

ORDINANCE #1182

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO REPEAL CHAPTER 1615 – FIREWORKS ORDINANCE OF THE LANSING CODIFIED ORDINANCES AND REPLACE IT WITH A NEW CHAPTER 1615 PROHIBITING THE USE OF CONSUMER FIREWORKS WITHOUT A LICENSE ON ANY DAY OTHER THAN THE DAY PRECEDING, THE DAY OF, AND THE DAY AFTER A NATIONAL HOLIDAY; AND REQUIRING A LICENSE FOR THE USE OF AGRICULTURAL AND WILDLIFE FIREWORKS, ARTICLES PYROTECHNIC, DISPLAY FIREWORKS, SPECIAL EFFECTS, OR CONSUMER FIREWORKS.

THE CITY OF LANSING ORDAINS:

Section 1. That Chapter 1615 of the Codified Ordinances of the City of Lansing, Michigan, be and is hereby repealed and replaced, to read as follows:

CHAPTER 1615 – FIREWORKS ORDINANCE

1615.01. – DEFINITIONS

FOR PURPOSES OF THIS CHAPTER, ANY TERM DEFINED BY THE MICHIGAN FIREWORKS SAFETY ACT, MCL 28.451 *ET SEQ.*, HAS THE DEFINITION GIVEN IN THAT ACT. THE CITY PRESUMES THAT THE MICHIGAN FIREWORKS SAFETY ACT USES THE TERMS “AGRICULTURAL OR WILDLIFE FIREWORKS” AND “AGRICULTURAL AND WILDLIFE FIREWORKS” INTERCHANGEABLY. THE CITY FURTHER PRESUMES THAT THE MICHIGAN FIREWORKS SAFETY ACT USES THE TERMS “SPECIAL EFFECTS MANUFACTURED FOR OUTDOOR PEST CONTROL OR AGRICULTURAL PURPOSES” AND “SPECIAL EFFECTS” INTERCHANGEABLY.

1615.02. – PROHIBITIONS

- (a) FIREWORKS SHALL NOT BE MANUFACTURED IN THE CITY.
- (b) CONSUMER FIREWORKS SHALL NOT BE USED IN THE CITY WITHOUT A LICENSE EXCEPT ON ANY DAY ON WHICH STATE LAW PREEMPTS LOCAL REGULATION OF THE USE OF CONSUMER FIREWORKS.

1615.03. – DISPLAY LICENSES

- (a) NO PERSON SHALL USE OR CONDUCT A DISPLAY OF AGRICULTURAL AND WILDLIFE FIREWORKS, ARTICLES PYROTECHNIC, DISPLAY FIREWORKS, SPECIAL EFFECTS, OR CONSUMER FIREWORKS WITHOUT OBTAINING A LICENSE TO DO SO. HOWEVER, CONSUMER FIREWORKS MAY BE USED ON ANY DAY ON WHICH STATE LAW PREEMPTS LOCAL REGULATION OF THE USE OF CONSUMER FIREWORKS.

(b) COUNCIL SHALL ESTABLISH, BY RESOLUTION, A FEE FOR LICENSES ISSUED UNDER THIS SECTION.

(c) APPLICATION FOR A LICENSE REQUIRED BY THIS SECTION SHALL BE MADE IN WRITING TO THE CITY CLERK AT LEAST 30 BUSINESS DAYS BEFORE THE PROPOSED DATE OF THE USE OR DISPLAY UNLESS APPLICATION WITHIN A SHORTER PERIOD OF TIME IS APPROVED BY THE FIRE MARSHAL. THE APPLICATION SHALL INCLUDE THE FOLLOWING:

(1) A NONREFUNDABLE LICENSE FEE IN THE AMOUNT SET BY COUNCIL RESOLUTION;

(2) PROOF OF AN INSURANCE POLICY NAMING THE CITY AS AN ADDITIONAL INSURED PARTY AND COVERING DAMAGES ARISING OUT OF THE LICENSED ACTIVITIES IN THE AMOUNT OF \$1 MILLION EACH FOR PROPERTY DAMAGE AND PERSONAL INJURY;

(3) IF THE APPLICANT IS NOT A RESIDENT OF THE STATE OF MICHIGAN, WRITTEN APPOINTMENT OF A RESIDENT AGENT UPON WHOM ALL PROCESS IN AN ACTION AGAINST THE APPLICANT MAY BE SERVED.

(d) THE APPLICATION SHALL BE MADE ON FORMS PROVIDED BY THE STATE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS. HOWEVER, IF THE STATE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS DOES NOT PROVIDE ANY SUCH FORMS, THE CITY CLERK MAY DEVELOP AND REQUIRE SUBMISSION OF AN APPLICATION THAT CONTAINS ALL OF THE FOLLOWING:

(1) THE APPLICANT'S NAME, ADDRESS, PHONE NUMBER, AND EMAIL ADDRESS;

(2) THE NAME OF EACH INDIVIDUAL WHO WILL OPERATE A DISPLAY, THEIR AGES, DESCRIPTIONS OF THEIR RELEVANT EXPERIENCE, AND COPIES OF THEIR STATE-ISSUED IDENTIFICATIONS;

(3) THE PROPOSED DATE, TIME, AND LOCATION OF THE USE OR DISPLAY;

(4) A DESCRIPTION OF THE TYPE AND QUANTITY OF AGRICULTURAL AND WILDLIFE FIREWORKS, ARTICLES PYROTECHNIC, DISPLAY FIREWORKS, SPECIAL EFFECTS, AND CONSUMER FIREWORKS TO BE USED IN THE DISPLAY;

(5) THE MANNER AND LOCATION OF THE STORAGE OF THE AGRICULTURAL AND WILDLIFE FIREWORKS, ARTICLES PYROTECHNIC, DISPLAY FIREWORKS, SPECIAL EFFECTS, AND CONSUMER FIREWORKS PRIOR TO THE USE OR DISPLAY;

(6) DISCLOSURE OF ANY CONVICTION FOR OR GUILTY PLEA TO A VIOLATION OF ANY FEDERAL, STATE, OR LOCAL LAW REGULATING THE SALE, USE, OR

POSSESSION OF AGRICULTURAL AND WILDLIFE FIREWORKS, ARTICLES PYROTECHNIC, DISPLAY FIREWORKS, SPECIAL EFFECTS, OR CONSUMER FIREWORKS BY THE APPLICANT, ANY PERSON WITH AN OWNERSHIP INTEREST IN THE APPLICANT, OR ANY INDIVIDUAL WHO WILL OPERATE A DISPLAY;

(7) AN AFFIDAVIT THAT NEITHER THE APPLICANT NOR ANY PERSON WITH AN OWNERSHIP INTEREST IN THE APPLICANT IS IN DEFAULT TO THE CITY;

(8) ANY OTHER ITEM OR INFORMATION DEEMED NECESSARY BY THE CITY CLERK, THE FIRE MARSHAL, THE CITY ATTORNEY, OR THE POLICE DEPARTMENT TO COMPLETE AN INVESTIGATION OF THE APPLICATION.

(e) THE CITY CLERK SHALL REFER THE APPLICATION TO THE CITY ATTORNEY, THE FIRE MARSHAL, THE POLICE DEPARTMENT, AND THE CITY TREASURER FOR APPROVAL.

(f) BEFORE APPROVING THE APPLICATION, THE FIRE MARSHAL SHALL:

(1) INSPECT THE LOCATION OF THE PROPOSED USE OR DISPLAY TO CONFIRM THAT IT IS A SAFE AND PROPER LOCATION;

(2) CONFIRM THAT THE TIME AND ALL OTHER ASPECTS OF THE USE OR DISPLAY ARE ADEQUATE TO ENSURE THE SAFETY OF PERSONS AND PROPERTY AND ARE OTHERWISE IN ACCORDANCE WITH NFPA 1123 AND NFPA 1126;

(3) EXAMINE THE AGRICULTURAL AND WILDLIFE FIREWORKS, ARTICLES PYROTECHNIC, DISPLAY FIREWORKS, SPECIAL EFFECTS, AND CONSUMER FIREWORKS PROPOSED TO BE USED;

(4) CONFIRM THAT THE APPLICANT IS NOT UNDER THE AGE OF 18 AND THAT ANY PERSON WHO WILL OPERATE A DISPLAY IS NOT UNDER THE AGE OF 18 AND IS OTHERWISE COMPETENT TO OPERATE A DISPLAY IN A SAFE MANNER.

(g) THE FIRE MARSHAL MAY IMPOSE ADDITIONAL REASONABLE LIMITATIONS OR REQUIREMENTS ON THE LICENSE TO SATISFY THE REQUIREMENTS OF NFPA 1123 AND NFPA 1126.

(h) IF EVERY PERSON AND DEPARTMENT LISTED IN SUBSECTION (d) APPROVES THE APPLICATION IN WRITING, THE APPLICATION SHALL BE REFERRED TO CITY COUNCIL FOR APPROVAL.

(i) THE FIRE MARSHAL OR HIS OR HER DESIGNEE MAY BE PRESENT AT ANY USE OR DISPLAY FOR WHICH THIS SECTION REQUIRES A LICENSE AND MAY TERMINATE ANY USE OR DISPLAY THAT (1) IS NOT CONDUCTED IN STRICT

COMPLIANCE WITH ANY REPRESENTATION MADE ON THE LICENSE APPLICATION OR ANY PROVISION OF THE LICENSE; OR (2) IS OTHERWISE UNSAFE.

(j) NO LICENSE ISSUED UNDER THIS SECTION MAY BE TRANSFERRED TO ANY OTHER PERSON.

(k) A LICENSEE SHALL REPORT ANY CHANGE IN THE INFORMATION REQUIRED TO BE CONTAINED ON AN APPLICATION TO THE CITY CLERK, BUT NO SUCH CHANGES MAY BE MADE WITHIN ONE BUSINESS DAY OF THE DATE FOR WHICH THE LICENSE WAS ISSUED UNLESS THE FIRE MARSHAL OR HIS OR HER DESIGNEE CONSENTS. THE CITY CLERK SHALL FORWARD ANY INFORMATION RECEIVED PURSUANT TO THIS SUBSECTION TO THE CITY ATTORNEY, THE FIRE MARSHAL, AND THE POLICE DEPARTMENT.

(l) A LICENSE ISSUED PURSUANT TO THIS SECTION MAY BE DENIED ON ANY OF THE FOLLOWING BASES:

(1) COMMISSION OF FRAUD OR MISREPRESENTATION OR THE MAKING OF A FALSE STATEMENT DURING THE APPLICATION PROCESS;

(2) A CONVICTION FOR OR GUILTY PLEA TO ANY FEDERAL, STATE, OR LOCAL LAW REGULATING THE SALE, USE, OR POSSESSION OF AGRICULTURAL AND WILDLIFE FIREWORKS, ARTICLES PYROTECHNIC, DISPLAY FIREWORKS, SPECIAL EFFECTS, OR CONSUMER FIREWORKS BY THE APPLICANT, ANY PERSON WITH AN OWNERSHIP INTEREST IN THE APPLICANT, OR ANY PERSON WHO WILL OPERATE A DISPLAY;

(3) A DEFAULT TO THE CITY OF THE APPLICANT OR ANY PERSON WITH AN OWNERSHIP INTEREST IN THE APPLICANT.

1615.04. – ENFORCEMENT

THE FIRE MARSHAL AND ALL FIRE INSPECTORS ARE AUTHORIZED TO ENFORCE THIS CHAPTER AND ISSUE CITATIONS FOR VIOLATIONS OF THIS CHAPTER.

1615.05. – STORAGE COSTS

THE CITY MAY SEEK TO RECOVER THE ACTUAL COSTS OF STORAGE AND DISPOSAL OF FIREWORKS IT SEIZES PURSUANT TO THE MICHIGAN FIREWORKS SAFETY ACT.

1615.06. – PENALTY

UNLESS OTHERWISE PROVIDED BY LAW, ANY PERSON WHO VIOLATES ANY PROVISION OF THIS CHAPTER OR A PROVISION OF ANY LICENSE ISSUED UNDER THIS CHAPTER IS RESPONSIBLE FOR A MUNICIPAL CIVIL INFRACTION AND SUBJECT TO A FINE NOT EXCEEDING \$500, PLUS COSTS OF PROSECUTION, FOR EACH VIOLATION.

Section 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions hereof are hereby repealed.

Section 3. Should any section, clause or phrase of this ordinance be declared to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

Section 4. This ordinance shall take effect on the 30th day after enactment, unless given immediate effect by City Council.