ORDINANCE #677

AN ORDINANCE TO AMEND THE MARQUETTE CITY CODE BY REPEALING CHAPTER 26-FIRE PREVENTION AND PROTECTION, ARTICLE IV. – FIRE AND EXPLOSIVES, SEC. 26-88. – FIREWORKS, AND ADOPT A NEW CHAPTER 26-FIRE PREVENTION AND PROTECTION, ARTICLE IV. – FIRE AND EXPLOSIVES, SEC. 26-88. – FIREWORKS

The City of Marquette Ordains:

Section 1. Current Sec. 26-88 is hereby repealed.

Section 2. New Sec. 26-88 is adopted as follows:

(a) *Purpose.* An ordinance to provide for the regulation of the ignition, discharge and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act, MCL 28.451 et seq., as amended.

(b) *Definitions.* As used in this section, the following terms shall be defined as follows:

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.

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.

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, and special effects.

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.

(c) *Use of consumer fireworks prohibited.*

1. A person shall not ignite, discharge, or use consumer fireworks at any time other than permitted hours, as listed below:
    a. December 31: From 11 a.m. until 11:59 p.m.
    b. January 1: From midnight until 1 a.m.
    c. The Saturday and Sunday immediately preceding Memorial Day: From 11 a.m. until 11:45 p.m. on each of those days.
    d. June 29 to July 4: From 11 a.m. until 11:45 p.m. on each of those days.
    e. July 5, if that date is a Friday or Saturday: From 11 a.m. until 11:45 p.m.
    f. The Saturday and Sunday immediately preceding Labor Day: From 11 a.m. until 11:45 p.m. on each of those days.

(d) *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.

(e) *Use of alcohol or controlled substances and fireworks prohibited.* No person shall discharge, ignite or use fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance, consistent with the Michigan Fireworks Safety Act.

(f) *Possession of consumer fireworks by minor prohibited.* A minor shall not possess consumer fireworks. Consumer fireworks shall not be sold to a minor. Age verification shall be made by checking a driver's license or another form of acceptable identification, pursuant to the Michigan Fireworks Safety Act.

(g) *Permissible locations.* A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without express permission from that organization or person to use those fireworks on those premises at that time.

(h) *Determination of violation; seizure.* If a police officer determines that a violation of this section has occurred, the officer may seize the consumer fireworks as evidence of the violation.

(i) *Violation and penalties.*

1. A violation of this section is a civil infraction punishable by a fine of $1,000 for each violation. In accordance with MCL 28.457(3), $500 of this fine will be remitted to the Marquette City Police Department for enforcement of this ordinance.
2. In addition to a civil infraction, fines and penalties stated within the Michigan Fireworks Safety Act may be imposed.
3. Following final disposition of a finding of responsibility for violating this section, the city may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.

SECTION 3. Publication. This ordinance shall take effect ten days after adoption, but not before publication.

Frederick Stonehouse, Mayor

Kris M. Hazeres, City Clerk

Date Adopted: March 25, 2019

Date Published: April 2, 2019