

ORDINANCE NO. 2012-3

CITY OF EVART
OSCEOLA COUNTY, MICHIGAN

AN ORDINANCE TO AMEND EVART CITY CODE, CHAPTER 610 – FIREWORKS

THE CITY OF EVART, OSCEOLA COUNTY, MICHIGAN, ORDAINS

SECTION 1: PURPOSE

The purpose of this Ordinance is to amend Evert City Code, Chapter 610, as it relates to Fireworks.

SECTION 2: CHAPER 610, OF THE EVART CITY CODE, IS AMENDED TO READ AS FOLLOWS:

610.01 PURPOSE AND INTENT

The purpose of this Ordinance is to establish regulation of consumer fireworks; provide a safe environment for the discharge of public firework displays; and to ensure protection for the viewing public and the property owners surrounding the discharge site.

610.02 APPLICATION AND SITE PLAN

- a.) Any party wishing to stage or conduct a public fireworks display, show, or demonstration (hereinafter, “fireworks display”) shall, at least 60 days prior to the event, submit an application to the City Manager, on a form furnished by the City, and shall secure permission from the City Council (by means of the issuance of a permit) prior to the fireworks display occurring. The City Council may waive such 60-day application deadline for good cause shown by the applicant, but in no event shall a fully complete application be filed with the City less than 14 days before the event unless the City Council expressly allows such a submission less than 14 days before the event based upon both good cause and an emergency situation.
- b.) A site plan of the area where the fireworks display is to be conducted shall be submitted together with the application. The site plan shall set forth all structures and buildings in the area and the discharge site fallout area. The site plan shall also set forth the distance separating the mortars used to launch the fireworks; all structures and buildings; and shall also set forth the distance separating the mortars and the spectators viewing the fireworks display. All Site plans must be approved by the Evert Area Joint Fire Board prior to City Council approval.
- c.) The City Council requires that a \$250.00 application fee, payable to the City of Evert, shall accompany any such application.

- d) The City Council may attach reasonable conditions to the issuance of a permit hereunder, including, but not limited to, the following requirements:
- (i) The posting with the City of a bond, irrevocable letter of credit, or other monetary security to ensure full compliance with Michigan law, this Ordinance, and any approval hereunder, as well as to provide security for any damages caused.
 - (ii) The imposition of setback isolation areas.
 - (iii) The reimbursement of police and firefighter costs and expenses.
 - (iv) Requiring the applicant to sign an indemnification/hold harmless agreement benefiting the City (as well as its employees, officers, officials, agents, and personnel).
 - (v) A requirement that the applicant pay for any and all damages and costs related to, arising out of, or caused by the fireworks display (which shall be in addition to any other requirements imposed on the applicant, including insurance coverage requirements and the signing of any hold harmless/indemnification agreement).

610.03 REQUIREMENTS AND RESTRICTIONS

- a.) The Fireworks Company, person or firm conducting the fireworks display shall follow National Fire Protection Association (NFPA) Code 1123 for the fireworks display and National Fire Protection Association (NFPA) Code 1124 for the storage and transportation of Fireworks.
- b.) The Fireworks Company, person, or firm shall maintain personal injury liability insurance/property damage liability insurance in the amount of at least \$1,000,000 during each event. The City shall be named as an additional insured on the insurance policy. The insurance policy shall also include coverage for the cleanup after the fireworks display has ended.
- c.) The Fireworks Company, person, or firm shall be responsible for all shells being fired. In the event one of the shells does not explode, the fireworks company, person, or firm shall secure the area until the unexploded shell is found and properly disposed of. A pre-plan shall be established with the Ewart Area Joint Fire Department for unexploded shells.
- d.) The consumption of alcohol or drugs prior to and during a fireworks display by the shooters or any person on site employed by the fireworks company is strictly prohibited.
- e.) All fireworks displays shall be conducted in a safe and lawful fashion.
- f.) The Fire Chief, or their designee, has authority to stop all show, demonstrations or firing of all fireworks if the Fire Chief, or his/her designee, finds any unsafe acts or unsafe conditions.

- g.) All fireworks display events shall obtain any and all required state and county permits (where applicable) and shall comply with all applicable state and county regulations, rules, and laws.
- h.) The display site shall be located at least 1,000 feet from all institutional facilities that are occupied at the time of the display (hospitals, nursing homes, schools, educational facilities, and similar institutional facilities).
- i.) The display site shall be located at least 150 feet from all streets, roads, rights-of-way, railroads, and other means of public travel.
- j.) Displays shall be handled by an approved competent operator, and the fireworks shall be arranged, located, and discharged and fired in a manner that will not be a hazard to property or endanger any person.
- k.) Unfired fireworks and trash remaining after the display is concluded shall be immediately disposed of by the permittee in an approved, safe manner.
- l.) The Fire Chief may, in his/her sole discretion, require the fireworks company to use crowd control barriers or security personnel approved by the Fire Chief for safety reasons.
- m.) The Fire Chief may determine that it is appropriate to assign fire apparatus and personnel to be present during the display; in such event, the township may require the permittee to pay the costs thereof in advance, as determined by the Fire Chief, as a condition of obtaining the permit.

610.04 IGNITION, DISCHARGE AND USE OF CONSUMER FIREWORKS

- a) It shall be unlawful for any person, entity, or corporation to discharge, within the city limits of the City of Evert, any consumer fireworks as that term has been defined by MCL 28.452, except on the day preceding, the day of, or the day after, a national holiday, pursuant to MCL 28.457 (2).
- b) It shall be unlawful for any minor to discharge, within the city limits of the City of Evert, any consumer fireworks as that term has been defined by MCL 28.452.
- c) It shall be unlawful for any person, under the influence of liquor, as defined by MCL 257.2d, or under the influence of a controlled substance, as defined by MCL 257.8b, to discharge, within the city limits of the City of Evert, any consumer fireworks as that term has been defined by MCL 28.452.

610.05 ENFORCEMENT AND PENALTIES

- a.) This Ordinance may be enforced by the Chief of Police, City Manager or other person(s) as shall be so designated by the Evert City Council.

- b.) Violation of Section 610.04 (a) shall be a civil infraction and punishable by a fine of \$50.00, for the first offense; \$150.00, for the second offense and \$500.00 for each repeated offense after the second offense.
- b.) Violation of this Ordinance, other than Section 610.04 (a), shall be a misdemeanor which shall be punishable upon conviction thereof by a fine not exceeding \$500.00 (five hundred dollars) or by imprisonment for not more than 93 days, or by both such fine and imprisonment, at the discretion of the court.

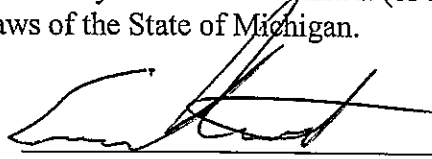
610.06 SEVERABILITY

If any portion of this Ordinance is ever determined to be unenforceable or unconstitutional by a court of competent jurisdiction, then that part shall be deemed severable from the remainder of the Ordinance and such severance shall not affect the remainder of the Ordinance, which shall remain in full force and effect.

SECTION 3: EFFECTIVE DATE

This Ordinance shall take effect 30 days after the date that it (or a summary thereof) is published in the newspaper as provided by the laws of the State of Michigan.

Date: July 2, 2012



ERIC SCHMIDT, Mayor



M. ANN PATTEE, City Clerk

I, M. Ann Pattee, City Clerk for the City of Ewart, hereby certify that the above Ordinance was adopted on the 2nd day of July, 2012.



M. ANN PATTEE, City Clerk