of the City in consultation with the department, can enforce a no burning restriction that includes a ban on consumer fireworks. If instituted, the commanding fire officer shall ensure that adequate notice of the restriction is provided to the public; and, not more than 24 hours after the fire condition is downgraded, the commanding fire officer shall lift the restriction and inform the public in the same manner that the restriction was announced or made known to the public.
- o)

Sec. 16-62. - Misdemeanors.

- a) A violation of any provisions of this article shall be a misdemeanor punishable in accordance with this Code.
- b) Permitting, allowing, encouraging or promoting any violation of any provision of this article, including any owner, manager, employee, patron, customer, officer, partner or other person shall be a misdemeanor punishable in accordance with this Code.
- c) Aiding, assisting or abetting the violation of any provision of this article shall also constitute a misdemeanor punishable in accordance with this Code.

Sec. 16-63. - Injunctive relief.

If a person threatens to violate, has violated or continues to violate any provision of this article, the city may petition the Kent County Circuit or District Courts or other court of competent jurisdiction for injunctive relief restraining the person from activities that would violate this article.

Sec. 16-64. - Remedies not exclusive.

The remedies listed in this article are not exclusive of each other or of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the city to seek cumulative remedies.

Section 2. Severability and Repealer. If any portion of this Ordinance shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 3. Effective Date. This ordinance shall take effect upon its publication in The Cedar Springs Post, a newspaper of general circulation in the City of Cedar Springs, consistent with state law and the City Charter.

YEAS: Councilmembers: Powell, Conley, Gross, Atchison, Nixon, and Hall

NAYS: Councilmembers: None

ABSENT: Councilmembers: Race

ABSTAIN: Councilmembers: None

Ordinance No. 231 declared adopted

Dated September 09, 2021

Rebecca Johnson, City Clerk

CERTIFICATION

I certify that this is a true and complete copy of an ordinance adopted by the City Council of the City of Cedar Springs at a Regular Meeting held September 09, 2021 and that public notice of the meeting was given pursuant to and in compliance with Act 267 of the Public Acts of Michigan of 1976, as amended.

Dated: September 09, 2021

Rebecca Johnson, City Clerk

Public Hearing: None.

First Reading: August 12, 2021

Second Reading: September 09, 2021

Published: September 16, 2021

Effective: September 16, 2021