

**CITY COMMISSION  
CITY OF OTSEGO  
Allegan County, Michigan**

Commissioner Trobeck, supported by Commissioner Misner, moved the adoption of the following ordinance:

**ORDINANCE NO. 153**

**AN ORDINANCE TO ADD ARTICLE VIII, "FIREWORKS", SECTIONS 38-201 THROUGH 38-207 OF CHAPTER 38 OF THE CODE OF ORDINANCES OF THE CITY OF OTSEGO, MICHIGAN TO REGULATE THE IGNITION, DISCHARGE, AND USE OF CONSUMER FIREWORKS IN THE CITY AND TO AMEND SECTION 46-121 OF THE CODE OF ORDINANCES OF THE CITY OF OTSEGO, MICHIGAN TO PROVIDE FOR THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE IN THE CITY**

THE CITY OF OTSEGO ORDAINS:

Section 1. Amendment. Article VIII, "Fireworks", sections 38-201 through 38-208 are added to Chapter 38, "Fire Prevention and Protection", of the Code of Ordinances of the City of Otsego, Michigan, to read as follows:

**Article VIII. Fireworks.**

38-201. Definitions.

The following words and phrases, when used in this article, shall have the following meanings:

- (a) *Alcoholic liquor* means that term as defined in section 1d of the Michigan Vehicle Code, 1949 PA 300, MCL 257.1d, as amended.
- (b) *APA standard 87-1* means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, as published by the American pyrotechnics association of Bethesda, Maryland.
- (c) *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, as amended, 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.
- (d) *Controlled substance* means that term as defined in section 8b of the Michigan Vehicle Code, 1949 PA 300, MCL 257.8b, as amended.
- (e) *Fireworks* means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing visible or audible effect by combustion, deflagration, or detonation.
- (f) *Low-impact fireworks* means ground and handheld sparkling devices as that phrase is defined in APA standard 87-1: 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.
- (g) *Minor* means an individual who is less than 18 years of age.
- (h) *Holiday* means any of the following:
  - (1) New Years' Day, January 1.
  - (2) Birthday of Martin Luther King, Jr., 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.

38-202. Ignition, Discharge and Use of Consumer Fireworks.

- (1) Except as otherwise provided in this section, a person shall not ignite, discharge, or use consumer fireworks.
- (2) In accordance with state and federal laws and applicable City ordinances, except between the hours of 1:00 a.m. and 8:00 a.m., a person may ignite, discharge, or use consumer fireworks on the day preceding, the day of, or the day after a holiday.

38-203. Possession of Consumer Fireworks by a Minor.

A minor shall not possess, ignite, discharge or use consumer fireworks.

38-204. Prohibited Conduct.

- (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 to use those fireworks on those premises.
- (2) A person shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination thereof.

38-205. Determination of Violation; Seizure.

If a City police officer determines that a violation of this article has occurred, the officer may seize the consumer fireworks as evidence of the violation.

38-206. Penalty.

- (1) A violation of any section of this chapter shall be punishable as a municipal civil infraction with fines not to exceed \$500. Violations shall be prosecuted as set forth in City code sections 2-211 through 2-216.
- (2) In addition to the penalties provided by this section, the district court shall have the equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provision of this chapter, including, but not limited to, abatement of any violating condition or the granting of any injunctive relief.
- (3) Following final disposition of a finding of responsibility for violating this chapter, the City may dispose of or destroy any consumer fireworks, articles pyrotechnic, display fireworks or low-impact fireworks that were retained as evidence in that prosecution.
- (4) In addition to any penalty, a person that is found responsible for a violation of this chapter shall be required to reimburse the City for the costs of storing, disposing of, or destroying consumer fireworks, articles pyrotechnic, display fireworks or low-impact fireworks that were confiscated for a violation of this chapter.

38-207. Local, state and federal law requirements.

Nothing contained within this article shall be construed to relieve a person of any duties and obligations imposed under any local, state or federal laws, rules, regulations, license or permit requirements.

Section 2. Amendment. Chapter 46, “Offenses and Miscellaneous Provisions”, Article V, “Offenses Against the Public Peace, Section 46.121 “Disturbance of the Peace”, is amended to read as follows:

Section 46-121. Disturbance of the Peace.

It shall be unlawful for any person to:

- (1) Create or engage in any disturbance, fight or quarrel in any public place, except in reasonable self-defense when attacked without reasonable provocation or in reasonable defense of another who was so attacked.
- (2) Disturb the public peace and quiet by loud, boisterous or vulgar conduct or language, which can be heard by persons at a distance of 50 feet from the location where the conduct or language originates.
- (3) Without proper authority, conduct himself in any public place so as to obstruct the free and uninterrupted passage of the public.
- (4) Disturb or unreasonably interfere with any service of worship or other assembly gathered for lawful purpose.
- (5) Fire, discharge, display or possess any fireworks except of the type and under the conditions permitted by applicable state and federal laws and City ordinances, including the Michigan Fireworks Safety Act, 2011 PA 256, as amended, MCL 28.451 *et seq.*
- (6) Incite, cause, or attempt to incite or cause any assembled group of persons to act in a manner that is likely to or does endanger the safety of another person or of property.
- (7) By the use or means of a telephone, perform any of the following:
  - a. Disturb the peace, quiet or privacy of any other person by repeated calls intended to harass or annoy the person or family to whom the calls are made.
  - b. Use obscene or offensive language, or suggest any lewd or lascivious act.
  - c. Attempt to extort money or anything of value from any person.
  - d. Threaten any physical violence or harm to any person.
  - e. Repeatedly and continuously ring the telephone of any person with intent to disturb or harass such person.
- (8) Create any loud noises or use any loudspeaker, sound amplifier or other electrical or mechanical device intended to increase the volume of sound which can be heard by persons at a distance of 50 feet from the location where the sound originates and which disturbs unnecessarily and without reasonable cause the quiet, comfort or repose of any person, except:
  - a. Community events which are approved by resolution of the city commission.
  - b. Sirens for volunteer fire department and police, fire or emergency vehicles.
  - c. Band practice, football games and other athletic contests at the high school.
  - d. Blowers and exhaust fans in areas which are zoned industrial.

Section 3. Effective Date. This ordinance shall take effect upon the latter of publication or the passage of twenty (20) days’ time following its final adoption in accordance with the City Charter.

YEAS: Commissioners: Tom Gilmer, Kathleen Misner, Cyndi Trobeck, Stacy Rogers,  
and Ryan Wieber.

NAYS: Commissioners: None.

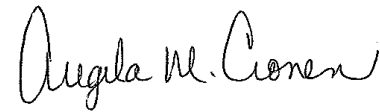
ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None.

**ORDINANCE ADOPTED.**

CERTIFICATION

I certify that this is a true and complete copy of an ordinance adopted by the City Commission of the City of Otsego at a Regular Meeting held on August 19, 2013.



Dated: August 19, 2013

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Angela Cronen, City Clerk

Introduced: August 5, 2013  
Adopted: August 19, 2013  
Published: August 12, 2013  
Effective: September 8, 2013