

**CITY COMMISSION
CITY OF WALKER
KENT COUNTY, MICHIGAN**

Commissioner Kent, seconded by Commissioner Holt, moved the adoption of the following ordinance:

ORDINANCE NO. 12-608

**AN ORDINANCE TO AMEND CHAPTER 38, ARTICLE I,
DIVISION 2, SECTIONS 38-10, 11, 12, 13 AND 14 OF,
AND TO ADD SECTION 38-16 TO, THE CODE
OF THE CITY OF WALKER ENTITLED "FIREWORKS"**

THE CITY OF WALKER ORDAINS:

Section 1. Amendment of Code. Chapter 38, Article I, Division 2, Section 38-10 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Definitions.

The following terms, when used in this article, shall have the meaning ascribed to them in this section:

Act means the Michigan Fireworks Safety Act, Act No. 256 of the Public Acts of Michigan of 2011, as amended.

All other terms used in this article shall have the same meanings as defined or used in the Act.

Section 2. Amendment of Code. Chapter 38, Article I, Division 2, Section 38-11 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Fireworks.

A person shall not possess, sell, ignite, use, or discharge any fireworks within the city except as permitted by the Act and this article.

Section 3. Amendment of Code. Chapter 38, Article I, Division 2, Section 38-12 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Permits required.

A permit from the city commission shall be required for the possession, use, or discharge of display fireworks, articles pyrotechnic or special effects (collectively for purposes of this article hereinafter "display fireworks") for public or private display within the city on terms

and in a manner consistent with the Act. The storage of fireworks shall be prohibited in the city except in compliance with the Act. All permits shall be subject to compliance with this article and the Act. In the event of any conflict between this article and the Act, the more stringent provision shall control.

Section 4. Amendment of Code. Chapter 38, Article I, Division 2, Section 38-13 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Permit application; fee; decision of city commission.

Application for permits shall be made in writing, on forms provided by the Michigan Department of Licensing and Regulatory Affairs, to the city commission at least 60 days in advance of the date of the display of fireworks (except that applications for indoor fireworks displays shall be made at least 30 days in advance of the display date). If an application for a permit is not timely filed as provided herein, the city commission may consider the application only if the applicant shows good cause for submitting a late application. The city commission may, by resolution, establish a nonrefundable fee schedule for the city's cost of reviewing and acting on the application. If such schedule is established by the city commission, the applicant shall submit the nonrefundable fee with the permit application. The city commission may grant, grant with conditions, or deny the permit in accordance with the Act and this article. Notwithstanding any provision of this article, no applicant has a right to issuance of a permit. Nothing in this article shall be construed to limit or impair the discretion of the city commission to deny a permit pursuant to the Act or this article. If a permit is granted, the sale, possession, use, or discharge of fireworks for such display shall comply with all terms and conditions of the permit. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein. A permit for a particular display granted by the city under the Act's predecessor shall remain valid subject to its original terms.

Section 5. Amendment of Code. Chapter 38, Article I, Division 2, Section 38-14 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Liability insurance.

Before a permit for display fireworks is granted by the city commission, the applicant shall furnish to the city a liability insurance policy, in a form satisfactory to the city, in the amount of not less than \$1,000,000 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 thereof. The city shall be named as an additional insured on the insurance policy. Before a display fireworks permit is issued, the applicant shall furnish a certificate of insurance for the policy which shall provide for 30 days prior written notice to the city of cancellation or revocation of the policy.

Section 6. Amendment of Code. Chapter 38, Article I, Division 2, Section 38-16 of the Code of Ordinances, City of Walker, Michigan, is added to read as follows:

Fireworks Regulations.

(a) Compliance with Applicable Ordinances and Codes.

Unless otherwise provided herein, and without limitation, a retailer or wholesaler of fireworks located within the city must comply with the requirements of Chapters 18 and 94 of the Code of Ordinances.

(b) Consumer Fireworks.

No person shall ignite, discharge or use consumer fireworks in the city; except this prohibition shall not preclude a person from igniting, discharging or using consumer fireworks within the city on the day preceding, the day of, or the day after a national holiday, consistent with the Act. Nothing herein shall be construed or interpreted to limit the authority of the city to enforce those of its ordinances violated as a result of the discharge of consumer fireworks at any time, including, without limitation, the provisions of Chapter 34, Article IV, Division 1 of this Code.

For purposes of this section, "national holiday" shall, in accordance with 5 USC Section 6103, be deemed the following: New Year's Day, January 1; Birthday of Martin Luther King, Jr., the third Monday in January; Washington's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veterans Day, November 11; Thanksgiving Day, the fourth Thursday in November; and, Christmas Day, December 25.

(c) Firework Safety.

No person shall recklessly endanger the life, health, safety, or well-being of any person or property by the ignition, discharge, or use of consumer fireworks.

(d) Possession by or Sale to Minor.

- (1) No person shall sell consumer fireworks to a person under the age of 18 years.
- (2) No person under the age of 18 years shall use, possess, explode or cause to explode any consumer fireworks within the city except while in the presence and under the control of a parent, guardian or other responsible adult.
- (3) No person under the age of 18 years shall buy, purchase, acquire or obtain any consumer fireworks within the city.

(e) Use of Fireworks.

No person shall use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. As used in this subsection:

- (1) "Alcoholic liquor" means that term as defined in section 1d of the Michigan Vehicle Code, Act 300 of the Public Acts of Michigan of 1949, as amended from time to time.

(2) "Controlled substance" means that term as defined in section 8b of the Michigan Vehicle Code, Act 300 of the Public Acts of Michigan of 1949, as amended from time to time.

(f) Modified Fireworks.

Regardless of the calendar date, no person shall use, ignite or discharge modified, enhanced or altered consumer fireworks not otherwise authorized by the Act.

(g) Violations, Fines and Penalties.

Any person violating the provisions of this article shall be guilty of a misdemeanor, punishable by up to ninety (90) days in jail and/or a fine up to \$500.00.

Section 7. Effective Date. In accordance with the City Charter, this Ordinance is declared to be an emergency ordinance by the affirmative vote of at least five members of the City Commission and shall become effective [immediately/upon the date of its publication.]

YEAS: Mayor Rob VerHeulen, Commissioners: Al Parent, Dan Kent, Barb Holt,

Chuck Deschaine and Mark Huizenga.

NAYS: Commissioner Cyndy Stek

ABSENT: None

ORDINANCE NO. 12-608 ADOPTED.

Robert VerHeulen, Mayor

Sarah Bydalek
Sarah Bydalek, Clerk

I, Sarah Bydalek, the Clerk of the City of Walker hereby attests that the foregoing is a true and accurate copy of an ordinance adopted by the City Commission of the City of Walker at a regularly scheduled meeting held on June 25, 2012, which meeting was held in accordance with state law.

Sarah Bydalek
Sarah Bydalek, Clerk