

ORDINANCE # 211  
CHAPTER 18  
ARTICLE VI - OFFENSES AGAINST PUBLIC SAFETY

FIREWORKS

THE CITY OF HARBOR BEACH ORDAINS:

Section 18-223 *Fireworks prohibited; exception* is hereby repealed in its entirety and replaced and amended to read as follows:

**Sec. 18-223.** Reserved for future use.

The following Fireworks ordinance is hereby adopted:

**Sec. 18-226. Definitions.**

For the purposes of this chapter, the following words shall be defined as hereafter stated:

(a) 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 do not include low-impact fireworks.

(b) DISPLAY FIREWORKS means large fireworks devices that are explosive material intended for use in fireworks displays and designed to produce visual or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1.

(c) FIREWORK or FIREWORKS means any composition or device, except for a starting pistol, a flare gun, or flare, designated 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.

(d) 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.

(e) NOVELTIES or NOVELTY 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:

1. Toy plastic or paper caps for toy pistol 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.

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 that are not designed to break apart or be separated so as to from a missile by the explosion.

3. Flitter sparklers in paper tubes not exceeding 1/8<sup>th</sup> inch in diameter.

**Sec. 18-227. Prohibition on Use of All Fireworks Except as Allowed; Exception.**

No person shall ignite, discharge, or use any fireworks within the city except as allowed by this chapter.

**Sec. 18-228. Prohibition on Use of Display Fireworks; Exception.**

No person shall ignite, discharge or use display fireworks within the city at any time without a license or permit issued by the Fire Chief or Police Chief.

**Sec. 18-229. Prohibition on Use of Consumer Fireworks; Exception.**

No person shall ignite, discharge or use consumer fireworks within the city, except this prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks on the preceding, the day of, or the day after a national holiday consistent with Sec. 7 (2) of Michigan Public Act 256 of 2011. Consumer fireworks ignited, discharged, or used on the dates allowed by this section, shall strictly conform to the definition of consumer fireworks as stated in this chapter and state statute by only creating visual but not audible effects by their combustion and if not so conforming shall be prohibited on said dates as well as all other times. In addition no person shall 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.

**Sec. 18-230. Use of Low-Impact or Novelty Fireworks.**

Low-impact fireworks shall be ignited, discharged, or used so as to not cause injury or damage to any person or property but shall not be ignited, discharged, or used inside any building or structure at any time without a license or permit issued by the Fire Chief or Police Chief. Novelty fireworks may be ignited, discharged, or used without restriction but such shall only occur in a manner so as to not cause injury or damage to any person or property.

**Sec. 18-231. Penalty.**

Whosoever violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred (\$500.00) Dollars, or by imprisonment in the County Jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment.

**Sec. 18-232. Severability.**

If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

**Sec. 18-233. Application.**

If any provision of this Chapter differs from a provisions of any other applicable law, ordinance, rule or regulation, both the provision of this Chapter and the differing provision shall apply if possible. If the two (2) provisions are in conflict, then the provision establishing the higher or stricter standard shall apply.

**Effective Date.** This ordinance shall become effective 20 days after publication in a newspaper of general circulation within the City of Harbor Beach.

First Reading:           October 1, 2012  
Second Reading:       October 15, 2012  
Effective Date:         November 13, 2012

  
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Gary S. Booms, Mayor

  
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Leslie Woycehoski, Clerk