

CITY OF IMLAY CITY

FIREWORKS ORDINANCE NO. 2021-01

CHAPTER 157 – FIREWORKS

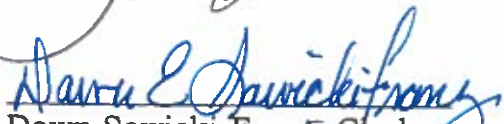
An ordinance, adopted pursuant to the Michigan Firework Safety Act (MCL 28.451 *et seq*, as amended) to regulate the use of low-impact and consumer fireworks, as well as to establish a permitting process for articles pyrotechnic and display fireworks within the boundaries of the City of Imlay City.

THE CITY OF IMLAY CITY ORDAINS:

That the City of Imlay City hereby adopts Chapter 157 of the Code of Ordinances (consisting of Sections 157.01 through 157.08) for the City of Imlay City as provided in “EXHIBIT A” and which is hereby incorporated into the Code of Ordinances as though fully and completely recited herein.

The undersigned Mayor and Clerk of the City of Imlay City hereby certify that this Ordinance was duly adopted by the Imlay City Commission on the 10th day of June 2021 and was published in the Tri-City Times on the 16th day of June 2021. This Ordinance shall take effect upon said date of publication.


Joi Kempf, Mayor


Dawn Sawicki-Franz, Clerk

First Reading: 06/09/2021
Second Reading: 06/10/2021
Date of Publication: 06/16/2021

EXHIBIT A

CHAPTER 157 - FIREWORKS

§ 157.01 DEFINITIONS.

ACT. The Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451 et seq. as amended.

APA STANDARD 87-1. APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Association of Bethesda, Maryland.

ARTICLES PYROTECHNIC. Pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumers 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. Fireworks devices that are designed to produce visible and audible 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 1507 and are listed in APA standard 87-1, 3.1.2, 3.1.3 or 3.5. Consumer fireworks are often commonly known as, but not limited to, sky rockets, bottle rockets, missile-type rockets, helicopter, aerial spinners, roman candles, mine or shell devices, aerial shell kits, firecrackers, chasers and certain multiple tube firework devices. Consumer fireworks do not include low-impact fireworks.

DEPARTMENT. The department of licensing and regulatory affairs.

DISPLAY FIREWORKS. 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, 49CFR 172, and APA 87-1,4.1.

LOW-IMPACT FIREWORKS. Ground and handheld sparkler devices as that phrase is defined in APA 87-1, 3.1,3.1.1.1 to 3.1.1.8 and 3.5. Low impact fireworks are often commonly known as, but not limited to, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers, certain toy smoke devices, certain wire sparklers/dipped sticks and certain multiple tube firework devices.

NATIONAL HOLIDAY. As used in this ordinance, a national holiday is any of the following: New Year's Day (January 1), Birthday of Martin Luther King Jr. (3rd Monday in January), Washington's Birthday (3rd Monday February), Memorial

Day (last Monday in May), Independence Day (July 4), Labor Day (1st Monday in September), Columbus Day (2nd Monday in October, Veterans Day (November 11), Thanksgiving (4th Thursday in November) and Christmas Day (December 25).

NOVELTIES. The 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.S and all the following:

1. Toy plastic or paper caps for toy pistols in sheets, strips rolls or individual caps containing not more than .25 grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
2. Toy pistols, toy cannons, toy canes, toy trick noisemakers and toy guns in which toy caps as described in subparagraph (1) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion and are not designed to break apart or be separated so as to form a missile by the explosion.
3. Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
4. Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sales and if the manufacture's name and the quantity contained in each box are printed on the box, and toy smoke devices.

PERSON. An individual, agent, association, charitable organization, company, corporation, labor organization, legal representative, partnership, or any other legal entity.

(Ord. 2021-01, passed 06/10/2021)

§ 157.02 LOW IMPACT FIREWORKS.

(A) The use of low impact fireworks is permitted year-round in the City of Imlay City.

(B) An individual under the age of 18 shall not use low impact fireworks unless under the direct supervision of an adult.

(C) A person shall not ignite, discharge or use low impact fireworks while under the influence of an alcoholic liquid, marijuana or other controlled substance or a combination of same.

(Ord. 2021-01, passed 06/10/2021)

§ 157.03 CONSUMER FIREWORKS.

(A) Consumer fireworks may not be used, discharged and/or ignited in the City of Imlay City except as follows:

- December 31 until 1:00 am on January 1;
- The Saturday and Sunday immediately proceeding Memorial Day until 11:45 pm on each of those days;
- June 29 to July 4 until 11:45 on each of those days;
- July 5, if that date is a Friday or Saturday, until 11:45 pm; and
- The Saturday and Sunday immediately preceding Labor Day until 11:45 on each of those days.

(B) Consumer fireworks may only be used, discharged and/or ignited after 11:00am on those days prescribed in section A above.

(C) A person shall not use, discharge, and/or ignite consumer fireworks on public property, school property, church property, or the property owned by another or entity without that entity's expressed permission.

(D) A person shall not use, discharge and/or ignite consumer fireworks in such a manner so as remnants from said fireworks land on public property or the property of another.

(E) An individual under the age of 18 shall not use consumer fireworks unless under the direct supervision of an adult.

(F) A person shall not ignite, discharge or use consumer fireworks while under the influence of alcoholic liquor, marijuana or other controlled substance or combination of same.

(Ord. 2021-01, passed 06/10/2021)

§ 157.04 ARTICLES PYROTECHNIC AND DISPLAY FIREWORKS.

(A) The City of Imlay City, upon application in writing on forms provided by the department and payment of a fee set by the City Commission, if any, may grant a permit for the use of agricultural or wildlife fireworks, articles of pyrotechnic, display fireworks, or special effects manufactured for outdoor

purposes, or for public or private display within the City, by the city, fair association, amusement parks, or other organization or individuals approved by the city, if the applicable provisions of this Chapter are complied with. After a permit has been granted; sales, possession or transportation of fireworks for the purpose described in the permit only may be made. A permit granted under this Chapter is not transferable and shall not be issued to a minor.

(B) Before a permit for articles pyrotechnic or a display fireworks ignition is issued, the person, firm or corporation applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the City of Imlay City to satisfy claims for damage to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, and to protect the general public.

(C) A permit shall not be issued under this Chapter to a nonresident person, firm or corporation for ignition of a articles pyrotechnic or firework display in this City until that person, firm or corporation has appointed in writing a resident member of the bar of this State or a resident agent to be the legal representative upon whom process in an action or proceeding against the person, firm or corporation may be served.

(D) The City of Imlay City or their designee shall rule on the competency and qualifications of articles pyrotechnics and display fireworks operator as required under NFPA 1123, as the operator has furnished in his or her application form, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks before granting permits.

(E) Fees to issue a permit under this Chapter shall be established and retained by the City of Imlay City.

(F) The individual or organization to whom the permit is issued shall notify the Imlay City Fire Department of the location, date and time of the intended fireworks display.

(Ord. 2021-01, passed 06/10/2021)

§ 157.05 NOVELTIES.

This Ordinance does not apply to novelties.

(Ord. 2021-01, passed 06/10/2021)

§ 157.06 ENFORCEMENT.

(A) This Ordinance may be enforced by the Imlay City Police Department, their designees, or other sworn law enforcement officers.

(B) If an enforcing official determines that a violation of this Ordinance has occurred, the official may seize the fireworks as evidence of such violation.

(C) A violation of this Ordinance is a civil infraction, punishable by a civil fine of \$1000.00 for each violation, \$500.00 of this civil fine will be remitted to the law enforcement agency responsible for enforcing the ordinance.

(D) Upon a finding of responsibility for a violation of this Ordinance, the City of Imlay City may dispose of or destroy any consumer fireworks or low impact firework retained as evidence for prosecution of the violation.

(Ord. 2021-01, passed 06/10/2021)

§ 157.07 PERMIT FOR CONSUMER FIREWORKS.

Upon application in writing by any association or group of individuals, the City Commission or their designee, may grant permission for the public display of consumer fireworks on days other than the day before of or the day after a national holiday subject to such conditions as deemed necessary to safeguard the welfare of the public and property.

(Ord. 2021-01, passed 06/10/2021)

§ 157.08 SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, rule, regulation section, subsection is declared void or inoperable for any reason, it shall not affect any other part or portion thereof other than the part declared void or inoperable.

(Ord. 2021-01, passed 06/10/2021)