

CITY OF WIXOM
OAKLAND COUNTY, MICHIGAN

ORDINANCE NO. 2019-07

AN ORDINANCE TO AMEND THE CITY OF WIXOM CODE OF ORDINANCES, TITLE 9, PUBLIC PEACE AND DECENCY, CHAPTER 9.12, OFFENSES AGAINST PUBLIC PEACE AND DECENCY, SECTION 9.12.140, FIREWORKS, IN ORDER TO AMEND REGULATIONS OF THE TIMES DURING WHICH CONSUMER FIREWORKS MAY BE DISCHARGED, INCLUDE ADDITIONAL RESTRICTIONS ON THE DISCHARGE OF FIREWORKS, AND AMEND THE PENALTIES FOR VIOLATIONS OF THIS CHAPTER.

THE CITY OF WIXOM ORDAINS:

Section 1 of Ordinance. Ordinance Amendment.

The City of Wixom City Code, Title 9, Public Peace and Welfare, Chapter 9.12, Offenses Against Public Peace and Decency, Section 9.12.140, Fireworks, shall be amended in its entirety as follows:

Sec. 9.12.140. Fireworks.

(a) Definitions.

As used in this Section, the following words and phrases have the meanings set forth herein:

Act means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 *et seq.*, as amended.

Alcoholic liquor means that term as defined in Section 1d of the Michigan Vehicle Code, 1949 PA 300, MCL 257.1d.

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 UN0431 or UN0432 under 49 CFR 172.101.

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 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.

Controlled substance means that term as defined in Section 8b of the Michigan Vehicle Code, 1949 PA 300, MCL 257.8b.

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, 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.

Livestock means those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not

limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

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.

Minor means an individual under eighteen (18) years of age.

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 cap.
- (ii) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) 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.
- (iv) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

(b) General prohibitions; exception.

No person shall ignite, discharge, or use fireworks within the City at any time, except that:

- (1) Fireworks may be discharged in strict compliance with any permit issued by the City in accordance with the Act.
- (2) Consumer fireworks may be discharged on the following dates after 11:00 a.m. on that date:
 - a) December 31 until 1 a.m. on January 1;
 - b) The Saturday and Sunday immediately preceding Memorial Day, until 11:45 p.m. on each of those days;
 - c) June 29 to July 4 until 11:45 p.m. on each of those days;
 - d) July 5, only if that date is a Friday or Saturday, until 11:45 p.m. on that date;
 - e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- (3) An individual in violation of this subsection (b) shall be responsible for a civil fine of not more than \$1,000.00 for each violation. Five Hundred Dollars (\$500.00) of this fine will be remitted to the Wixom Police Department.
- (4) This subsection (b) shall not apply to low impact fireworks.

(c) Additional prohibitions; Penalties.

- (1) Consumer fireworks shall not be ignited, discharged, or used on public property, including public streets and rights-of-way, or on school property, church property, or the private property of another, without the express written permission from the person or entity legally in possession and control of that property to undertake such action.

(2) Consumer fireworks shall not be ignited, discharged, or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both.

(3) Low impact fireworks shall not be ignited, discharged, or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both.

(4) No minor shall use, ignite or possess any consumer fireworks unless under the direct supervision of an adult at all times.

(5) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks in a manner that is intended to harass, scare, or injure livestock.

(6) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks if a no burning restriction has been implemented by the Fire Chief.

(7) An individual in violation of this subsection (c) shall be responsible for a civil fine of not more than \$1,000.00 for each violation.

(d) Novelties not regulated.

This Section does not apply to novelties.

(e) Enforcement.

This Section may be enforced by the Fire Chief and Police Chief, their designees, and any sworn law enforcement officer.

(f) Determination of Violation; seizure of fireworks.

(1) If an enforcing official determines that a violation of this Section has occurred, the official may seize the fireworks as evidence of such violation. Upon a finding of responsibility or guilt for violation of this Section, the City may dispose of or destroy any consumer fireworks or low impact fireworks retained as evidence for prosecution of the violation.

(2) In addition to any other penalty provided herein, a person found responsible or guilty for violation of this Section shall reimburse the City for the costs of storing, disposing of, or destroying any consumer or low impact fireworks seized.

Section 2 of Ordinance. Repealer.

All ordinances, parts of ordinances, or sections of the City Code in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3 of Ordinance. Severability.

Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 4 of Ordinance. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

