

The Charlevoix City Council met on Monday, June 1, 2020 with Mayor Luther Kurtz presiding. All Councilmembers were present. The following is an excerpt from the official records of said meeting:

**CITY OF CHARLEVOIX  
ORDINANCE NO. 819 of 2020**

AN ORDINANCE TO AMEND TITLE IX, CHAPTER 94, SECTION 94.22 FIREWORKS OF THE CHARLEVOIX CITY CODE

**THE CITY OF CHARLEVOIX ORDAINS:**

**SECTION 1. Title IX, Chapter 94, Section 94.22 of the City of Charlevoix Code is hereby repealed in its entirety and replaced with the following:**

- (A) *Purpose.* The purpose of this ordinance is to regulate the ignition, discharge, and use of consumer fireworks within the city boundaries in accordance with the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, as amended.

Chapter 94, Parks and Recreation, is hereby amended to modify Section 94.22 to read as follows:

- (B) *Definitions and adoption by reference.* As used in this section, the following words and phrases have the meanings indicated:

*Act* means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 to 28.471, as amended, which is hereby adopted by reference as a part of this ordinance.

*Articles pyrotechnic*, as defined in the Act, means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction.

*Consumer fireworks*, as defined in the Act, 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 and that are in compliance with the construction, chemical composition, labeling and other requirements in the Act. Novelties and low-impact fireworks as defined in the Act are not consumer fireworks.

*Display fireworks*, as defined in the Act, means large firework devices that are explosive materials intended for use in fireworks, displays and designed to produce visible or audible effects by combustion, deflagration, or detonation.

*Fireworks*, as defined in the Act, means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation, and consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

*Low-impact fireworks*, as defined in the Act, means ground and handheld sparkling devices.

*Minor* is an individual who is less than 18 years of age.

*Novelties*, as defined in the Act, means all of the following:

- (a) Toy plastic or paper caps for toy pistols in sheets, strips, roll, or individual caps containing no more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
- (b) Toy pistols, toy canons, 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.
- (c) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- (d) 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.

*Special effects*, as defined in the Act, means a combination of chemical elements or chemical compounds capable of burning, independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

- (C) *Prohibited ignition, discharge, and use.* Consumer fireworks shall not be ignited, discharged or used in the city except in the following situations:

- (1) Consumer fireworks may be ignited, discharged or used on the following dates and times:
  - (a) December 31 until 1 a.m. on January 1.
  - (b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
  - (c) June 29 to July 4 until 11:45 p.m. on each of those days.
  - (d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
  - (e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- (2) The penalty for a violation under subsection (1) shall be a civil fine of \$1,000.00 for each violation of the ordinance. A minimum of \$500.00 of the fine collected under subsection (1) shall be remitted to the City of Charlevoix.
- (3) Consumer fireworks shall not be ignited, discharged, or used on public, school, church, or private property of another person without the express written permission from the person or entity legally in possession and control of that property.

- (D) *Minors.* A minor shall not possess, use, discharge, or ignite any consumer fireworks at any time *unless supervised by a parent or legal guardian.*

- (E) *Under the Influence.* An individual shall not discharge, ignite, or use consumer fireworks or low impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and controlled substance.

- (F) *Unmanned free-floating devices.* Any unmanned free-floating device (sky lanterns) which requires fire underneath to propel it and is not moored to the ground while aloft, have an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk and are therefore prohibited.

- (G) *Novelties; inapplicability of ordinance.* This ordinance does not apply to novelties. Nothing in this ordinance regulates the sale, storage, display for sale, transportation, use, or distribution of novelties.

- (H) *Zoning Ordinances.* Any person selling, distributing or transporting fireworks shall otherwise comply with the Act, and is required to comply with the zoning ordinances of the city, including obtaining necessary approvals hereunder. Failure to obtain necessary zoning approvals is subject to penalty as provided in the zoning ordinances of the city.
- (I) *Imminent dangers.* Notwithstanding the Act, no person shall use, discharge, or ignite fireworks thereby creating or causing an imminent danger or threat to the public health, safety, or welfare, and such fireworks being used, ignited or discharged may be immediately seized.
- (J) *Seizure.* All fireworks possessed, used, discharged, and/or ignited in violation of the Act and/or this section are subject to seizure. Any costs incurred by the city to seize and store the fireworks shall be paid by the responsible party.

The sanction/penalty for a violation of Section 94.22 is deemed a municipal civil infraction, punishable by a civil fine of not more than \$1,000.00 for subsection (1), and \$500.00 for all other sections in this ordinance, plus costs, damages, and expenses and any other relief allowed under law.

**SECTION 2. Severability.**

No other portion, paragraph or phrase of the Code of the City of Charlevoix, Michigan shall be affected by this Ordinance except as to the above section, and in the event any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this Ordinance or of the Code of the City of Charlevoix, Michigan.

**SECTION 3. Effective Date.**

This Ordinance shall become effective thirty (30) days after its enactment pursuant to the City Charter

Ordinance No. 819 was adopted on the 1st day of June, 2020 A.D., by the Charlevoix City Council as follows:

Motion by: Oleksy  
 Seconded by: Hagen  
 Yeas: Bryan, Oleksy, Cole, Kalbfell, Hagen, Slater  
 Nays: None  
 Absent: None

State of Michigan } §  
 City of Charlevoix }

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 Joyce M. Golding

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 Clerk

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 Luther Kurtz

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 Mayor

CERTIFICATION

I, the undersigned, City Clerk of the City of Charlevoix, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 819 of 2020 adopted by the City Council of the City of Charlevoix, County of Charlevoix, State of Michigan, at a regular meeting held on June 1, 2020 and published in the *Charlevoix Courier* on June 5, 2020, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of the Michigan Public Acts of 1876.

Dated: June 2, 2020

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 Joyce M. Golding, City Clerk