

**STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF ALLEN PARK**

ORDINANCE #06-2012

AN ORDINANCE OF THE CITY OF ALLEN PARK CODE OF ORDINANCES; AMENDING CHAPTER 18, FIRE PREVENTION AND PROTECTION, ARTICLE III, FIREWORKS, BY CREATING DIVISION I, FIREWORK SALES, SECTIONS 18-61—18-66 AND CREATING DIVISION II, USE OF CONSUMER FIREWORKS, SECTIONS 18-67 THROUGH 18-70, WHICH PROVIDE FOR PROHIBITIONS AND EXCEPTIONS FOR USE OF CONSUMER FIREWORKS.

THE CITY OF ALLEN PARK ORDAINS:

Section 1. Creation of Chapter 18, Article III, Division I, Fireworks Sales.

Sections 18-61 through 18-66 shall be placed in the newly created Division I, entitled Firework Sales.

Section 2. Creation of Division II, Use of Consumer Fireworks, and Adoption of Sections 18-67 through 18-70.

Division II, entitled Use of Consumer Fireworks, containing sections 18-67 through 18-70 shall be created and new sections 18-67 through 18-70 are adopted as follows:

Sec. 18-67. Definitions.

The following words, terms and phrases when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer fireworks means fireworks devices that are designed to produce visible efforts 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. Consumer fireworks do not include low-impact fireworks.

Display fireworks means 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 detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1.

Firework or fireworks means any composition or device, except for a starting pistol, a flare gun, or a flare, designated 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 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.

National Holidays are those days defined in Federal Act, Title 5, Government Organization and Employees, which may be amended from time to time, and are specifically listed in 5 USC 6013:

- (i) New Year's Day, January 1;
- (ii) Martin Luther King, Jr. Day, the third Monday in January;
- (iii) Washington's Birthday, the third Monday in February;
- (iv) Memorial Day, the last Monday in May;
- (v) Independence Day, July 4;
- (vi) Labor Day, the first Monday in September;
- (vii) Columbus Day, the second Monday in October;
- (viii) Veterans Day, November 11;
- (ix) Thanksgiving Day, the fourth Thursday in November;
- (x) Christmas Day, December 25.

Novelties means that term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

- (i) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cup.
- (ii) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
- (iii) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

Sec. 18-68. Prohibition on use of consumer fireworks.

No person shall ignite, discharge or use consumer fireworks within the city, except this prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks on the day preceding, the day of, or the day after a national holiday consistent with Sec. 7 (2) of Public Act 256 of 2011. This prohibition also shall not apply to any municipal sponsored fireworks display that is also insured and properly licensed through the Michigan Department of Licensing and Regulatory Affairs Bureau of Fire Services.

Sec. 18-69. Enforcement.

The Fire Chief, his or her designees and sworn law enforcement officers are authorized to enforce the provisions of this ordinance.

Sec. 18-70. Penalty.

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

Section 3. Saving Clause.

Nothing in this Ordinance or in the code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquiring or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 4. Severability.

Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any court of competent jurisdiction or by any state agency having authority to do so for any reason whatsoever, such holdings shall be construed and limited to such work, sentence, phrase, or any portion of the Ordinance held to be so invalid shall not be construed as affecting the validity of any of the remaining words, sentences, phrases or portions of this Ordinance.

Section 5. Repeal.

All prior existing ordinances adopted by the City of Allen Park inconsistent or in conflict with the provisions of this Ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

Section 6. Publication.

The Clerk for the City of Allen Park shall cause this ordinance to be published in the manner required by law.

Section 7. Adoption.

This Ordinance is hereby declared to have been adopted by the City Council of the City of Allen Park, County of Wayne, State of Michigan, at a regular meeting, called and held on the **25th day of September, 2012.**

WILLIAM MATAKAS, Mayor
City of Allen Park

MICHAEL MIZZI, City Clerk
City of Allen Park