

ORDINANCE NO. 2019 - 01

CITY OF ST. CLAIR

COUNTY OF ST. CLAIR, MICHIGAN

AN ORDINANCE OF THE CITY OF ST. CLAIR, ST. CLAIR COUNTY, MICHIGAN TO AMEND CHAPTER 30 "FIRE PREVENTION AND PROTECTION," TO THE EXTENT PERMITTED BY THE MICHIGAN FIREWORKS SAFETY ACT, MCL SECTION 28.451 ET SEQ., AS AMENDED BY PUBLIC ACTS 634, 635 AND 636 OF 2018, BY ADDING ARTICLE V "FIREWORKS" TO REPLACE AND REPEAL SECTION 30-10 ET SEQ.

THE CITY OF ST. CLAIR ORDAINS:

SECTION 1. AMENDMENT.

Chapter 30 is amended to replace and repeal Section 30-10 et seq. by adding Article V "Fireworks" to read as follows:

ARTICLE V.—FIREWORKS

Sec. 30-100. Short Title. This ordinance shall be known as and may be cited as the "2019 Amendments to the Fireworks Ordinance."

Sec. 30-101. Statement of Purpose. This is an ordinance to amend Chapter 30 of the City Code, "Fireworks," to the extent permitted by the Michigan Fireworks Safety Act, MCL Section 28.451 et seq., as has been amended by Public Acts 634, 635 and 636 of 2018.

Sec. 30-102. Definitions. As used in this section, the following terms shall be defined as follows:

(A) *APA standard 87-1* means 2001 APA standards 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties and Theatrical Pyrotechnics, published by the American Pyrotechnics Association of Bethesda, MD.

(B) *Consumer fireworks* means fireworks devices that are designed to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Protection 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 do not include low-impact fireworks.

(C) *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.

(D) *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.

(E) *Minor* means an individual who is less than 18 years of age.

Sec. 30-103. Ignition, Discharge or Use of Consumer Fireworks.

A. Except as provided in this Section, a person shall not ignite, discharge, or use consumer fireworks at any time.

B. A person may ignite, discharge, or use consumer fireworks on the following days during the following hours:

1. Between 11:00 a.m. on December 31 and 1:00 a.m. on the immediately following January 1.
2. Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Memorial Day.
3. Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Memorial Day.
4. Between 11:00 a.m. and 11:45 p.m. on June 29, June 30, July 1, July 2, July 3 and July 4.
5. Between 11:00 a.m. and 11:45 p.m. on July 5, if that date is a Friday or a Saturday.
6. Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Labor Day.
7. Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Labor Day.

C. A minor shall not possess consumer fireworks

D. A violation of this Section is a civil infraction, punishable by a fine of \$1,000.

Sec. 30-104. Ignition, Discharge or Use of Consumer Fireworks on Public Property, School Property, Church Property or the Property of Another Person.

A. A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises.

B. A violation of this Section is a civil infraction, punishable by a fine of not more than \$500.

Sec. 30-105. Ignition, Discharge, or Use of Consumer Fireworks While Under the Influence.

A. A person shall not ignite, discharge, or 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.

B. As used in this Section, "alcoholic liquor" means that term as defined in Section 1d of the Michigan Vehicle Code, MCL 257.1d, as may be amended, and "controlled substance" means

that term as defined in Section 8b of the Michigan Vehicle Code, MCL 257.8b, as may be amended.

C. A violation of this Section is a civil infraction, punishable by a fine of not more than \$1,000.

Sec. 30-106. Determination of Violation; Seizure; Destruction; Storage Costs.

A. If a police officer determines that a violation of this Article has occurred, the Department may seize the firework as evidence of the violation. The Department shall store, or cause to be stored, the evidence seized under this Section pending disposition of any proceedings arising from the violation.

B. Following a final disposition of an appeal of a finding of responsibility under this Article that affirms the finding, the Department may dispose of or destroy any fireworks retained as evidence in that proceeding.

C. A person from whom fireworks are seized under this Article shall pay the actual costs of storage and disposal of the seized fireworks if found responsible for a violation of this Article.

SECTION 2. SEVERABILITY.

This Ordinance and each of the various parts, sections, subsections, sentences, phrases, and clauses hereof are declared to be severable. If any part, section, subsection, sentence, phrase, or clause is determined to be invalid or unenforceable by a court of competent jurisdiction, it is hereby provided that the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION 3. REPEAL OF ORDINANCES IN CONFLICT HEREWITH.

Any and all Ordinances of the City of St. Clair or any parts or provisions thereof, to the extent that they are contrary to or inconsistent with the provisions of the within Ordinance, are hereby expressly repealed.

SECTION 4. RATIFICATION.

All other provisions of the code of Ordinances of the City of St. Clair, Michigan except as herein modified or amended are hereby expressly ratified and affirmed.

SECTION 5. PUBLICATION.

This Ordinance shall be published in accordance with the terms, provisions, and requirements of the City Charter of the City of St. Clair, Michigan, and in accordance with and to the extent required by the statutes of the State of Michigan.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take immediate effect upon publication in accordance with the provisions and requirements of the City Charter of the City of St. Clair.

ORDINANCE DECLARED ADOPTED.

William Cedar, Jr., Mayor
City of St. Clair, Michigan

CERTIFICATION

The foregoing is a true and complete copy of an Ordinance adopted by the City Council of the City of St. Clair, County of St. Clair, State of Michigan, at a regular meeting of the City Council held on the 18th day of February, 2019, and public notice of said meeting was given pursuant to and in accordance with the requirements of Act No. 267 of the Public Acts of 1976, as amended, being the Open Meetings Act, and the minutes of said meeting have been or will be made available as required by said Act.

Members Present: Mayor Cedar, Members Ellery, Kindsvater, LaPorte, McCartney, Watt
Members Absent: Member Kuffa

It was moved by Member LaPorte and supported by Member Kindsvater to adopt the Ordinance.

Members voting yes: Ellery, Kindsvater, LaPorte, McCartney, Watt, Cedar
Members voting no: None

The Ordinance was declared adopted by the Mayor and has been recorded in the Ordinance Book of the City of St. Clair.

Annette Sturdy, City Clerk
City of St. Clair, Michigan

INTRODUCED: February 4, 2019
ADOPTED: February 18, 2019
PUBLISHED: February 21, 2019
EFFECTIVE: February 21, 2019