

**ORDINANCE NO. 01-19**

**CITY OF SOUTH LYON  
OAKLAND COUNTY, MICHIGAN**

**AN ORDINANCE TO AMEND THE CITY OF SOUTH LYON CODE OF ORDINANCES, CHAPTER 46, "FIRE PREVENTION AND PROTECTION," ARTICLE V, "FIREWORKS CONTROL," BY AMENDING SECTIONS 46-121 THROUGH 46-123 AND 46-127 TO REVISE THE DAYS AND TIMES A PERSON MAY IGNITE, DISCHARGE OR USE CONSUMER FIREWORKS AND TO INCLUDE ADDITIONAL RESTRICTIONS ON THE DISCHARGE OF FIREWORKS, AND TO REVISE THE PENALTIES FOR VIOLATIONS.**

**THE CITY OF SOUTH LYON ORDAINS:**

**PART I. Amendment of Section 46-121.** Section 46-121, Article V, "Fireworks Control," in Chapter 46 of the City of South Lyon Code of Ordinances is hereby amended to read as follows:

Sec. 46-121. Definitions.

As used in this Article, the following words and phrases have the meanings set forth herein:

*Act* means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 *et seq.*, as amended.

*APA standard 87-1* means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.

*Articles pyrotechnic* means pyrotechnic devices for professional use that are similar to consumer *fireworks* in chemical composition and construction but not intended for consumer 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* 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*.

*Display fireworks* means 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, 49 CFR 172, and APA standard 87-1, 4.1.

*Firework or fireworks* 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. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, homemade fireworks, and special effects.

*Homemade fireworks* means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507.

*Livestock* means those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, rartites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

*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.

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

*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.

*Person* means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.

**PART II. Amendment of Section 46-122.** Section 46-122, Article V, "Fireworks Control," in Chapter 46 of the City of South Lyon Code of Ordinances is hereby amended to read as follows:

Sec. 46-122. General prohibition on ignition, discharge, and use of fireworks; exception.

No person shall ignite, discharge, or use fireworks within the City at any time, except:

- (1) A person may ignite, discharge or use consumer fireworks on the following days after 11 a.m.:
  - (a) December 31 until 1 a.m. 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) This Section shall not apply to low-impact fireworks.

**PART III. Amendment of Section 46-123.** Section 46-123, Article V, "Fireworks Control," in Chapter 46 of the City of South Lyon Code of Ordinances is hereby amended to read as follows:

Sec. 46-123. Additional prohibitions and regulations.

- (1) A person shall not ignite, discharge, or use consumer fireworks on public property, including streets, roads, and rights-of-way, school property, church property, or the private property of another, without the express written permission to use fireworks on those premises from the owner or person or entity legally in possession and control thereof.
- (2) A person shall not willfully cause fireworks to enter, by way of ignition, discharge, use or other means, upon the lands or premises of another without the express permission of the owner or occupant, or agent or servant of the owner or occupant of the lands or premises. A person who pleads or is found responsible for a violation of this subsection shall be presumed responsible for any resulting property damage and shall be required to pay full restitution to the owner and/or occupant of the lands or premises.
- (3) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor or a controlled substance or a combination of both.
- (4) A minor shall not possess, ignite, discharge, or use consumer fireworks.
- (5) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks in a manner that is intended to harass, scare, or injure livestock.
- (6) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks if the Fire Chief implements a no burning restriction.

(a) For purposes of this subsection, if the environmental concerns based on the Department of Natural Resources Fire Division criteria are elevated to extreme fire conditions or very high fire conditions for 72 consecutive hours, the Fire Chief, in consultation with the Department of Natural Resources, may implement, impose and enforce a no burning restriction that includes a ban on the ignition, discharge, and use of consumer fireworks, within the City. If a no burning restriction is implemented under this subsection, the Fire Chief or his designee shall ensure that adequate notice of the restriction is provided to the public.

(b) Not more than 24 hours after the fire condition is downgraded from extreme or very high fire conditions, the Fire Chief shall lift the no burning restriction, including a ban on the ignition, discharge and use of consumer fireworks within the City, and inform the public that the restriction has been lifted in the same manner that the restriction was announced or made known to the public.

**PART IV. Amendment of Section 46-127.** Section 46-127, Article V, "Fireworks Control," in Chapter 46 of the City of South Lyon Code of Ordinances is hereby amended to read as follows:

Sec. 46-127. Penalties.

(1) A person that violates subsection 46-122(1) is responsible for a municipal civil infraction punishable by a civil fine of \$1,000 for each violation, and \$500 of the civil fine paid shall be remitted to the City of South Lyon Police Department.

(2) A person that violates this article, other than a subsection 46-122(1), is responsible for a municipal civil infraction punishable by a civil fine of not more than \$1,000.00, plus any costs, damages, and expenses as provided in sections 1-14, and 2-241 through 2-249 of the City of South Lyon Code of Ordinances and this article.

(3) In addition to any other penalties provided for herein, except for a violation of Section 46-122(1), a person found responsible for a violation of this article shall pay the actual costs of securing, seizing, storing, and disposing of any fireworks and evidence seized.

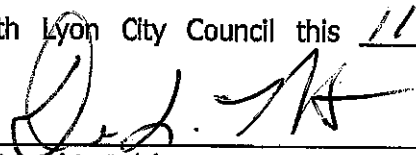
**PART V. Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

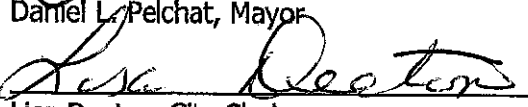
**PART VI. Savings Clause.** The amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance.

**PART VII. Repealer.** All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**PART VIII. Effective Date; Publication.** This Ordinance shall take effect upon the later of ten (10) days after adoption or upon publication thereof as provided for in the Charter of the City of South Lyon.

Made, Passed and Adopted by the South Lyon City Council this 11 day of Feb, 2019.

  
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Daniel L. Pelchat, Mayor

  
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Lisa Deaton, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the South Lyon City Council held on the 11 day of Feb, 2019.

  
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Lisa Deaton, City Clerk

Adopted: 2/11/19  
Published: 2/21/19  
Effective: 2/21/19