



**GAYLORD CITY COUNCIL
AGENDA FOR MEETING OF NOVEMBER 26, 2012
7:00 P.M., CITY COUNCIL CHAMBERS
305 EAST MAIN STREET
GAYLORD MI 49735**

1. Call to Order
 2. Invocation
 3. Pledge of Allegiance
 4. Roll Call
 5. Corrections, Deletions or Amendments to Agenda
 6. Approval of Minutes
 7. Public Hearings
 8. Communications
 9. Mayor's Report
 10. Council Member's Report
 11. City Manager's Report
 12. City Attorney's Report
 13. Chief of Police Report
 14. City Clerk's Report
 15. City Treasurer's Report
 16. DPW Superintendent's Report
 17. DDA Executive Director's Report
 18. County Liaison's Report
 19. Chamber of Commerce Report
 20. Public Comment by Citizens
- A. UNFINISHED BUSINESS:**
- B. NEW BUSINESS:**
1. Second Reading of Amendment to City of Gaylord Ordinance Code, Fireworks Ordinance
 2. Repeal of Section 20.278 of the Gaylord Ordinance Code

**FIREWORKS ORDINANCE
CITY OF GAYLORD
eff. _____, 2012**

An ordinance to regulate the ignition, discharge, and use of certain fireworks within the City of Gaylord.

THE CITY OF GAYLORD ORDAINS:

20.351 Sec. 1. **TITLE.**

This Ordinance shall hereafter be known and cited as the Gaylord Fireworks Ordinance.

20.352 Sec. 2. **DEFINITIONS.**

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

1. **CONSUMER FIREWORKS.** "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. Consumers fireworks do not include low-impact fireworks.
2. **DISPLAY FIREWORKS.** "Display Fireworks" means large fireworks devices that are explosive materials 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, 4.1.
3. **FIREWORK or FIREWORKS.** "Firework" or "Fireworks" means any composition or device, except for a starting pistol, a flare gun, or a 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, and display fireworks.
4. **LOW-IMPACT FIREWORKS.** "Low-Impact Fireworks" means ground and handheld sparking devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1 to 3.1.1.8, and 3.5.
5. **NOVELTIES.** "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:

- a. 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 cup.
- b. 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 as to from a missile by the explosion.
- c. Flitter sparklers in paper tubes not exceeding 1/8th 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.

6. **ARTICLES PYROTECHNIC.** "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.

20.353 Sec. 3. **PROHIBITION ON USE OF CONSUMER FIREWORKS EXCEPT AS PERMITTED.**

Except as specifically permitted under this Ordinance, no person shall ignite, discharge, or use any fireworks within the City of Gaylord.

20.354 Sec. 4. **PERMITTED USE OF CONSUMER FIREWORKS.**

Consumer fireworks may be ignited, discharged or used within the City of Gaylord for the 36 hour period preceding and the 36 hour period following 12:00 noon on any national holiday. Provided, however, that at no time shall consumer fireworks be ignited, discharged or used upon public property, school property, church property, or the property of any other person without that person's express permission. Furthermore, no person shall ignite, discharge or use consumer fireworks while under the influence of alcoholic liquor or controlled substance. For purposes of this section, use of another person's property includes causing fireworks or the residue of fireworks to alight upon such other person's property.

20.353 Sec. 5. **PERMITTED USE OF DISPLAY FIREWORKS AND ARTICLES PYROTECHNIC.**

A person may ignite, discharge or use display fireworks or articles pyrotechnic

within the City of Gaylord only after having first obtained a permit therefore issued by the Gaylord City Council after approval by either the fire chief or the police chief. Such a permit may only be granted for the seventy-two (72) hour period described in section 4. above.

20.354 Sec. 6. **USE OF LOW-IMPACT FIREWORKS OR NOVELTIES.**

Low-impact fireworks and novelties may be used within the City of Gaylord as long as the same are used in a manner so as not to cause injury or damage to any person or property and provided that the same shall not be ignited, discharged or used inside any building or structure.

20.355 Sec. 7. **PENALTIES.**

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor punishable as provided in Section 10.605 of the Gaylord City Charter.

20.356 Sec. 8. **SEVERABILITY.**

If any clause, sentence, section, paragraph, or part of this Ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstance, 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.

20.357 Sec. 9. **EFFECTIVE DATE.**

This Ordinance shall become effective as of the ____ day of _____, **2012**. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**RESOLUTION REPEALING SECTION 20.278
OF THE GAYLORD ORDINANCE CODE**

The Gaylord City Council, by proper resolution, does hereby repeal Section 20.278 of the Gaylord Ordinance Code.

RESOLUTION OFFERED BY:

SECONDED BY:

AYES:

NAYES:

I, Rebecca Curtis, City Clerk of the City of Gaylord, certify that the above Resolution Repealing Section 20.278 of the Gaylord Ordinance Code was adopted on _____, 2012, by the Gaylord City Council.

Rebecca Curtis

City Clerk

with the performance of lawful duties of law enforcement, or as specifically provided by law in the protection of persons and property.

20.277 **Sec. 4103.37. WEAPON; POSSESSION.**

Have or display any weapon in his possession in any public place, with the following exceptions:

- A. A law enforcement officer of any governmental unit may have a weapon in his possession as provided by law.
- B. A person may have a weapon in his possession for purposes of his actual participation in any training program approved by the City Council.
- C. An established dealer in weapons or repairman of weapons may have weapons in his possession in his place of business for purposes of making lawful sale or repair of said weapons.
- D. The proprietor of a place of business, or his duly authorized agent, may have a weapon in his possession in said place of business.
- E. A person may have a weapon in his possession for purposes of transporting said weapon to any location where it may lawfully be possessed under this Ordinance; provided, however, that when being so transported, shall be done in accordance with applicable State law governing the transportation of weapons.
- F. A person may have a weapon in his possession under the provisions of a valid State permit for the carrying of a concealed weapon provided that any restrictions indicated therein are observed.

20.278 **Sec. 4103.38. FIREWORKS; PROHIBITIONS; PERMIT.**

Knowingly fire, discharge, display, or possess any fireworks except of the type and under the conditions permitted by Chapter 39 of the Penal Code of the State of Michigan, as amended; the City

Council shall grant permits for the use of fireworks under said Chapter 39 after approval of applications for said permits by the City Manager, Chief of Police, and Fire Chief of the Otsego County Volunteer Fire Department.

20.279 **4103.39. HUNTING OR TRAPPING.**

Hunt, pursue, or trap any game within the City, except where otherwise provided by law.

20.280 **Sec. 4103.40 CONDUCT CAUSING PUBLIC DANGER.**

Engage in any conduct for the purpose of, or that is likely to cause public danger,