

**Ordinance No. 231**

**City Of Wayland, Michigan**

**AN ORDINANCE TO AMEND CHAPTER 12-216 OF THE  
CITY OF WAYLAND ORDINANCES**

An ordinance to amend Chapter 12-216 of the Wayland City Code, being the ordinance relating to fireworks, by repealing the current version and replacing it with a new provision reflecting current changes in the law.

**NOW, THEREFORE, THE CITY OF WAYLAND HEREBY ORDAINS:**

Section 1. Amendment to Chapter 12-216. Chapter 12-216 of the Wayland City Code which reads as follows is hereby repealed:

Sec. 12-216. – Fireworks.

It shall be unlawful for any person to fire, discharge, display or possess any fireworks except of the type and under the conditions permitted by Section 243a of the Penal Code of the State of Michigan (MCL 750.243a, MSA 28.440(1)).

Section 2. New Chapter 12-216. Chapter 12-216 of the Wayland City Code is hereby amended to read as follows:

Sec. 12-216. – **Fireworks.**

**Section 1. Definitions.**

As used in this chapter, the following definitions shall apply:

- (1) "Act 256" means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011, being MCL 28.451, et seq., as it may be amended from time to time.
- (2) "Consumer fireworks" means that term as defined in Act 256.
- (3) "Firework" or "fireworks" means that term as defined in Act 256.
- (4) "Retailer" means that term as defined in Act 256.
- (5) "Wholesaler" means that term as defined in Act 256.

**Section 2. Use of Consumer Fireworks Prohibited.**

No person shall ignite, discharge or use consumer fireworks in the City; except this prohibition shall not prohibit any person from igniting, discharging or using consumer fireworks within the City on the day proceeding, the day of, or the day after a national holiday, except during the hours of 1am and 8am on these holidays, consistent with Act 256 and all amendments thereto.

**National Holidays include:**

**New Year's Day:** January 1  
**Martin Luther King Day:** third Monday in January  
**President's Day:** 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  
**Christmas Day:** December 25

**Section 3. Possession of Consumer Fireworks by Minor.**

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

**Section 4. Firework Safety.**

No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge, or use of consumer fireworks.

**Section 5. Prohibited Conduct.**

(a) 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.

(b) 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.

(c) A person shall not ignite, discharge, or use consumer fireworks during periods of drought or other dangerous situations where the City's fire marshal, or designated City fire official, has determined a hazardous condition or risk of wildfire exists in accordance with applicable provisions of the City fire code.

**Section 6. Local, state and federal law requirements.**

Nothing contained within this ordinance 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 7. Violations, Fines and Penalties.**

Any person violating the provisions of this Chapter shall be responsible for a civil infraction, punishable by a fine of not more than \$500.00.

**Section 8. Display Fireworks**

Any organization or group wishing to ignite display fireworks must apply for and receive permit from the city. See section 28.466 in Act 256 below.

**Section 9. Severability.**

Should any section, clause or provision of this ordinance be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, then and in that event such portion thereof shall not be deemed to affect the validity of any other part or portion of this ordinance.

**Section 10. Repeal.**

All other ordinances or portions of ordinances inconsistent with this Ordinance are hereby repealed.

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**MICHIGAN FIREWORKS SAFETY ACT (EXERPT)**  
**Act 256 of 2011**

**28.452 Definitions.**

(f) "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.

(m) "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.

(v) "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.

**28.457 Local ordinances.**

**Sec. 7.**

(1) Except as provided in this act, a local unit of government shall not enact or enforce an Ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under this act.

(2) A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks. However, an ordinance enacted under this subsection shall not regulate the use of consumer fireworks on the day preceding, the day of, or the day after a national holiday.

#### **28.466 Articles pyrotechnic or display fireworks ignition; permit; competency and Qualifications of operators; retention of fee.**

##### Sec. 16.

(1) The legislative body of a city, village, or township, upon application in writing on forms provided by the department and payment of a fee set by the legislative body, if any, may grant a permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, or special effects manufactured for outdoor pest control or agricultural purposes, or for public or private display within the city, village, or township by municipalities, fair associations, amusement parks, or other organizations or individuals approved by the city, village, or township authority, if the applicable provisions of this act are complied with. After a permit has been granted, sales, possession, or transportation of fireworks for the purposes described in the permit only may be made. A permit granted under this subsection is not transferable and shall not be issued to a minor.

(2) 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 local governing authority to satisfy claims for damages 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 public.

(3) A permit shall not be issued under this act to a nonresident person, firm, or corporation for ignition of articles pyrotechnic or display fireworks in this state until the 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 all process in an action or proceeding against the person, firm, or corporation may be served.

(4) The local governing authority shall rule on the competency and qualifications of articles pyrotechnic and display fireworks operators 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.

(5) A local unit of government that charges a fee to issue a permit under this section shall retain the fee paid.

The entire act can be found at the following address:

[http://www.legislature.mi.gov/\(S\(e4ntuh55hql24yuzswal1ky45\)\)/documents/mcl/pdf/mcl-Act-256-of-2011.pdf](http://www.legislature.mi.gov/(S(e4ntuh55hql24yuzswal1ky45))/documents/mcl/pdf/mcl-Act-256-of-2011.pdf)

## House Bill No. 4743

Sec. 7. (1) Except as provided in this act, a local unit of government shall not enact or enforce an ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under this act.

(2) A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks, including, but not limited to, an ordinance prescribing the hours of the day or night during which a person may ignite, discharge, or use consumer fireworks. If a local unit of government enacts an ordinance under this subsection, the ordinance shall not regulate the ignition, discharge, or use of consumer fireworks on the day preceding, the day of, or the day after a national holiday except as follows:

(a) A local unit of government with a population of 50,000 or more or a local unit of government located in a county with a population of 750,000 or more may regulate the ignition, discharge, or use of consumer fireworks between the hours of 12 midnight and 8 a.m. or between the hours of 1 a.m. and 8 a.m. on New Year's day.

(b) A local unit of government with a population of less than 50,000 located in a county with a population of less than 750,000 may regulate the ignition, discharge, or use of consumer fireworks between the hours of 1 a.m. and 8 a.m.

The entire act can be found at the following address:

<http://www.legislature.mi.gov/documents/2013-2014/publicact/pdf/2013-PA-0065.pdf>