

ORDINANCE NO. 2012- _____

CITY OF ALGONAC

COUNTY OF ST. CLAIR, MICHIGAN

AN ORDINANCE OF THE CITY OF ALGONAC, ST. CLAIR COUNTY, MICHIGAN TO AMEND CHAPTER 8, ARTICLE IV "DANGEROUS OR HAZARDOUS MATERIALS" BY ADOPTING SECTION 8-60 *ET SEQ.* TO PROVIDE FOR THE REGULATION OF THE IGNITION, DISCHARGE, AND USE OF CONSUMER FIREWORKS, AS ALLOWED UNDER THE MICHIGAN FIREWORKS SAFETY ACT, MCL 28.451 *ET SEQ.*, AS AMENDED.

THE CITY OF ALGONAC ORDAINS:

SECTION 1. AMENDMENT

Chapter 8, Article IV is hereby amended by adopting Section 8-60 *et seq.* to read as follows:

Sec. 8-60. SHORT TITLE.

This ordinance shall be known and may be cited as the "2012 Fireworks Ordinance."

Sec. 8-61. STATEMENT OF PURPOSE.

This is an ordinance to provide for the regulation of the ignition, discharge and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act, MCL 28.451 *et seq.*, as amended.

Sec. 8-62. DEFINITIONS.

As used in this ordinance, the following terms shall be defined as follows:

- (A) **"APA standard 87-1"** means 2001 APA standard 87-1, standard for 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.
- (F) **"National holiday"** means the following legal, public holidays:
 - (1) New Year's Day, January 1.
 - (2) Martin Luther King Jr.'s Birthday, the third Monday in January.
 - (3) President's Day, the third Monday in February.
 - (4) Memorial Day, the last Monday in May.
 - (5) Independence Day, July 4.
 - (6) Labor Day, the first Monday in September.
 - (7) Columbus Day, the second Monday in October.
 - (8) Veteran's Day, November 11.
 - (9) Thanksgiving Day, the fourth Thursday in November.
 - (10) Christmas Day, December 25.

Sec. 8-63. Ignition, Discharge, and Use of Consumer Fireworks. A person shall not ignite, discharge, or use consumer fireworks, except on the day preceding, the day of, or the day after a national holiday.

Sec. 8-64. Possession of Consumer Fireworks by Minor. A minor shall not possess consumer fireworks.

Sec. 8-65. Determination of Violation; Seizure. If a police officer determines that a violation of this ordinance has occurred, the officer may seize the consumer fireworks as evidence of the violation.

Sec. 8-66. PENALTIES

(A) Municipal Civil Infraction. A violation of this ordinance is a municipal civil infraction, punishable by a fine of up to Five Hundred Dollars (\$500.00), plus the costs of prosecution.

(B) Disposal of Evidence. 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.

(C) Costs of Storage and Disposal. In addition to any other penalty, a person found responsible for a violation of this ordinance 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 ordinance.

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.

Any and all Ordinances of the City of Algonac 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 Algonac, 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 Algonac, Michigan, and in accordance with and to the extent required by the statutes of the State of Michigan.

SECTION 6. EMERGENCY ADOPTION.

City Council hereby deems adoption of this Ordinance an emergency pursuant to City Charter section 7.3 necessitating the adoption of same without an introduction.

ORDINANCE DECLARED ADOPTED.

Irene Bird, Mayor
City of Algonac, Michigan

CERTIFICATION

The foregoing is a true and complete copy of an Ordinance adopted by the City Council of the City of Algonac, County of St. Clair, State of Michigan, at a regular meeting of the City Council held on the ____ day of _____, 2012, 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:

Members Absent:

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

Members voting yes:

Members voting no:

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

Cynthia L. Greenia, City Clerk
City of Algonac, Michigan

INTRODUCED:
RE-INTRODUCED:
ADOPTED:
PUBLISHED:
EFFECTIVE: