

**STATE OF MICHIGAN  
COUNTY OF WAYNE  
CITY OF GARDEN CITY**

**ORDINANCE NO: \_\_\_\_\_**

**FIREWORKS ORDINANCE**

**AN ORDINANCE TO AMEND SECTION 91.65 OF CHAPTER 91 OF TITLE I OF THE CODE OF THE CITY OF GARDEN CITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITED FIREWORKS; PROVIDING FOR POSSESSION BY MINORS; PROVIDING FOR GENERAL RESTRICTIONS; PROVIDING FOR APPLICABILITY OF GENERAL AND ZONING ORDINANCES; PROVIDING FOR IMMINENT DANGERS; PROVIDING FOR SEIZURE OF FIREWORKS; PROVIDING FOR PENALTY; PROVIDING FOR REPEAL OR SEVERABILITY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.**

**THE CITY OF GARDEN CITY ORDAINS:**

**SECTION I. FIREWORKS ORDINANCE §91.65**

**(A) Definitions.** The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, except when context clearly indicates a different meaning:

*Act* means the Michigan Fireworks Safety Act, Act 256 of 2011, and any amendments to the Act which may, from time to time, be adopted.

*APA standard 87-1* means 2001 APA standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American pyrotechnics association of Bethesda, Maryland.

*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.

**Display fireworks** means large fireworks devices that are explosive materials intended for use in fireworks displays and designated 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.

**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 consists 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.

**Minor** means an individual who is less than seventeen (17) years of age.

**National holiday** means the following legal public holidays:

- (1) New Year's Day, January 1.
- (2) Birthday of Martin Luther King, Jr., the third Monday in January.
- (3) Washington's Birthday, the third Monday of February.
- (4) Memorial Day, the last Monday in May.
- (5) Independence Day, July 4.
- (6) Labor Day, the first Monday in September
- (7) Columbus Day, the second Monday in October.
- (8) Veteran's Day, November 11
- (9) Thanksgiving Day, the fourth Thursday in November.
- (10) Christmas Day, December 25.

**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 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 into 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, it 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.

*Person* means any individual, agent, legal representative, association, charitable organization, church, non-profit organization, unincorporated organization, labor organization, partnership, limited liability company, corporation, or any other entity or organization. An individual shall include a minor as defined in this article.

*Public property* means property dedicated and appropriated to the public use.

*Public use* when used with reference to land reserved for that purpose, means and relates to uses for the general benefit of the public, such as schools, libraries, public institutions, government buildings, government parking lots, parks, boulevards, playgrounds, streets, roads, highways, alleys, sidewalks, bike paths, trailways, easements and sewers, public lighting, water, gas, or other similar utility installations, structures and grounds.

*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.

*Visibly intoxicated* means exhibiting impairment due to the voluntary ingestion of alcoholic liquor of ones mental and/or physical faculties, which impairment is apparent to the reasonably observant person.

**(B) Fireworks: Prohibitions.**

(1) *Consumer fireworks.* ~~A person shall not ignite, discharge or use consumer fireworks, except on the day preceding, the day of, or the day after a national holiday,~~ provided that a person shall not ignite, discharge or use consumer fireworks in violation of the Act and/or this article.

(2) *Low Impact and Novelty Fireworks.* A person shall not use, ignite or discharge low impact or novelty fireworks between the hours of 11:00 p.m. and 7:00 a.m.

(3) *Illegal fireworks.* A person shall not use, possess, or discharge fireworks in violation of the Act.

**(C) Minors.**

(a) A minor shall not possess, use, discharge or ignite any consumer fireworks, at any time, nor on any day, including national holidays, and the day before and day after a national holiday.

(b) A minor shall not use, discharge, or ignite any low impact fireworks or novelty fireworks, unless under the supervision of a parent or guardian, and the use, discharge and/or ignition is within permitted hours, and does not violate the provisions of this article and/or the Act.

**(D) General Restrictions.**

(1) Unless specifically authorized, no person shall use, discharge or ignite fireworks, including consumer fireworks on public property.

(2) No person shall use, discharge or ignite any fireworks within twenty (20) feet of an open flame, a burner, gasoline, ignited gas or electric grill, or in any enclosed structure, garage, tent, or shed, or under any canopy, or overhanging cover, of any nature.

(3) No person being visibly intoxicated due to the voluntary consumption of alcoholic liquor as that term is defined under the State of Michigan Motor Vehicle Code shall use, discharge or ignite fireworks, anything by this ordinance to the contrary notwithstanding.

(4) No person shall either individually or in concert with another person, cause damage to any private or public property by the use, discharge or ignition of any fireworks.

(5) No person shall use, discharge or ignite consumer fireworks within two hundred (200) feet of a residential structure.

(6) No person shall create litter by using, igniting or discharging fireworks.

**(E) Applicability of General Ordinances.**

Nothing in this article or in the Act shall preclude the enforcement of ordinances prohibiting conduct that is secondary or incidental to the use, discharge, or ignition of fireworks.

**(F) Zoning Ordinances.**

Any person selling, distributing or transporting fireworks shall otherwise comply with the Act, and is required to comply with the zoning ordinances of the City, including obtaining necessary approvals thereunder. Failure to obtain necessary zoning approvals is subject to penalty as provided in the code of zoning ordinances of the City.

**(G) Imminent Dangers.**

Notwithstanding the Act, no person shall use, discharge or ignite fireworks thereby creating or causing an imminent danger or threat to the public health, safety, or welfare, as reasonably deemed by the Fire Marshall, and such fireworks being used, ignited or discharged may be immediately seized.

**(H) Seizure.**

All fireworks used, discharged, and/or ignited in violation of the Act and/or this article are subject to seizure. Any costs incurred by the City to seize and store the fireworks shall be paid by the responsible party.

**SECTION II. PENALTY.**

(A) A violation of this article is a civil infraction, punishable by a fine of up to \$500.00, plus the costs of prosecution.

(B) Following final disposition of a finding of responsibility for violating this article, the City may dispose of or destroy any fireworks retained as evidence in that prosecution.

(C) In addition to any other penalty, a person that is found responsible for a violation of this article shall be required to reimburse the city for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated by the City in accordance with this article.

**SECTION III. SEVERABILITY.**

If any clause, sentence, section, paragraph or part of this Ordinance, or the application thereof to any person, firm, corporation, legal entity or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this Ordinance. It is hereby declared to be the legislative intent of this body that the Ordinance is severable, and that the Ordinance would have been adopted had such invalid or unconstitutional provision not have been included in this Ordinance.

**SECTION IV. REPEAL.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**SECTION V. SAVINGS CLAUSE.**

All rights and duties which have matured, penalties which have been incurred, proceedings which have begun and prosecution for violations of law occurring before the effective date of this Ordinance are not affected or abated by this Ordinance.

**SECTION VI. PUBLICATION.**

The Clerk for the City of Garden City shall cause this Ordinance to be published in the manner required by law.

**SECTION VII. EFFECTIVE DATE.**

This Ordinance shall take full force and effect upon publication as required by law.

**CERTIFICATION**

The foregoing Ordinance was duly adopted by the City Council of the City of Garden City at its regular meeting called and held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, and was ordered to be given publication in the manner required by law.

\_\_\_\_\_  
Allyson Bettis, Clerk/Treasurer

Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Published: \_\_\_\_\_  
Effective: \_\_\_\_\_