

**CITY COMMISSION
CITY OF HUDSONVILLE
OTTAWA COUNTY, MICHIGAN**

ORDINANCE NO. 12-285

Commissioner Brandsen, supported by Commissioner Unema, moved the adoption of the following ordinance:

AN ORDINANCE TO ADD ARTICLE 4, "FIREWORKS", TO CHAPTER 11, "FIRE PREVENTION AND PROTECTION," AND TO AMEND SECTION 16-49, "DISTURBANCE OF THE PEACE", AND SECTION 16-50, "EXCEPTIONS TO SUBSECTIONS 16-49(3), (4), (5), (6), (7), (8) AND (9)," OF ARTICLE V, "OFFENSES AGAINST THE PUBLIC PEACE," OF CHAPTER 16, "OFFENSES," OF THE CODE OF ORDINANCES OF THE CITY OF HUDSONVILLE.

THE CITY OF HUDSONVILLE ORDAINS:

Section 1. Addition of Article 4, to Chapter 11. Article 4, "Fireworks," is added to Chapter 11, "Fire Prevention and Protection," of the Code of Ordinances of the City of Hudsonville to read as follows:

ARTICLE IV. FIREWORKS

Sec. 11-40. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

Act 256 means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011 as amended from time-to-time.

Consumer fireworks mean fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition and labeling requirements promulgated by the United States Consumer Product Safety Commission and are identified as such in Act 256. Consumer Fireworks do not include low-impact fireworks.

Display fireworks mean 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 deterioration and are identified as such in Act 256.

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 provided in Act 256.

Fireworks mean 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.

Low-impact fireworks mean ground and handheld sparkling devices as provided in Act 256.

National holiday means the following legal public holidays:

- (a) New Years' Day, January 1.
- (b) Birthday of Martin Luther King, Jr., the third Monday in January.
- (c) Washington's Birthday, the third Monday in February.
- (d) Memorial Day, the last Monday in May.
- (e) Independence Day, July 4.
- (f) Labor Day, the first Monday in September.
- (g) Columbus Day, the second Monday in October.
- (h) Veteran's Day, November 11.
- (i) Thanksgiving Day, the fourth Thursday in November.
- (j) Christmas Day, December 25.

Minor means any individual who is less than 18 years of age.

Retailer means a person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

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.

Wholesale means any person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person who sells only display fireworks or special effects.

Sec. 11-41. Sale of consumer fireworks.

A retailer or other person may not sell consumer fireworks within the city unless such person has obtained and has in effect a valid consumer fireworks certificate issued by the Michigan Department of Licensing and Regulatory Affairs and otherwise complies with the requirements of Act 256 and any rules and regulations promulgated thereto including those related to storage.

Sec. 11-42. Sale of low-impact fireworks.

A retailer or other person may not sell low-impact fireworks unless such person is actively registered, in accordance with Act 256, with the low-impact fireworks retail registry maintained by the Michigan Department of Licensing and Regulatory Affairs.

Sec. 11-43. Compliance with applicable ordinances and codes.

A retailer or wholesaler of fireworks located within the city must comply with the applicable requirements of the city's zoning ordinance and building codes and regulations.

Sec. 11-44. Use of consumer fireworks.

A person may ignite, discharge or use consumer fireworks in the city on the day proceeding, the day of, or the day after a national holiday. On any other day, no person may ignite, discharge or use consumer fireworks.

Sec. 11-45. Fireworks safety.

No person shall endanger the life, health or safety of any other person by the sale, use, possession, transport, display or discharge of any fireworks.

Sec. 11-46. Prohibition on or near certain property.

No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued to this section, any fireworks upon another person's property or within 15 feet of another person's property without such property owner's permission. No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued pursuant to this section, any fireworks in a public street or right-of-way, a public park, school property or any other place of public assembly without the approval of the owner of such property or, in the case of a public park, street or right-of-way, the approval of the city.

Sec. 11-47. Permits.

Provided the applicable provisions of Act 256 are complied with, upon application in accordance with this section, the city may issue a non-transferrable permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks or special effects manufactured for outdoor pest control or agricultural purposes or for public or private display. After a permit has been issued, the sale, possession or transportation of fireworks for the purposes described in the permit only may be made. A permit may not be issued to a person under 18 years of age. The issuance of a permit shall be approved by the city commission and shall be based on the competency and qualifications of the operator of such fireworks as required by Act 256 and the time, place and safety aspects of the proposed use.

Sec. 11-48. Permit application.

An application for a permit, on the form prescribed by the city, shall be made for use of fireworks requiring a permit at least 45 days in advance of such use.

Sec. 11-49. Permit fee.

The fee for a fireworks permit as established from time-to-time by the city commission shall accompany the application for a permit.

Sec. 11-50. Proof of financial responsibility.

In order to receive a permit for articles pyrotechnic or a display fireworks use, the applicant shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the city manager or his/her designee 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 of the applicant, and to protect the public.

Sec. 11-51. Storage of fireworks.

The storage of fireworks by retailers and wholesalers shall at all times be in compliance with the requirements of Act 256.

Sec. 11-52. Possession of consumer fireworks by minor.

A minor shall not possess consumer fireworks.

Section 2. Amendment to Section 16-49 of Article V of Chapter 16. Subsection (13) of Section 16-49, "Disturbance of the peace," of Article V, "Offenses Against the Public Peace", of Chapter 16, "Offenses," of the Code of Ordinances of the City of Hudsonville is amended to read as follows:

(13) Fire, discharge, display or possess any fireworks except of the type and under the conditions permitted by state law and article 4 of chapter 11 of this code.

Section 3. Amendment to Section 16-50 of Article V of Chapter 16. Subsection (3) of Section 16-50, "Exceptions to subsections 16-49(3), (4), (5), (6), (7), (8) and (9)," of Article V, "Offenses Against the Public Peace", of Chapter 16, "Offenses," of the Code of Ordinances of the City of Hudsonville is amended to read as follows:

(3) Fireworks displays and parades where the city has issued a permit for such activity pursuant to article 4 of chapter 11 of this code;

Section 4. Effective Date. This ordinance shall take effect ten (10) days after it, or a summary thereof, is published in a newspaper of general circulation in the city.

Section 5. Publication. After its adoption, this ordinance or a summary thereof, as permitted by law, shall be published by the City Clerk in a newspaper of general circulation in the city.

Approved this 12th day of June, 2012.

YEAS: Commissioners Brandsen, Leerar, Unema, Zuiderveen, Mayor Van
Doeselaar

NAYS: Commissioners O'Brien, Ten Harmsel

ABSTAIN: Commissioners None

ABSENT: Commissioners None

We hereby certify that the foregoing was adopted by the Hudsonville City Commission at a public session held on June 12, 2012.

Dated: June 12, 2012

Donald Van Doeselaar, Mayor

Jan K. Wiersum
City Clerk

CERTIFICATION

I, the undersigned City Clerk of the City of Hudsonville, certify that the above Ordinance is a true and complete copy of an ordinance adopted at a regular meeting of the Hudsonville City Commission held on June 12, 2012, pursuant to notice given in compliance with Act 267 of the Public Acts of Michigan of 1976, as amended, and a summary of the Ordinance along with notice of its adoption was published in *The Grand Rapids Press*, on _____, 2012. I further certify that the above Ordinance was entered into the Ordinance Book of the City on _____, 2012, and was effective _____, 2012.

Dated: _____, 2012

Jan K. Wiersum
City Clerk