



MEMO

To: City Commission

From: Richard Mattice, Police Chief
Brent Looman, Fire Chief
Terry Schweitzer, Community Development Director

Subject: Fireworks Ordinance

Date: June 19, 2012

ACTION REQUESTED:

Recommend approval of the attached ordinance amendment entitled "Fireworks" (Chapter 38, Article 4, Division 1, Section 38-163 of Codified City Ordinances) and referring the same to the June 19 Consent Agenda for adoption as an emergency ordinance.

BACKGROUND:

The State of Michigan adopted Public Act 256 in 2011 which permits the sale of "consumer fireworks" which were previously illegal. Since then, access to fireworks has greatly increased and retail fireworks stores have opened (including in Kentwood).

Act 256 defines consumer fireworks as "*fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling requirements... by the US Consumer Product Safety Commission.*"

We recently amended the City Code to acknowledge the existence of the Act and to comply with its provisions. Based on activities in nearby communities and in light of an increased number of reported complaints, we are now proposing an additional amendment to the City Code to supplement Act 256 and to mitigate its adverse impacts. The following are examples

- While the State prohibits the sale of consumer fireworks to a minor (under 18 years old), it does not prohibit minors from possessing such fireworks. Section 38-163 (e) of Kentwood's proposed Fireworks Ordinance addresses this by prohibiting use and possession by minors.
- The amendment prohibits the use of consumer fireworks on days other than those exempted by Act 256. These prohibited dates would include all but the day preceding, day of, and day after a national holiday. (See Section 38-163 (c))
- The amendment would strengthen provisions in State law to prohibit the use of consumer and low impact fireworks under the influence of alcohol or a controlled substance and/or recklessly endangering others. (See Section 38-163 (d))

If you have any questions, please contact Chief Mattice at 656.6500 or Chief Looman at 554 0801.
Note: Rich Houtteman and Jeff Sluggett were also contributors to this memo.

CITY COMMISSION
CITY OF KENTWOOD
KENT COUNTY, MICHIGAN

Commissioner _____, seconded by Commissioner _____, moved the adoption of the following ordinance:

ORDINANCE NO. ____

AN ORDINANCE TO AMEND CHAPTER 38, ARTICLE 4,
DIVISION 1, SECTION 38-163 OF THE CODE
OF THE CITY OF KENTWOOD ENTITLED "FIREWORKS"

THE CITY OF KENTWOOD ORDAINS:

Section 1. Amendment of Code. Chapter 38, Article 4, Division 1, Section 38-163 of the Code of Ordinances, City of Kentwood, Michigan, is amended to read as follows:

38-163. Fireworks.

(a) Definitions. As used in this section, the following shall apply:

- (1) "Act 256" means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011, as amended from time to time.
- (2) For all purposes, the words and phrases in the section shall have the same meaning as provided for in Act 256.

(b) Compliance with Applicable Ordinances and Codes.

Unless otherwise provided herein, a retailer or wholesaler of fireworks located within the City must comply with the requirements of the City's Zoning Ordinance, as well as all building codes and regulations

(c) Use of Consumer Fireworks Prohibited

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 Act 256.

(d) 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.

(e) Possession by or Sale to Minor.

- (1) No person shall sell 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.

(f) 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

(g) Violations, Fines and Penalties.

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

Section 2. Effective Date. In accordance with Section 5.5 of the City Charter, this Ordinance is declared to be an emergency ordinance by the affirmative vote of two-thirds of the City Commission and, hence, its effective date shall be the date of its publication.

YEAS: _____

NAYS: _____

ABSENT: _____

ORDINANCE NO. _____ ADOPTED.

Richard Clanton, Mayor

Dan Kasunic, Clerk

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

Dan Kasunic, Clerk