

## CHAPTER 1615. FIREWORKS ORDINANCE

This chapter shall be known and may be cited as the "City of Lansing Fireworks Ordinance."

### 1615.01. Purpose.

The purpose of this chapter is to preserve the public health, safety, and welfare by specifying certain regulations and requirements for the sale, possession, transportation, temporary storage or use and handling of fireworks in the City of Lansing. The provisions of this chapter are supplementary to any applicable Michigan Statutes, including, but not limited to, MCLA § 750.243a et seq., and City ordinances dealing with these matters, including but not limited to chapter 1610, Fire Prevention Code. (Ord. No. 1005, § 1, 6-14-99)

### 1615.02. Definitions.

As used in this Lansing Fireworks Ordinance:

*Fire marshal.* "Fire marshal" means the Lansing fire marshal or his or her designee.

*Fireworks.* "Fireworks" means a device made from explosive or flammable compositions, used primarily for the purpose of producing a visible display or an audible effect, or both, by combustion, deflagration or detonation. The term "fireworks" includes all items defined as fireworks under Michigan Statutes, by the United States Consumer Products Safety Commission, the United States Department of Transportation, and under any other federal law and regulation. This term includes pyrotechnics.

*Person.* "Person" means a natural person or a business entity, including, but not limited to, a firm, copartnership, association, organization, limited liability company or corporation.

*Public display.* "Public display" means any event where a display of pyrotechnic materials or other fireworks that are otherwise prohibited by MCLA § 750.243a et. seq., are used or set off by a pyrotechnic operator.

*Pyrotechnic operator.* "Pyrotechnic operator" means an individual approved to be responsible for pyrotechnics.

(Ord. No. 1005, § 1, 6-14-99)

### 1615.03. Manufacture within city prohibited.

The manufacture of fireworks is prohibited, without exception, within the City, pursuant to 1997 Uniform Fire Code, article 78, section 7801.3.1.1.

(Ord. No. 1005, § 1, 6-14-99)

### 1615.04. Wholesale sale within the city prohibited without permit.

No Person shall sell or offer to sell wholesale Fireworks without first having a valid permit issued pursuant to MCLA 750.243a et seq., other applicable City ordinances and this chapter.

Any natural Person who is eighteen (18) years of age or older may apply to the City Clerk for an annual permit for the wholesale sale of Fireworks at a specified location. To be considered complete, the application for such a permit shall include, but is not limited to, the following requirements:

(1) A non-refundable permitting fee as set by the City Council by resolution;

(2) Proof of insurance or bonding in the minimum amount of \$500,000 per occurrence coverage for premises, vehicle and public liability;

(3) Identification of the premises where Fireworks are to be sold; the location on the premises where Fireworks are to be sold; the location on the premises where the Fireworks are to be stored; the owner of the premises, the operator of any business located on the premises; and the Person or Persons who will sell the Fireworks;

(4) The applicant's disclosure of any citation of, conviction of, or guilty plea to a violation(s) of the State of Michigan Fireworks Act (MCLA 750.243a et seq.), federal Fireworks laws and regulations, other states' Fireworks laws and regulations of this chapter; and

(5) An affidavit that the applicant is not in default to the City.

If sales are to be conducted from a tent, roadside stand, or other non-permanent structure, a peddler's or transient merchants license must also be obtained in conjunction with this permit.

(Ord. No. 1005, § 1, 6-14-99; Ord. No. 1028, § 1, 4-9-01)

### 1615.05. Purchase, possession, sell, use, etc. within city prohibited.

(a) No Person shall purchase, sell, offer for sale, possess, transport or use any Fireworks except as specifically listed in this section as permissible or except as otherwise provided in this chapter. Any Fireworks purchased, sold, offered for sale, possessed, used or transported not specifically listed

in this section as permissible shall be deemed to be contraband.

(b) Purchase, possession and use is permitted, in accordance with the law, by natural Persons eighteen (18) years of age or older, of up to ten (10) pounds of gross weight, of the following types of Fireworks:

(1) Signal flares of a type approved by the Director of Michigan State police for emergency signal purposes and meeting all applicable state and federal performance and labeling requirements;

(2) Blank cartridges for use in toy pistols, toy cannons, trick noise makers, theatric events, dog training, and signaling athletic events, provided that such blank cartridges and devices employing them are a type approved by the director of state police, and not designated to break apart so as to form a missile upon explosion, are so designed as to prevent contact between the cartridge and the hand when in place for explosion, and otherwise meet all applicable state and federal performance and labeling requirements;

(3) Sparklers containing not more than 0.0125 pounds of burning portion per sparkler that otherwise meet all applicable state and federal performance and labeling requirements;

(4) Flitter sparklers in paper tubes not exceeding one-eighth inch in diameter, cone fountains, and cylinder fountains that otherwise meet all applicable state and federal performance and labeling requirements;

(5) Flat paper caps containing not more than 0.25 of a grain of explosive content per cap and otherwise meeting all applicable state and federal performances and labeling requirements; and

(6) Trick noise makers, toy canes, and toy snakes not containing mercury that meet all applicable state and federal performance and labeling requirements.

(c) A natural Person, under the age of twelve (12), with the direct supervision of a parent or an adult guardian, and a natural Person, who has attained the age of twelve (12) but is less than eighteen (18) years of age, may use or possess, in accordance with the law, up to ten (10) pounds of gross weight of the following types of Fireworks:

(1) Sparklers containing not more than 0.0125 pounds of burning portion per sparkler that otherwise meet all applicable state and federal performance and labeling requirements;

(2) Flitter sparklers in paper tubes not exceeding one-eighth inch in diameter, cone fountains, and cylinder fountains that otherwise meet all applicable

state and federal performance and labeling requirements;

(3) Flat paper caps containing not more than 0.25 of a grain of explosive content per cap and otherwise meeting all applicable state and federal performances and labeling requirements; and

(4) Trick noise makers, toy canes, and toy snakes not containing mercury that meet all applicable state and federal performance and labeling requirements.

(d) No Person shall possess, transport, store or use more than two thousand (2000) pounds gross weight of Fireworks in the City of Lansing, except as otherwise provided in this chapter.

(e) No Person shall purchase, possess, transport, use, store, expose for sale, or sell any Fireworks in violation of state or federal law.

(Ord. No. 1005, § 1, 6-14-99; Ord. No. 1028, § 1, 4-9-01)

1615.06. Permit for public displays.

(a) *Requirements.* Any qualified natural person, at least eighteen (18) years of age or over, who desires to explode any fireworks, pyrotechnics or other explosives of like character that are not listed in subsections 1615.05(b)(1)--(6), in a public display, shall first obtain a permit for such display from the City Clerk.

(b) *Application.* Application for public displays of fireworks, pyrotechnics or other explosives of like character shall be made in writing to the City Clerk, at least fifteen (15) days in advance of the proposed date of the display. After receiving the Fire Marshal's endorsement and approval of the application, the City Council shall rule on the competency and qualifications of applicants of pyrotechnic displays, as the applicant has furnished in the application form, and on the time, place, and safety aspects of the displays before granting or denying the permit. Such application shall set forth:

(1) The name of the person sponsoring the display, together with the name, age, experience and a copy of the Michigan driver's license of the person actually in charge of firing the display;

(2) The date and time of the day at which the display will be held;

(3) The exact location planned for the display;

(4) The numbers and kinds of fireworks to be discharged;

(5) The manner and place of storage of such fireworks prior to the display; and

(6) The application for such permit shall be verified by affidavit.

(c) *Inspection of proposed location, qualifications of operator, etc.* The Fire Marshal shall:

(1) Make or cause to be made an inspection of the location stated in the application as the location of the proposed public display to ascertain whether it is a safe and proper location for the display thereof and not within two hundred (200) feet of any dwelling or other structure wherein persons reside;

(2) Ascertain whether the applicant is a bona fide fair association, amusement park or other organization or group of individuals;

(3) Examine the kind and character of the fireworks proposed to be used in the public display; and

(4) Ascertain that the proposed display is to be given in an appropriate place by a competent operator so that it shall not be hazardous to property or endanger any person or persons. If the Fire Marshal determines all the requirements of this section are met, he or she shall endorse and approve the application in writing.

(d) *Effect of permit, nontransferable.* After a permit for the public display of fireworks, pyrotechnic materials or other explosives of like character shall have been granted by the City Council, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted under this division shall be transferable.

(e) *Insurance required.* Before the issuance of any permit to hold public display of fireworks, the applicant shall file with the City Clerk a bond of property damage and public liability insurance certificate naming the City as co-insurer. Such bond or insurance certificate shall be in the amount of at least five hundred thousand dollars (\$500,000.00) and in the case of insurance certificate, the coverage for public liability shall be five hundred thousand dollars (\$500,000.00) for injury to one (1) person and one million dollars (\$1,000,000.00) for injury of two (2) or more persons resulting from the same accident. The certificate shall provide a minimum of five hundred thousand dollars (\$500,000.00) property damage. Such protection shall become available for the payment of any damages, by reason of the permitted use or display, or arising from the acts of the permittee, his or her agents, employees or subcontractors. Filing of the evidence of insurance by the City Clerk shall be subject to prior approval as to form by the City Attorney.

(Ord. No. 1005, § 1, 6-14-99)

1615.07. Authority of Fire Marshal to be present at public displays and to stop same, exploding fireworks in public streets, on property of others, etc.

(a) Except as otherwise permitted under this chapter, the Fire Marshal shall have the right to be present at the firing of any public display of fireworks for which a permit has been issued, and shall have the right to cause the public display to be stopped unless it is conducted in strict accordance with the statements made in the application and so as not to be hazardous to property or endanger any person.

(b) No permit for public display shall be approved if the display is within two hundred (200) feet of any dwelling or other structure wherein persons reside.

(Ord. No. 1005, § 1, 6-14-99)

1615.08. License for retail sales.

No Person shall sell, offer for sale, or expose for sale any Fireworks, except in accordance with the provisions of a license issued pursuant to this chapter. (See Section 1615.05).

(a) Any natural Person eighteen (18) years of age or older, may apply to the City Clerk for an annual license for the retail sale of Fireworks at a specified location. To be considered complete, the application for a license shall include, but is not limited to, the following requirements:

(1) A non-refundable licensing fee as set by the City Council by resolution;

(2) Proof of insurance or bonding in the minimum amount of \$500,000 per occurrence coverage for premises, vehicle and public liability;

(3) Identification of the premises where Fireworks are to be sold; the location on the premises where Fireworks are to be stored; the owner of the premises; the operator of any business located on the premises; and the Person or Persons who will sell the Fireworks;

(4) The applicants disclosure of any citation of, conviction of, or guilty plea to a violation(s) of the State of Michigan Fireworks Act (MCLA 750.243a et seq.), federal Fireworks laws and regulations, other states' Fireworks laws and regulations or this chapter; and

(5) An affidavit that the applicant is not in default to the City.

(b) If sales are to be conducted from a tent, roadside stand, or other non-permanent structure, a peddler's or transient merchant's license must also be obtained in conjunction with this permit.

(c) The proposed premises shall be inspected by the City Fire Marshal or other authorized officials to determine that it is a safe place to store and sell Fireworks. The Fire Marshal may also conduct an investigation of the applicant, and the owner and operator of the premises to determine whether any grounds exist for license denial under this chapter. If the Fire Marshal determines all the requirements of this section are met, then he or she shall endorse and approve the application in writing.

(d) A complete application shall be filed with the City Clerk at least forty-five (45) days before engaging in the retail fireworks business. Sale of fireworks is prohibited until a retail license has been approved by the City Council and has been issued by the City Clerk. A complete application for renewal of a license must be filed at least forty-five (45) days before expiration of any existing license. After the City Council has approved the application, the City Clerk shall issue a license under this section.

(e) All licenses issued under this section shall expire on April 30th of the following year.

(f) A license issued pursuant to this chapter may contain reasonable record keeping and reporting requirements and such other conditions as the Fire Marshal shall determine in accordance with this Lansing Fireworks Ordinance, the Lansing Fire Prevention Ordinance, any other applicable state law or City ordinance or that are appropriate for the health, safety and welfare of the people of the City. Violations of any such condition may itself be grounds for revocation or denial of a license and/or imposition of penalties.

(g) No more than two thousand (2000) pounds of gross weight of Fireworks (including shelf and display stock) shall be present on the premises of any retail establishment of a licensed retail dealer.

(h) Officials or officers of the City's Building Safety Office, Fire Department or Police Department may inspect the premises of any licensed retail dealer. Inspections shall be conducted in the manner best calculated to secure compliance with this chapter and the appropriate needs of the City. These officials or officers may request permission to enter any premises regulated by this chapter at reasonable hours to undertake an inspection. Upon an emergency, these officials or

officers may enter at any time. Inspections may be conducted in one or more of the following:

(1) In areas open to the public during normal business hours without notice or permission;

(2) In a storage area or into the premises where such retail sales of Fireworks are being stored on a permissive basis; or

(3) A recurrent violation basis, such as those premises which are found to have a high incidence of recurrent violations.

If such entry is refused or if the owner or other Person having charge or control of the premises cannot be found, then the official or officer shall have recourse to every remedy provided by law to secure entry and inspect. The official or officer preparing the warrant shall state the following:

(1) Address, if any, of the premises to be inspected;

(2) The nature of the inspection, as defined in this section, other applicable codes or statutes; and

(3) The reasons for the inspection.

If the court finds that the warrant is in proper form and in accordance with this section, then it shall be issued forthwith. If the condition or conditions that are believed to exist creates an emergency situation in that it immediately endangers human life, then no search warrant shall be required.

(Ord. No. 1005, § 1, 6-14-99; Ord. No. 1028, § 1, 4-9-01)

1615.09. Transport and storage for public display through shipments.

(a) Transport of fireworks within the City solely for the purpose of a public display permitted by the City Council is allowed provided that the person making such transport has a copy of the display permit specifying the permitted items, and that such transportation is made in accordance with all applicable federal and state requirements such transport is allowed only during the four (4) days preceding the date of the display.

(b) Fireworks specified on a permit for public display may be stored within the City during the four-day period preceding the permitted display provided they are stored in the manner described in the application for public display permit.

(c) Through shipments of fireworks made in accordance with applicable state and federal laws are allowed. For purposes of this chapter, a "through shipment" may contain only fireworks that do not originate in the City of Lansing are not destined for a point within the City of Lansing, and

remain unopened or sealed in shipping containers while in the City.

(Ord. No. 1005, § 1, 6-14-99)

#### 1615.10. Enforcement.

(a) Any violation of this chapter shall be deemed to be a misdemeanor, subject to a penalty of a fine not exceeding five hundred dollars (\$500.00), plus costs of prosecution, or imprisonment not exceeding ninety (90) days, or both, for each occurrence.

(b) In addition to any sworn member of the Lansing Police Department, the Fire Marshal and all Fire Inspectors are hereby designated as authorized City officers to enforce this chapter and for such purpose the Fire Marshal and all Fire Inspectors shall have the enforcement powers of a law enforcement officer.

(c) Any member of the City Fire Department or Police Department may confiscate any Fireworks found within the City in violation of federal or state law, or in violation of the City ordinances (including any quantity of otherwise lawful Fireworks in excess of ten (10) pounds gross weight or two thousand (2000) pounds gross weight in the case of licensed retail dealer). All Fireworks of the kind prohibited for sale and use within the City, or in a quantity exceeding ten (10) pounds gross weight or two thousand (2000) pounds gross weight in the case of a licensed retail dealer that may be found within the City, shall be presumed to be within the City unlawfully, unless the Person in whose possession they are found can produce a copy of a valid City of Lansing Public Display permit covering the subject of fireworks, can demonstrate that the fireworks are part of a through shipment, or can demonstrate that the fireworks are in the lawful possession of a City of Lansing licensed fireworks dealer. The Person seizing the Fireworks shall notify the Person in whose possession they are found that the Fireworks will be forfeited unless a claim is filed within twenty (20) days as set forth below. If no Person is in possession of the Fireworks, then written notice of the right to file a claim shall be affixed to the building or vehicle where the Fireworks are found. The Fireworks shall be returned immediately if a valid public display permit issued by the City of Lansing covering the items is presented to the seizing officials within twelve (12) hours of the seizure.

(d) Any Person claiming possession of seized Fireworks may file a claim with the City Attorney as follows:

The claim must be in writing, must state the grounds for lawful possession, and the claimant must give a bond in the amount of ten (10) percent of the value of the seized items, but not less than two hundred fifty dollars (\$250.00) or greater than five thousand dollars (\$5,000.00) with the sureties approved by the City on the condition that if the property is ordered forfeit, the obligor shall pay the costs and expenses of the forfeiture proceeding. Upon the filing of a claim and bond, the City Attorney shall conduct a hearing and render a decision on the question of forfeiture within twenty (20) days. A claimant may appeal an adverse determination by the City Attorney to the Claims Review Committee, City Council or Circuit Court.

(e) If no claim and bond are filed within twenty (20) days of the date of seizure, then the Fireworks shall be forfeited to the City and the City shall properly dispose of them by destruction, or by sale to an entity in a jurisdiction where such items are lawful. However, unless all criminal proceedings relating to the seized Fireworks have been completed, the City shall not dispose of them without the written permission of the City Attorney. (Ord. No. 1005, § 1, 6-14-99; Ord. No. 1028, § 1, 4-9-01)

#### Sec. 1615.11. Effective date.

The effective date of Sections 1615.05(d) and 1615.08 shall be January 1, 2000.

(Ord. No. 1005, § 4, 6-14-99)

#### 1615.12. Denial, non-renewal or revocation of license or permit.

Any of the following shall constitute a ground for the denial of the issuance of a permit under Sections 1615.04 or 1615.06, or a license under Section 1615.08, or for the non-renewal or revocation of a permit or license under these sections:

- (1) Fraud, misrepresentation or false statement contained in the application for the license or permit;
- (2) Conviction of any crime, or a finding or admission of responsibility to a civil infraction, involving the sale, possession, use, transportation, storage, or manufacture of Fireworks;
- (3) The applicant, or a principal owner of the applicant, is in default to the City;

(4) Fraud, misrepresentation or false statement made in the course of carrying on a business under a permit or license issued pursuant to Sections 1615.04, 1615.06 or 1615.08; and

(5) A violation of any federal, state or local law related to health, safety or welfare existing at the premises for which the license or permit is applicable.

A license or permit may be revoked after notice and hearing. Notice of the hearing for revocation of a license or permit shall be in writing and mailed by first class mail, postage prepaid, and addressed to the address on the licensee's or permittee's application at least ten (10) days before the hearing date. The notice shall set forth specifically the grounds of the complaint and the time and place of the hearing.

(Ord. No. 1028, § 1, 4-9-01)

**Editor's note:** Ord. No. 1028, § 1, adopted April 9, 2001, added a new § 1615.11. Inasmuch as there were already provisions so designated, the new provisions have been included herein as § 1615.12 at the discretion of the editor.