



CITY of NOVI CITY COUNCIL

Agenda Item 4
March 18, 2019

SUBJECT: Consideration to Introduce Ordinance No. 19-160.03, an Ordinance To Amend The City of Novi Code of Ordinances, Chapter 22, "Offenses", Article VI, "Offenses Against Public Safety", Section 22-112, "Fireworks", in order to amend regulations of the times during which consumer fireworks may be discharged, include additional restrictions on the discharge of fireworks, and amend the penalties for violations of this section. **FIRST READING**

SUBMITTING DEPARTMENT: City Clerk

A handwritten signature in black ink, appearing to be "J. J. ...".

CITY MANAGER APPROVAL: A handwritten signature in blue ink, appearing to be "M. ...".

BACKGROUND INFORMATION:

The Michigan Fireworks Safety Act regulates the sale and use of fireworks within the State of Michigan. The Act allows local governments to enact ordinances that comply with the Act and regulate the use, but not the sale, of fireworks within their communities. House Bills 5939, 5940, and 5941 included modifications to this Act, and took effect on December 31, 2018. Under the new law, individuals are permitted to use fireworks only on the following dates during specific time frames:

- December 31 until 1 a.m. on January 1;
- The Saturday and Sunday immediately preceding Memorial Day;
- June 29 to July 4, July 5 if that date is a Friday or Saturday; and
- The Saturday and Sunday immediately preceding Labor Day.

Regarding the increase in fines, the new law raises the fine for unlawfully using fireworks from \$500.00 to \$1,000.00. The new law further requires ordinances to provide the remittance of \$500.00 of this fine to the local law enforcement agency responsible for enforcing the ordinance. This is beneficial to the City, as it ensures the Police Department receives funds from its enforcement of the ordinance.

There is also an additional provision that grants the Fire Chief with the authority to enforce a "no-burning restriction" if the environmental concerns based on the Department of Natural Resources Fire Division criteria are elevated to extreme fire conditions, or if the environmental concerns were elevated to "very high" for 72 consecutive hours. This would include a ban on the ignition, discharge, and use of consumer fireworks.

RECOMMENDED ACTION: Approval of Introduction of Ordinance No. 19-160.03, an Ordinance To Amend The City of Novi Code of Ordinances, Chapter 22, "Offenses", Article VI, "Offenses Against Public Safety", Section 22-112, "Fireworks", in order to amend regulations of the times during which consumer fireworks may be discharged, include additional restrictions on the discharge of fireworks, and amend the penalties for violations of this section. **FIRST READING**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 19 ~~_____~~ -160.03

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES CHAPTER 22, "OFFENSES," ARTICLE VI, "OFFENSES AGAINST PUBLIC SAFETY," SECTION 22-112, "FIREWORKS," IN ORDER TO AMEND REGULATIONS OF THE TIMES DURING WHICH CONSUMER FIREWORKS MAY BE DISCHARGED, INCLUDE ADDITIONAL RESTRICTIONS ON THE DISCHARGE OF FIREWORKS, AND AMEND THE PENALTIES FOR VIOLATIONS OF THIS SECTION.

THE CITY OF NOVI ORDAINS:

PART I. That Chapter 22, "Offenses," Article VI, "Offenses Against Public Safety," Section 22-112, "Fireworks," is amended to read as follows in its entirety:

Sec. 22-112. Fireworks.

(a) Definitions.

As used in this Section, the following words and phrases have the meanings set forth herein:

Act means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 *et seq.*, as amended.

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 UN0431 or UN0432 under 49 CFR 172.101.

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. *Consumer fireworks* does 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, 4.1.

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. *Fireworks* consist of consumer fireworks low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

Livestock means those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

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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 holiday* means New Year's Day (January 1); Birthday of Martin Luther King, Jr (third Monday in January); Washington's Birthday (third Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Columbus Day (second Monday in October); Veterans Day (November 11); Thanksgiving Day (fourth Thursday in November); and 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 cap.
- (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.

(iv) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

(b) General prohibitions; exception.

No person shall ignite, discharge, or use fireworks within the City at any time, except that:

(1) Fireworks may be discharged in strict compliance with any permit issued by the City in accordance with the Act;

(2) Consumer fireworks may be discharged on the following dates and times:

a) From 11:00 a.m. on December 31, until 1 a.m. on January 1;

b) From 11:00 a.m. until 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day;

c) From 11:00 a.m. until 11:45 p.m. on June 29 to July 4;

d) From 11:00 a.m. until 11:45 p.m. on July 5, only if that date is a Friday or Saturday;

e) From 11:00 a.m. until 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day. ~~between the hours of 8:00 a.m. and 12:00 midnight only on the day before, the day of, and the day after, a national holiday, except on New Year's Day when consumer fireworks may also be discharged between the hours of 12:00 midnight and 1:00 a.m.; and~~

(3) An individual in violation of this subsection (b) shall be responsible for a municipal civil infraction punishable by a civil fine of \$1,000.00 for each violation, and all other available relief under Section 1-11(c)(2) of this Code. \$500.00 of the foregoing civil fine will be remitted to the Novi Police Department.

(4) This subsection (b) shall not apply to low impact fireworks.

c) Additional prohibitions.

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(1) Consumer fireworks shall not be ignited, discharged, or used on public, school, church, or private property of another without the express written permission from the person or entity legally in possession and control of that property to undertake such action.

(2) Consumer 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) 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.

(4) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks in a manner that is intended to harass, scare, or injure livestock.

(5) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks if a no burning restriction has been implemented by the Fire Chief.

(6) An individual in violation of this subsection (c) shall be responsible for a municipal civil infraction punishable by a civil fine of not more than \$1,000.00 for each violation, and all other available relief under Section 1-11(c)(2) of this Code.

(d) Novelties not regulated.

This Section does not apply to novelties.

(e) Enforcement.

This Section may be enforced by the Director of Public Safety and the Fire Chief, their designees, and any sworn law enforcement officers.

(f) Determination of Violation; seizure of fireworks and payment of costs.

(1) If an enforcing official determines that a violation of this Section has occurred, the official may seize the fireworks as evidence of such violation and payment of all costs incurred by the City or law enforcement personnel under the Act or this Section in securing, seizing, storing, and disposing of fireworks that are in violation of the Act or this Section shall be the responsibility of all persons found guilty, responsible, or liable for the violation. In recognition that the

actual costs incurred by the City and/or law enforcement personnel will include having the personnel, equipment, and facilities necessary to store fireworks in compliance with the Act and other laws and regulations, costs to be paid shall be determined in accordance with rates and methods established by resolution of the City Council.

~~(g) Penalty.~~

~~————— (1) A violation of this Section is a municipal civil infraction punishable by a
————— civil fine of not more than five hundred dollars (\$500.00), plus any costs,
————— damages, and expenses as provided in Section 1-11 of this Code~~

~~————— (2) Upon a finding of responsibility for violation of this Section, the City
————— may dispose of or destroy any consumer fireworks or low impact fireworks
————— retained as evidence for prosecution of the violation.~~

~~————— (3) In addition to any other penalty provided herein, a person found
————— responsible for violation of this Section shall reimburse the City for the costs of
————— storing, disposing of, or destroying any consumer or low impact fireworks seized
————— as provided for herein.~~

PART II.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV.

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V.

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of

enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

Robert J. Gatt, Mayor

Cortney Hanson, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the _____ day of _____, 2019.

Cortney Hanson, City Clerk