

**ADOPTION OF EMERGENCY ORDINANCE
CITY OF PORTAGE, MICHIGAN
NOTICE**

TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND
ALL OTHER INTERESTED PERSONS.

NOTICE IS HEREBY GIVEN, that an Emergency Ordinance to amend Chapter 34, Fire Prevention and Protection, by adding Article 7, Consumer Fireworks, and by repealing Section 50-82, Fireworks, of Article 3, Offenses Against Public Safety, of Chapter 50, of the Codified Ordinances of Portage, Michigan, was adopted by the City Council at a regular meeting held on the 25th day of June 2013, and became effective June 25, 2013.

NOTICE IS FURTHER GIVEN that the following Article 7, Consumer Fireworks, of Chapter 34, Fire Prevention and Protection, be added as follows:

THE CITY OF PORTAGE ORDAINS:

That Chapter 34 shall be amended as follows:

ARTICLE 7. CONSUMER FIREWORKS.

Sec. 34-157. Purpose.

1. Since the adoption of the Michigan Fireworks Safety Act, MCLA 28.451, et. seq., which has legalized the sale, possession and use of consumer fireworks in Michigan with some restrictions, there has been disruptions to the peace and quiet in areas of the city resulting in a negative impact to the quality and life of the city's residents. Further, increased complaints concerning the use of consumer fireworks has caused additional time and resources of the city to be used
2. An amendment to the Act was signed by the Governor on June 19, 2013 and given immediate effect. The amendment permits greater local regulation over the use of consumer fireworks. To enable the City to effectively exercise that authority for upcoming holidays and during the summer when the use of consumer fireworks substantially increases causing a disruption to the general peace and welfare of Portage residents, this ordinance is deemed to be an emergency ordinance.

Sec. 34-158. Definitions.

As used in this chapter, the following definitions shall apply:

1. "Act" means Act 256 of the Public Acts of Michigan of 2011, being MCL 28.451, et sec., as it may be amended from time to time. (The Michigan Fireworks Safety Act.)

2. "Consumer fireworks" means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product 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 as defined in the Act. Consumer fireworks does not include low-impact fireworks.
3. "Public property" means any public park, street right-of-way (including the unimproved portions), city owned property and any other public place open to the public.
4. "Firework" or "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 as defined in the Act.
5. "Low-impact fireworks" means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 2.1, 3.1.1.1 to 3.1.1.8, and 3.5.
6. "Minor" means an individual who is less than 18 years of age.
7. "Person" means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.
8. "Property of another person" includes hotel and motel property, apartment property, and condominium property, where an owner, management company, or association has or retains authority and control over the use of the property or common areas.

Sec. 34-159. Consumer Fireworks Prohibited at Certain Times.

1. A person shall not ignite, discharge or use consumer fireworks from June 26, 2013 to September 10, 2013 between the hours of 1 A.M. and 8 A.M.
2. Consumer fireworks shall not be sold to a minor.

Sec. 34-160. Certain Uses of Fireworks Prohibited.

When consumer fireworks are permitted to be ignited, discharged and used pursuant to the Act, the following shall apply:

1. 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.

2. Consumer and low-impact fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both.
3. No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge, or use of consumer fireworks.

Sec. 34-161. Penalties.

1. A person violating the provisions of this Article shall be responsible for a civil infraction punishable by a civil fine of not more than \$100.00 for each violation.
2. A police officer, fire marshal or other person employed by the city department of public safety are authorized city officials pursuant to Section 2-202 of this Code and may issue and serve civil infraction citations for violations of this Article.
3. Following final disposition of a finding of responsibility for violating this ordinance, the City may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.
4. A person who is found responsible for violation of this Article shall be required to reimburse the City for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated for a violation of this Article.
5. No provision of this Article shall prevent a prosecution or a civil infraction under state law for violation of the provisions of the Act

Sec. 34-162. Immediate Effect.

Pursuant to Section 5.3(b) of the Portage City Charter, this Article was introduced and adopted at a regular meeting of the City Council by a vote of not less than five (5) members of the Council as an emergency ordinance and, as such, pursuant to Section 5.5(a) of the Portage City Charter shall take immediate effect upon its adoption.

That Article 3, Offenses Against Public Safety, of Chapter 50 shall be amended as follows:

ARTICLE 3. OFFENSES AGAINST PUBLIC SAFETY.

Section 50-82. Fireworks.

This section is hereby repealed in its entirety.

PLEASE TAKE NOTICE that a copy of the Ordinance as amended may be purchased or inspected at City Hall on any business day except public and legal holidays from and after publication of this Notice from 8:00 a.m. to 5:00 p.m. local time.

Dated: June 26, 2013

James R. Hudson, City Clerk