

Regular City Council Meeting

January 28, 2019

Agenda

7:30 p.m. **Call to Order**
Pledge of Allegiance
Roll Call
Approval of Minutes: January 14, 2019
Approval of Bills: None
Approval of Agenda
Proclamation

Public Comment

Discussion- Downtown

I. Old Business

1. Second Reading of Ordinance Limiting the Use of Fireworks
2. Second Reading of an Ordinance to amend the City of South Lyon Code of Ordinances, Chapter 46 -- Fire Prevention and protection, Article II – Fire Prevention Code, sections 46-31 and 46-32 to adopt the 2015 edition of the International Fire Code.

II. New Business

1. New phone systems for Waste Water/ DPW Departments

III. Budget

IV. Manager's Report

V. Public Comment

VI. Council Comments

VII. Adjournment

Please see reverse side for rules of conduct for public comment at City Council meetings

City of South Lyon
Regular City Council Meeting
January 14, 2019

Mayor Pelchat called the meeting to order at 7:30 p.m.
Mayor Pelchat led those present in the Pledge of Allegiance.

Present: Mayor Pelchat, Councilmembers Kennedy, Kivell, Kurtzweil, Parisien, Richards and Walton
Also Present: City Manager Zelenak, Attorney Wilhelm, Fire Chief Vogel and Clerk/Treasurer Deaton

MINUTES

CM 1-1-19 MOTION TO APPROVE THE MINUTES AS PRESENTED

Motion by Walton, supported by Parisien
Motion to approve the minutes as presented

VOTE: MOTION CARRIED UNANIMOUSLY

BILLS

Councilmember Kivell asked if City Manager Zelenak could give him the information on where the concrete was used for sidewalks which was a cost of \$3,700. City Manager Zelenak stated he will look into this and let him know.

CM 1-2-19 MOTION TO APPROVE BILLS

Motion by Parisien, supported by Walton
Motion to approve the bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

ATTORNEY BILLS

CM 1-3-19 MOTION TO APPROVE ATTORNEY BILLS

Motion by Kivell, supported by Kennedy
Motion to approve the attorney bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

AGENDA

CM 1-4-19 MOTION TO APPROVE THE AGENDA AS PRESENTED

Motion by Parisien, supported by Walton
Motion to approve the agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

Ryan Lare of 716 Grand Court stated at the last meeting a discussion was held regarding a PPO hearing against Carl Richards and he now has the transcripts. He stated on one of the forms Councilmember Parisien marked the boxes that Carl owns a firearm and has a concealed weapon permit. He asked if she

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has proof that he has a concealed weapon permit, because he is aware that Carl does not have a weapon or a concealed weapon permit, as well as no one in law enforcement agency that has a weapon that was given to them to show he had weapons on his bike. Mr. Lare stated her age is listed as 28 years old, yet records were presented to the court from a PPO that was issued in 1979, so she is telling the court, the public and everyone else that she is afraid of Carl because of anything that happened when she wasn't even conceived, he finds that hard to believe. He further stated on 9/26/94, Carl was shot in the butt by a man with a BB gun, that was listed as information to process the PPO, how did that cause you terrible pain in your life when you were 4 years old. He then stated he will be speaking again during the next public comment.

CULTURAL ARTS- Presentation

Josie Kearns of 329 Lyon Blvd stated they have an ambitious plan and a few changes that will be happening. Two people will be cycling off, but both have agreed to stay on as chairs, Linda Robinson, Chair of Outreach and Linda Graham as Chair of Fundraising. She further stated we are partnering with the Salem/South Lyon Library and we will have artists that will be showcased at the library. She stated this is ambitious, but they think they can do it. She further stated Joe Matuzak has agreed to be in charge of public art. She stated Bridgette McDowell will take over part of Linda Robinson's original part. She stated they are getting more people and it is very enjoyable. She further stated it is a fun commission and they get to do fun projects. Ms. Kearns stated they are taking Art & Commerce very seriously and she thanked City Manager Zelenak, Mayor Pelchat and Bob Donohue for getting letters of support to her for the grant she is working on. She stated she would like Joe Matuzak to speak about the project he is working on. Mr. Matuzak stated it is a 3-part project. One relates to the laminated art work that was donated to the City last year that came from the National Humanities from a project called "Picturing America". He stated there are about 40 of the pictures and we are hoping to have them put up throughout the City. He stated the 2nd part is public art. He is working with Jeff Badarak who is a local sculpture. He has also met with the DDA, Bob Donohue and the downtown businesses to get an idea of what the sculpture should be. He further stated they are hoping to crowd fund this so they aren't asking for public money. He stated they have been looking at different concepts and the theme they are thinking of something along the lines of looking toward the future. He further stated the 3rd part is having a poetry walk in town. Mr. Matuzak stated the concept is to have poets write about downtown business types, and when art works well and at its best, it makes you look at things in a different way. The concept is similar to the South Lyon Garden Walk. The intent is to have one piece that a poet has written and blow it up into a large sheet and have it displayed inside the business. He stated they are hoping to have all these things put together and have a large presence of art around town. Ms. Kearns thanked Ron Brock for some of the information she needed for the grant. Councilmember Parisien stated she loves everything the Cultural Arts Commission is doing. She asked if City Hall was helping her find the grants. She then stated she is very impressed with everything they are doing. Ms. Kearns stated she knows how to look for grants. Councilmember Kurtzweil stated she is an ardent supporter of the Arts Commission and she has been wanting public art in the downtown for years and she is looking forward to it. She stated people need to know that Joe Matuzak is also a poet, and she had the opportunity to hear his of poetry and she thanked him for bringing that genre of art to the City. Councilmember Kurtzweil stated she understands there is a new member that will chair the film festival, and she wanted them to know she knows a lot of people that will be attending the Trinity Film Festival in Detroit, whose date is August 4th-12th and she thinks possibly the Art Commission can work with them and create an environment for residents to make some submissions. The submission date is June 1st. She stated Ken is checking into the software for downloading your film. She stated the film festival is going to be giving away cash prizes. She stated

she spoke with Rachelle Favors who is an incredible person. This will be the 13th year and last year they had Ryan Smiley from Sony pictures that gave a seminar. She then suggested Arts Commission should give them a call and try to get some applicants from here in South Lyon. Ms. Kearns stated there are a lot of people in our area that have high level skills. Mr. Matuzak stated in the future they have discussed having a local artist resource and directory of who is here and what they are working on and how to connect with them. Councilmember Kurtzweil stated that Rachelle told her they do programming all year long in the film industry, such as script writing, stage setting, and software, it is a phenomenal organization.

Councilmember Kivell stated he loves the film aspect of this. Michigan is a bastion of industrial film and once there is some interest shown here, hopefully there will be some incentive to bring this further. Ms. Kearns stated our downtown is perfect for filming and we have great green spaces as well.

Councilmember Kivell asked if the art located downtown will be a city asset or private sites. Mr. Matuzak stated they have more discussion to be held before that is known. Councilmember Walton stated the pamphlet was nicely done. She stated she is looking toward the Art and Car show again this year. Ms. Kearns stated they are going to try to do that event again, there was a problem with timing last year.

DISCUSSION- Downtown

Bob Donohue stated the DDA is excited to partner with the Cultural Arts Commission. Mr. Donohue stated they had a DDA meeting last week and they will be purchasing new trash cans for downtown, as well as purchasing sidewalk mounted flower pots. We have had a problem with the trash bins overflowing, so the new trash cans will be larger. He thanked Marcia Calus and Abe Ayoub for their service to the DDA, they have resigned as of December 31st. He further stated they have great businesses and they will still be involved with downtown events.

Mr. Donohue stated they are moving forward with raising funds for the new veteran's monument. It will be moved to McHattie Park. We are getting a lot of in-kind services moving in and we will have a major announcement in May and hoping to have the monument dedicated by Veterans Day. He stated in 2018 they started a series of meetings including business and property owners' meetings. They start at 8:30 a.m. and end at 9:30 a.m. at the Corner Caffé on the last Thursday of the month. They have been very successful.

Councilmember Walton stated in the past the City was able to use software to track yard sales and she thinks that would be a great thing to have on our website. Mr. Donohue stated he is aware of something like that, but he wasn't involved with it in the past, but he knows City Manager Zelenak will be working on something to improve the website. Mr. Donohue stated we will be making an event guide available for the entire City in the future.

NEW BUSINESS

1. Re-appointment- Board of Review

CM 1-5-19 MOTION TO RE-APPOINT BOR MEMBER

Motion by Parisien, supported by Kennedy

Motion to affirm the re-appointment of Bruce Nussbaum to the Board of Review with thanks

VOTE: MOTION CARRIED UNANIMOUSLY

2. DDA Board Appointment

Councilmember Kurtzweil stated she has had her car fixed at Norms business and she hasn't had any problems with it since then. She thanked him for his years of service he has provided to the residents of the City. She then stated she wants to reference his two references of Gary Fagin and John Dolan. She stated Gary Fagin is a wonderful human being and she would approve anyone he recommends. He is a decent ethical business owner as Norm is. He stays out of the politics of the City, he does his job and builds his reputation and builds his brand, just as Norm does. She stated John Dolan is a great reference as well, he is the Supervisor of Lyon Township and he is a great human being. Councilmember Kurtzweil stated she is excited to have him on the DDA. She further stated she is not only voting for him not only because he is a person of character, but because it is the desire of the DDA.

Mayor Pelchat stated Norm has been in business for a long time and he represents the City very well and he is going to help move the City forward.

Councilmember Kivell stated he agrees with everything everyone has said, but he wants to add that Bob Martin of Martin's Hardware was his 3rd reference and they are all 3 solid business owners.

CM 1-6-19 MOTION TO APPROVE APPOINTMENT TO DDA BOARD

Motion by Kurtzweil, supported by Kennedy

Motion to approve Mayor Pelchat's nomination Norm Fultz to the DDA Board as recommended by the DDA at the December 16 2018 board meeting

VOTE:

MOTION CARRIED UNANIMOUSLY

3. First reading of Ordinance to amend the City of South Lyon Code or Ordinances, Chapter 46- Fire Prevention and Protection, Article II- Fire Prevention Code, Sections 46-31 and 46-32 to adopt the 2015 edition of the International Fire Code

Chief Vogel stated Chief Kennedy advised him when he started, a top priority would be to update the International Fire Code from the 2006 edition to the 2015 edition. He stated this is important for us to keep our top 3 ISO rating. He stated he worked with Attorney Wilhelm and the Fire Marshal to duplicate the same ordinance but added 2015. Attorney Wilhelm stated the International Fire Code this is still valid. The 2015 edition that can be adopted. There will be another edition in a year or two. He further stated the current ordinance states any appeals will go to the zoning board of appeals and we will continue with that. Councilmember Kivell asked if this was an expensive change. Chief Vogel stated it is not, it is online free, but he will buy the Fire Inspector a book. Chief Vogel stated if we lose our ISO 3, it will be a big tax hit for our residents. By adopting this we will be able to keep that rating. He further stated there are 2018 versions out there now, but they are not adopted until they are thoroughly reviewed, which will take a couple of years.

Councilmember Kurtzweil stated it is her understanding you don't have to adopt every provision in the code. Chief Vogel stated that is true and they haven't adopted the entire code. Further discussion was held regarding the Fire Code.

CM 1-7-19 MOTION TO APPROVE FIRST READING OF ORDINANCE AMENDMENT

Motion by Walton, supported by Kivell

Motion to approve the first reading of the Ordinance to amend the City of South Lyon code of Ordinances, Chapter 46-Fire Prevention and protection, Article II- Fire Prevention Code, sections 46-31 and 46-32 to adopt the 2015 edition of the International Fire Code

VOTE: MOTION CARRIED UNANIMOUSLY

4. First Reading of Ordinance limiting the use of fireworks

Councilmember Kurtzweil stated she has been contacting our state representatives and HSB 59-39 bill had to be passed before passing the HSB 59-40. They are going to set up a Fireworks safety fund and money in that fund will be used to fund training for firefighters, this may be an opportunity for grants.

Chief Vogel stated that is already occurring. He further stated there are some strict rules.

Councilmember Kurtzweil stated HSB 59-41 allows the Fire Chief to issue a no burning restriction which includes fireworks. She stated this was tied to 59-40. She then asked if he institutes a no burning restriction, how will he let people know. Chief Vogel stated social media, the City's website as well as the local government channel.

CM 1-8-19 MOTION TO APPROVE FIRST READING OF ORDINANCE AMENDMENT

Motion by Kurtzweil, supported by Walton

Motion to approve the first reading of the ordinance to amend the City of South Lyon code of Ordinances amending Sections 46-122 and 46-127 to revise the days and time a person may ignite, discharge or use consumer fireworks and to revise the penalty for violation as allowed for under Public Act 635 of 2018, HB 5940 amending MCL.28-4574(2) and (3)

VOTE: MOTION CARRIED- 1 OPPOSED

5. 2019 City Council meeting schedule

Clerk Deaton stated within 10 days after the first meeting of a public body, they must post the dates of their meetings. We have listed the dates which are all the 2nd and 4th Monday's of the month with the exception of Monday May 27th, being rescheduled to Tuesday the 28th due to the Memorial Day holiday.

CM 1-9-19 MOTION TO APPROVE COUNCIL MEETING DATES

Motion by Kivell, supported by Walton

Motion to approve the dates for regular Council meetings on the 2nd & 4th Mondays of each month with the exception of May 27th being rescheduled to Tuesday May 28th

VOTE: MOTION CARRIED UNANIMOUSLY

BUDGET- No discussion was held

MANAGER'S REPORT

City Manager Zelenak stated the department heads are working on the budget and finalizing the numbers before we give a presentation and outline of budget in March.

City Manager Zelenak stated we have received the transcripts regarding the testimony and they have been provided to the Ethics Board and they will be meeting next week.

City Manager Zelenak stated he met with the Parks and Recreation Commission and they discussed potential future plans for our parks system and they will be developing a parks budget for the upcoming year.

City Manager Zelenak stated he has supplied Council with information on closed sessions and he would like everyone to read it and contact him if anyone has any questions.

City Manager Zelenak stated City Hall will be closed on January 21 in observance of Martin Luther King Day.

PUBLIC COMMENT

Ryan Lare of 716 Grand Court stated everyone has the transcripts and he wants to go through some points for the Council and public. He stated in her statement she indicated she called the Chief of Police because she had a prowler in her home in April. He stated he filed a FOIA request for the full month of April, and there is no report filed by Councilmember Parisien requesting an investigation. He stated he finds it incredible that if she was so terrified of Carl, that she waited until October 31st to file a complaint against Carl if he has been stalking her for two years. He stated the court asked if there has been any action taken. She told them no, the Oakland County Sheriff because of a conflict of interest with the South Lyon Police Department. They originally conducted an investigation but decided there was a conflict of interest so Oakland County has taken it upon themselves to investigate the matter and if decided they will take it to the Oakland County Prosecutor. He further stated the Court asked if that process was underway. He further stated she said that is underway. He stated that is perjury and we now know there was no Oakland County investigation. We know the Undersheriff denied her request. He stated she owes the South Lyon Police Department an apology. The men and women that put on a vest and a gun and go out there every day to protect us, and for her to stab them in the back and go over our Chief of Police's head and go to the Undersheriff of the Oakland County Sheriff to get what you didn't get. He stated it wasn't a conflict of interest with the police department, it was her that had the conflict of interest because you didn't like they didn't find anything on Carl. He then stated we have had 5 Police Officers that have been killed in the line of duty. He further stated he overheard her bad mouthing the Police Department, and a bartender overheard that too. She said they are rent a cops, and that she works with real cops in Detroit. Mr. Lare then dared her to call the family members of the deceased police officers. Mr. Lare stated as a lawyer the oath swears her to uphold the laws of the United States and the Constitution of this state. He further stated lying under oath is perjury. He further stated the attorney grievance board when they receive this information, he suggests she thinks of her law license because she could be facing suspension, fine or expulsion. Mr. Lare then stated she called him and his mother a liar at the previous meeting. He was told to bring proof, so here it is. He then quoted part of the transcript. Her lawyer stated you indicated that you did not know where Ms. Parisien lives. He stated he did not. Her lawyer then asked if he filed a grievance against her in February. He stated he did. Her lawyer then asked if that form didn't require an address. He stated it did. Her lawyer then asked if he filled the form out. He stated he did fill the form out. Her lawyer stated so you do know where Ms. Parisien lives. He stated the address is listed, he didn't pay attention to the address. He stated he did look up her address for the form, he didn't pay attention to it. He stated he does not know where she lives, or what her house looks like, he doesn't care. Her attorney then questioned him so when she came home and found you on her front porch, were you sleepwalking. Mr. Lare stated this is the 3rd time she has accused him of something and he is tired of it. He stated she knows he has never been on her property and she has no proof of it. He further stated she is the liar, not him. He stated if you want to sit there and accuse him of sleep walking from his walking by True Value to her house on Liberty Street, there isn't one person in this City that would believe that.

COUNCIL COMMENTS

Councilmember Richards stated the Fire Chief Vogel submitted a report that is wonderful and fantastic. It is very illustrative and he doesn't remember seeing anything like it before.

Councilmember Richards stated he wanted to correct a statement he made before Christmas. He stated the Bonner house was sold, and it was, but the deal fell through. He stated recently there have been a lot

of people visiting it. He further stated it is back on the market again and he is hoping for the Historical Society to have a tour of it.

Councilmember Richards stated we lost a business in South Lyon. The Scrooge and Barley business closed and he hopes another business will get in there soon, it is a nice building.

Councilmember Richards stated he needs more interested parties that would like to be on a Cemetery Commission that he would like to put together. He further stated he would like 6-8 or 10-12 people.

Councilmember Richards stated last year we had 30 inches of snow and we had temperatures of 14 below.

Councilmember Walton stated she wanted to highlight the email thanking Judy Pieper for assisting a family with purchasing cemetery plots. She further stated everyone at City Hall is wonderful and she wanted to thank everyone for all the hard work they do.

Councilmember Walton stated she wants to thank Furry Friends Rescue for all their help with the cats and dogs. She further stated they had 137 cat adoptions and 8 dog adoptions in 2018. She stated 73 of those adoptions came from Pet Supplies Plus.

Councilmember Walton congratulated the Witches Hat Brewery for their day after Christmas party and they raised \$4,000 for the Huron Valley Humane Society.

Councilmember Walton stated a 12-year-old boy in our town asked his parents for money instead of Christmas gifts. He then donated all of the money to Active Faith. What an inspiration to our City.

Councilmember Walton stated she was told someone in the community is concerned about the amount of paper she has in front of her during Council meetings. She stated the only paper she has in front of her is the Council packet, she does not bring any additional paperwork. She further stated 6 months ago she contacted the Mayor and discussed putting everything on flash drives. She asked City Manager Zelenak if we can discuss this in the future. It would be nice if we could be more environmentally friendly.

Councilmember Walton stated there is a book that was written by a 1997 South Lyon graduate. The name of the book is Emma Environmentalist. It was written by Christy Crews Kenyon and the illustrations were done by her mother who is a New Hudson resident. She stated the book is about Emma an environmentalist and it is about all the plastic that is in our lakes and oceans which is a huge problem right now. She further stated the book has gone international. It is phenomenal to think someone from our community wrote a book and it is all over the world. She then stated this is our Earth and we need to take care of it and she hopes more people will start recycling.

Councilmember Kurtzweil stated she would like to address an issue that was detailed in a note that was slipped under her door in December. She then did some research. She stated we know that Councilmember Parisien filed a criminal complaint with the South Lyon Police Department. She stated there was an investigation and they found there was no criminal conduct with respect to the Councilmember. She stated we know that Parisien didn't file for a PPO on the 31st, but she did wait and file after the South Lyon Police Department found no criminal conduct. She then stated based on her speculation there will be a lawsuit that will be filed after this. Face it, suing Carl Richards will not do any good, he has no money, but the City has deep pockets. She further stated on November 26th Parisien pleaded with Council to forward her allegations to the Board of Ethics. This is what the letter she received was regarding. When the 4 Councilmembers voted to refer her allegations to the Board of Ethics, she now has a reason to sue the City for her alleged damages she believes has occurred by some alleged conduct by Carl Richards. She would not have a lawsuit against the City if it wasn't for the vote by Pelchat, Kennedy, Kivell and herself. Councilmember Kurtzweil stated she was very clever and her ruse to get Carl Richards before the Board of Ethics had nothing to do with his conduct, but with everything to do get her creating a nexus to sue the City. She further stated she has been handed a lottery ticket. Not only did those Councilmembers give her the lawsuit, now the Board of Ethics is reviewing the

matter and she will now have 3 potential witnesses who will testify on her behalf if they render an opinion favorable to her. The Board of Ethics is 3 commissioners that Council appointed on this Council will potentially be witnesses on her lawsuit and who knows what those damages could be. So, for those individuals that voted out of emotion and didn't wait for the facts to come in, the consequences could be grave. And for the Mayor that sits on his pedestal and says there are people on the Council that is not looking out for the City, he needs to think about the vote that was taken that night. She stated none of them were thinking for the City that night. She stated the note said the Board of Ethics was never populated because any referral to the Board of Ethics of a matter could provide the sufficient and legal nexus to a legal proceeding that could otherwise not be sustained. She further stated if a union employee to the Board of Ethics may violate the conditions in their disciplinary provisions in their contract. She stated a referral of an employee matter that seeks discipline or suspension to the Board of Ethics may violate their right to request for a closed meeting under the OMA. A discussion of an employee matter in an open meeting may violate the City policy as to the privacy of employee records and files. She further stated it appears the statements that were given to her have some merit. This nightmare has only started. Councilmember Kurtzweil stated in 2004 the City amended the Charter section to have 7 members of Council as opposed to 5. She further stated in section 4.5 the City Charter states a quorum is 3 members of Council. Whomever the City Attorney was at the time the change was made, they neglected to change the quorum. She stated she has done her research and according to Roberts Rules of Order says "a quorum is a majority of the members of a board or committee unless there is a rule of the parent body or organization." She stated the corporate Charter supersedes all other rule, none of which can contain anything that in conflict with the Charter. She stated she then reviewed the Open Meetings Act Attorney Generals handbook and it says for a definition of a quorum, look to the statute charter provision or ordinance creating the board. According to her research a quorum in the City's Charter is 3, not 4. It was intended by the drafters to keep the quorum of 3 members, not 4. She then stated there were 3 Councilmembers at the PPO hearing and the judge asked how many members of Council and joked that we almost have a violation of the open meetings act. She stated what the judge didn't know according to our Charter is 3. She stated we need to do some work on this and have a ballot initiative to change the Charter to reflect quorum to be flexible to fit the number of members on Council.

Councilmember Kennedy stated he would like to congratulate Donna Olson and the Salem-South Lyon District Library for achieving a milestone this week as they prepare to join the newly constructed addition to the existing library structure. This will set the stage for heating the new expansion and beginning to finish the interior. He then announced that The Salem-South Lyon District Library is co-sponsoring an event with the VFW Post 1224 celebrating Motown's 60th anniversary. This will be a free, live music event held on Friday, January 25th at the VFW Post 1224 on East McHattie Street from 7 to 9pm. It will feature award winning author, professor, and musician M.L. Liebler performing with his band. This event is supported in part by a grant from the Michigan Humanities Council, which is a state affiliate of the National Endowment for the Humanities. Further questions can be answered by visiting the Salem-South Lyon District Library, or by calling (248) 437-6431. He stated he would like to encourage all our Motown fans to come out for a night of music and fun. He then stated he would like to encourage all residents of our community to drop off their newspapers, magazines, catalogs, mail, and paper at any time at the library and recycle it in the large green and yellow bins in library parking lot. The library receives money for every ton collected. He wanted to remind everyone not to include any books, food boxes or cardboard. The library will certainly appreciate your support. Councilmember Kennedy stated there are still plenty of the large, mobile recycling carts available from GFL for city residents. Just go on the city's website and it will walk you through the process of requesting one.

Councilmember Parisien stated she is not going to respond to the people that are speaking out against her. She stated she already gave her response. She is not on trial, Carl is not on trial and no one is suing the City. That is not the case. What matters to her is her protection and she got what she needed. She stated you can see why people don't always come forward because they get bullied. There are so much bigger issues that people don't see. She stated she understands that some people are upset because they are friends with Carl, but you have to be held accountable for your actions. Carl understands that which is why he is not speaking out on this.

Councilmember Kivell stated he wanted to thank Abe and Marsha for taking their time to sit on the DDA Board, it is much appreciated. He stated the nice letter that was mentioned by Councilmember Walton regarding Judy, and everyone steps up at City Hall, and Judy is exceptionally adept at dealing with people and the Cemetery and she is good at being calming and reassuring to people.

Councilmember Kivell stated the idea of quorum has been spoken to hundreds of times in the past few years, and whenever it was, they went to a 7-person board, it was immediately recognized that a quorum would now be 4.

Mayor Pelchat stated he wanted to thank Suzann Martin for putting on the seminar regarding PFAS, and it was a full house. It was a great seminar and it will be on Channel 19 as well as the YouTube page.

Mayor Pelchat stated he wanted to recognize a long-time assistant principal, Linda Bowman will be retiring at the end of this month and she has been an incredible co-worker for over 20 years.

Mayor Pelchat congratulated the South Lyon East Boys basketball team, as well as the South Lyon Girls basketball team as well. There were two great wins.

ADJOURNMENT

CM 1-10-19 MOTION TO ADJOURN

Motion by Kurtzweil, supported by Walton

Motion to adjourn meeting at 8:55 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Mayor Dan Pelchat

City Clerk Lisa Deaton

CITY OF SOUTH LYON



Mayor

Daniel L. Pelchat

Council Members

Glenn Kivell

Margaret J. Kurtzweil

Mary Parisien

Carl W. Richards

Rose Walton

Stephen Kennedy

City Manager

Paul Zelenak

Clerk/Treasurer

Lisa Deaton

Deputy Clerk/Treasurer

Judy Pieper

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South Lyon, MI 48178

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WHEREAS, **Kay Vartanian** will be honored by friends and relatives on the occasion of her 105th birthday on January 26, 2019; and

WHEREAS, she was born in Chicago, Illinois on January 25, 1914 and has been a resident of the City of South Lyon for the past year; and

WHEREAS, during a long and productive lifetime, she has demonstrated in countless ways her dedication to the welfare of others and has earned the respect and affection of people from all walks of life and all ages; and

WHEREAS, Kay proudly served her country as a member of the Women's Army Corps (WAC) in World War II, and was stationed at the Pentagon. She is also a new member of the South Lyon VFW; and

WHEREAS, she has lived during the most eventful century of this world's history; and in her quiet way has been a force for good and a stabilizing influence on those around her during the turbulent years; and

NOW, THEREFORE, I, Daniel L. Pelchat, Mayor of the City of South Lyon, do hereby deem it an honor and pleasure to extend this Certificate of Recognition to **Kay Vartanian** on the occasion of her 105th Birthday, with sincere congratulations and best wishes for many more happy, productive years.

Daniel L. Pelchat, Mayor

1/24/19

Date

AGENDA NOTE

Old Business # 1

MEETING DATE: January 28, 2019

PERSON PLACING ITEM ON AGENDA: City Attorney

AGENDA TOPIC: Second Reading of Ordinance Limiting the Use of Fireworks

EXPLANATION OF TOPIC: The Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451 et seq., governs the sale and use of fireworks in Michigan. In December 2018, as part of the lame duck session, the Michigan Legislature approved three tie-barred bills (HB 5939, 5940, 5941) which amended the Fireworks Safety Act and allow for more local regulation of the ignition, discharge and use of fireworks. These bills took effect on December 31, 2018, and a brief summary of each follows.

HB 5939 includes changes to the State level regulations on the sale, display, storage, transportation, and distribution of fireworks and updates the State licensing process. HB 5939 also added and modified penalties for various violations. A person who ignites, discharges or uses consumer or low-impact fireworks while under the influence of alcoholic liquor or a controlled substance or both is responsible for a civil fine of up to \$1,000. The Act did not specify a penalty for this violation. A person who violates the smoking prohibition in NFPA 1124, 7.3.11.1 regardless of the type or quantity of consumer or low-impact fireworks is responsible for civil fine of \$1,000. This had previously been a misdemeanor punishable by imprisonment up to 1 year. HB 5939 also adds a prohibition on the use of fireworks to harass, scare, or injure livestock, which does not include dogs and cats.

HB 5940 allows eligible local communities to enact ordinances to substantially narrow the days and times a person may ignite, discharge or use consumer fireworks. Under this legislation, the days on which fireworks are allowed is limited to days around July 4th, New Year's Eve, Memorial Day and Labor Day. The references to fireworks being allowed the day before, day of and day after national holidays has been eliminated. Thus, this legislation allows the City to considerably limit the number of days and times fireworks can be discharged. HB 5940 also mandates a civil fine of \$1,000 for a violation of the day/time regulations with \$500 being remitted to the local law enforcement agency responsible for enforcement.

HB 5940 also allows local communities to regulate temporary fireworks structure beginning August 1, 2019. Ordinance amendments to address this concern will be drafted after consultation with the Planning, Fire, and Police Departments.

HB 5941 relates mainly to the State and local authority to impose and enforce no-burn restrictions under specific circumstances, and would be applicable only when the use of consumer and low-impact fireworks is permitted under local ordinances. The Act sets out requirements for implementing a no-burn restriction and notifying the public of the restriction and when it is lifted.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Revised Draft Ordinance Amendment (redline changes from 1-14-19)
- Current City Fireworks Control Ordinance
- Enrolled HB 5939, 5940, 5941 including legislative analysis report

POSSIBLE COURSES OF ACTION: Approve/Deny/No Action/Postpone

RECOMMENDATION: Approve

SUGGESTED MOTION: Motion by _____, seconded by _____, to approve the second reading of the ordinance to amend the City of South Lyon Code of Ordinances amending Sections 46-121 through 46-123 and 46-127 to revise the days and time a person may ignite, discharge or use consumer fireworks, to include additional restrictions on the discharge of fireworks, and to revise the penalty for violations.

ORDINANCE NO. ____-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 ~~46-122~~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 ~~REVISE THE PENALTY FOR VIOLATION AS ALLOWED UNDER PUBLIC ACT 635 OF 2018, ENROLLED HOUSE BILL 5940 AMENDING MCL 28.457(2) AND (3).~~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, ratites, 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:

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Sec. 46-122. General prohibition on ignition, discharge, and use of consumer 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 IIII. Amendment of Section 46-127, 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:

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Sec. 46-127. ~~Penalty, 123.~~ Additional prohibitions and regulations.

~~A violation of section~~

- (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 or other local law enforcement agency responsible for enforcing this ordinance.

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(2) A violation of person that violates this article, other than a violation of Section 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) Upon a finding of responsibility for a violation of this article, the city may dispose of or destroy any consumer fireworks or low impact fireworks retained as evidence for prosecution of the violation.

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

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

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

Daniel L. Pelchat, Mayor

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 ____ day of _____, 2019.

Lisa Deaton, City Clerk

Adopted:
Published:
Effective:

ORDINANCE NO. __-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, ratites, 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 ____ day of _____, 2019.

Daniel L. Pelchat, Mayor

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 ____ day of _____, 2019.

Lisa Deaton, City Clerk

Adopted:
Published:
Effective:

Act No. 634
Public Acts of 2018
Approved by the Governor
December 28, 2018
Filed with the Secretary of State
December 28, 2018
EFFECTIVE DATE: December 28, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Lilly, Farrington, Pagan, Vaupel, Lucido, Chirkun, Yaroch, Howell, Hornberger, Victory, Crawford, Miller, Kelly, Lasinski, VanderWall, Hammoud and Hoadley

ENROLLED HOUSE BILL No. 5939

AN ACT to amend 2011 PA 256, entitled "An act to revise, consolidate, and codify the laws relating to certain fireworks; to regulate the purchase, possession, sale, and use of certain fireworks; to establish a fireworks safety fund; to establish a fireworks safety fee; to provide for the transfer and expenditure of funds; to prescribe the powers and duties of certain state agencies; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 2, 4, 5, 6, 8, 10, 11, 12, 14, 15, 16, 17, 17a, 18a, 18b, and 18c (MCL 28.452, 28.454, 28.455, 28.456, 28.458, 28.460, 28.461, 28.462, 28.464, 28.465, 28.466, 28.467, 28.467a, 28.468a, 28.468b, and 28.468c), sections 2, 8, and 17 as amended and sections 17a, 18b, and 18c as added by 2012 PA 257, sections 4, 5, 10, 12, and 18a as amended by 2013 PA 65, and section 11 as amended by 2017 PA 145; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) "Agricultural and wildlife fireworks" means fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of the Interior or the department of natural resources of this state.

(b) "APA Standard 87-1" means the "APA Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics", 2001 edition, published by the American Pyrotechnics Association of Bethesda, Maryland.

(c) "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.

(d) "Citation" means that term as described in section 17a.

(e) "Commercial manufacturer" means a person engaged in the manufacture of consumer fireworks.

(f) "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.

(g) "Consumer fireworks certificate" means a certificate issued under section 4.

(h) "Department" means the department of licensing and regulatory affairs.

(i) "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.

(j) "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.

(k) "Fireworks safety fund" means the fireworks safety fund created in section 11.

(l) "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.

(m) "Local unit of government" means a city, village, or township.

(n) "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.

(o) "Minor" means an individual who is less than 18 years of age.

(p) "NFPA" means the National Fire Protection Association headquartered at 1 Batterymarch Park, Quincy, Massachusetts.

(q) "NFPA 1" means the "Uniform Fire Code", 2006 edition, developed by NFPA.

(r) "NFPA 72" means the "National Fire Alarm Code", 2002 edition, developed by NFPA.

(s) "NFPA 101" means the "Life Safety Code", 2009 edition, developed by NFPA.

(t) "NFPA 1123" means the "Code for Fireworks Display", 2010 edition, developed by NFPA.

(u) "NFPA 1124" means the "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles", 2006 edition, developed by NFPA.

(v) "NFPA 1126" means the "Standard for the Use of Pyrotechnics Before a Proximate Audience", 2011 edition, developed by NFPA.

(w) "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.

(x) "Permanent building or structure" is a building or structure that is affixed to a foundation on a site that has fixed utility connections and that is intended to remain on the site for more than 180 consecutive calendar days.

(y) "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.

(z) "Retailer" means a person that sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

(aa) "Retail location" means a facility listed under NFPA 1124, 7.1.2.

(bb) "Rule" means a rule, as that term is defined in section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207, promulgated by the department.

(cc) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(dd) "Serious violation" means a violation of this act, an order issued under this act, or a rule promulgated or adopted by reference under this act for which a substantial probability exists that death or serious impairment of a body function to an individual other than the violator may result unless the violator did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.

(ee) "Special effects" 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.

(ff) "State fire marshal" means the state fire marshal appointed under section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b.

(gg) "Warehouse" means a permanent building or structure used primarily for the storage of consumer fireworks or low-impact fireworks.

(hh) "Wholesaler" means a person that sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person that sells only display fireworks or special effects.

Sec. 4. (1) A person shall not sell consumer fireworks unless the person annually obtains and maintains a consumer fireworks certificate from the department under this section.

(2) A person that fails or neglects to comply with subsection (1) is responsible for a civil fine as follows:

(a) For a first violation, not more than \$5,000.00. The department shall determine the amount of the fine imposed under this subdivision by applying a scale, as developed by the department, that reflects the severity of the violation.

(b) For a second violation, not more than \$20,000.00.

(c) For a third or subsequent violation, not more than \$40,000.00.

(3) An applicant for a consumer fireworks certificate shall do all of the following:

(a) Submit an application no later than April 1 of each year in which the applicant will sell consumer fireworks.

(b) Include on the application the name and address of each retail location from which the applicant will sell consumer fireworks.

(c) Submit with the application all of the following, as applicable:

(i) A nonrefundable consumer fireworks certificate fee of \$1,250.00 for each retail location that is a permanent building or structure or \$1,000.00 for each retail location that is not a permanent building or structure. If the application includes 10 or more retail locations that are not permanent buildings or structures, the fee described in this subdivision shall be \$700.00 for each of those locations.

(ii) For an applicant who applies for a consumer fireworks certificate for a retail location that is not a permanent building or structure and who does not hold a consumer fireworks certificate for a permanent building or structure, a bond in the amount of \$5,000.00 to secure the collection of estimated sales tax and fireworks safety fees.

(iii) A copy of the applicant's current sales tax license, including the applicant's account number, issued by the department of treasury for each retail location where the applicant will sell consumer fireworks.

(iv) Any other document required by the department.

(4) The department shall not issue an initial consumer fireworks certificate to an applicant until the department of treasury has confirmed to the department that each sales tax license submitted by the applicant is current and valid, and that the applicant is otherwise eligible to obtain a consumer fireworks certificate under this act.

(5) A consumer fireworks certificate issued under this section is valid from the date of issue until April 30 of the year following the year in which it is issued. A person may renew a consumer fireworks certificate for a retail location by making application on a form prescribed by the department certifying that all information on file with the department is true and correct, that the person's sales tax license for the retail location is current and valid, and that the person has properly remitted all required fireworks safety fees for the preceding year. The department may deny the renewal of a consumer fireworks certificate if the department determines that the applicant did not properly remit all of the required fireworks safety fees for all preceding years, or sales tax for any of the preceding 5 years, during which the applicant held a consumer fireworks certificate. The department shall provide to the department of treasury the sales tax license information received from the applicant and any additional information as may be necessary to allow the department of treasury to confirm that each sales tax license submitted by the applicant is current and valid. The department shall enter into an agreement with the department of treasury under section 28(1) of 1941 PA 122, MCL 205.28, that will allow the department of treasury to provide that information to the department.

(6) Not more than 30 days after an application and all required supporting documentation and fees are submitted to the department under this section, the department shall issue a consumer fireworks certificate to the applicant or deny the application. If the department denies the application, the department shall indicate to the applicant the reason for denial.

(7) If the department denies an application for a consumer fireworks certificate under this section, the applicant may cure any defect in the application within 45 days after the denial without paying an additional fee. The department shall not unreasonably delay or deny an application.

(8) A consumer fireworks certificate is transferable upon approval by the department and the payment of a \$250.00 transfer fee. The department shall approve the transfer of a consumer fireworks certificate unless the transferee does not satisfy the eligibility requirements for an original consumer fireworks certificate under this act. The department shall not process a request for a transfer of location between June 1 and July 31.

(9) The holder of a consumer fireworks certificate shall prominently display the original certificate or a copy of the certificate in the each retail location to which the certificate applies. A person that violates this subsection is responsible for a civil fine of \$200.00.

(10) The department shall not issue a consumer fireworks certificate to either of the following:

(a) A person that is ineligible under this act.

(b) A person that has an outstanding fine issued under this act not currently under appeal.

(11) The face of the consumer fireworks certificate must indicate the location or address for which it was issued.

(12) Fees collected under this section shall be deposited in the fireworks safety fund.

Sec. 5. (1) A person shall not sell consumer fireworks from a retail location unless all of the following conditions are met:

(a) Except as provided in subdivision (b), the retail location and any adjacent or directly associated retail storage satisfies the applicable requirements of NFPA 101 and NFPA 1124 for consumer and low-impact fireworks that are not in conflict with this act and the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. Any provision of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, that is inconsistent with the applicable requirements of NFPA 101 and NFPA 1124 is superseded to the extent of the inconsistency or conflict.

(b) If the retail location is a permanent building or structure, the building or structure is equipped with a fire suppression system in compliance with NFPA 1124. Beginning on the effective date of the 2018 act that added this sentence and notwithstanding the NFPA 1124 requirements regarding automatic sprinkler systems, if the retail location is in a permanent multitenant building or structure, the building or structure must be equipped with an automatic sprinkler system. The requirement for an automatic sprinkler system described in this subdivision does not apply to the retail location of a person that held a consumer fireworks certificate for a retail location of the same address in a permanent building or structure during the calendar year before the effective date of the 2018 act that added this sentence.

(c) The retailer at that retail location is licensed under section 3 of the general sales tax act, 1933 PA 167, MCL 205.53.

(d) The retailer has a valid federal taxpayer identification number. This requirement does not apply to a retailer that is a sole proprietorship.

(2) A person that fails or neglects to comply with subsection (1) is responsible for a civil fine of not more than \$2,500.00 for each violation. The department shall determine the amount of the fine imposed under this subsection by applying a scale, as developed by the department, that reflects the severity of the violation. Each day that a person is in noncompliance is a separate violation.

(3) During any period of time in which a person is selling consumer fireworks, the person shall add as an additional insured, or obtain and maintain public liability and product liability insurance coverage for, each retail location at which the person is selling consumer fireworks, in an amount not less than \$10,000,000.00 per occurrence. If the department determines that a person has failed or neglected to comply with this subsection, the department shall order the person to immediately cease operations and pay a civil fine of not more than \$5,000.00.

(4) A retailer shall provide with every purchase of consumer fireworks a notice listing the dates and times permitted under this act for the ignition, discharge, and use of consumer fireworks. The notice shall begin with the following statement: "State law permits, under MCL 28.457, the ignition, discharge, and use of consumer fireworks at the following times:". The retailer may provide the notice in a form and manner determined by the retailer, including, but not limited to, printing or stamping the notice on, or affixing the notice to, a receipt, bag, or the product being purchased, or a printed handout provided at the time of purchase. Posting the notice on a wall, window, display, or otherwise, at the retail location, does not satisfy the requirements of this subsection. A retailer who fails to provide the notice required by this subsection is responsible for a civil fine of \$100.00 for each day on which 1 or more violations occur. The department shall provide for the remittance of the fine collected under this subsection to the local law enforcement agency responsible for enforcing the notice requirement.

(5) A person shall not engage in the retail sale of consumer fireworks over the telephone, internet, or other like manner unless the consumer fireworks are picked up or shipped from a permanent location for which the person holds a valid consumer fireworks certificate.

Sec. 6. (1) The department shall establish and maintain, or cause to be established and maintained, an internet website that has as its purpose the protection of the residents of this state who purchase, use, or transport fireworks. The website must include, but is not limited to, both of the following:

(a) A list of every person that is issued a consumer fireworks certificate under section 4.

(b) A low-impact fireworks retail registry.

(2) A person shall not sell low-impact fireworks unless that person registers with the low-impact fireworks retail registry not less than 10 days before selling the fireworks in each calendar year and pays a \$50.00 registry application fee for each retail location registered. For a person with multiple retail locations, the registry application fees in total shall not exceed \$1,000.00. A person that holds a valid consumer fireworks certificate issued under section 4 is not required to register with the low-impact fireworks retail registry.

(3) If the department determines that a person that sells low-impact fireworks at retail has failed to register as described in this section, the department shall order the person to immediately cease the sale of low-impact fireworks until the person complies with subsection (2) and pay a civil fine of not more than \$1,000.00. For a first violation of this section, if a person complies with subsection (2) within 30 days of receiving a notice of violation, the department shall waive the civil fine described in this subsection.

Sec. 8. (1) A user fee, known as the fireworks safety fee, is imposed on retail transactions made in this state for consumer fireworks and low-impact fireworks as provided in section 9.

(2) A person that acquires consumer fireworks or low-impact fireworks in a retail transaction is liable for the fireworks safety fee on the transaction and, except as otherwise provided in this act, shall pay the fireworks safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the fireworks safety fee as an agent for the state.

(3) The fireworks safety fee shall be deposited in the fireworks safety fund.

(4) A person that fails to collect a fireworks safety fee as required under this section is responsible for a civil fine as follows:

(a) For a first violation, not more than \$5,000.00. If the person is a retailer of low-impact fireworks and, within 30 days of receiving a notice of violation, the person remits to the department the estimated equivalent of the amount the person should have collected under this section, the department shall waive the civil fine described in this subdivision.

(b) For a second violation, not more than \$20,000.00.

(c) For a third or subsequent violation, not more than \$40,000.00.

Sec. 10. (1) A person that holds a consumer fireworks certificate or that is a retailer of low-impact fireworks is responsible for remitting all fireworks safety fees, as described in section 9, to the department. The person shall remit the fees collected with a form provided and in a manner prescribed by the department. The person shall hold in trust for the state the fees collected until those fees are remitted to the state. An individual who holds a consumer fireworks certificate or who is a retailer of low-impact fireworks is personally liable for the payment of the fees collected.

(2) The department may refer for collection to the department of treasury past due amounts of the fireworks safety fee consistent with section 13 of 1941 PA 122, MCL 205.13 or may initiate subrogation for collection within the department.

(3) A person that is responsible for remitting the collected fireworks safety fees under subsection (1) shall remit those fees no later than 20 days after the end of each preceding month. A person that operates 25 or more retail locations in this state that are permanent buildings or structures may remit the collected fees in an aggregate filing under 1 common identification number as determined by the department.

(4) A person that fails to remit the collected fireworks safety fees, as described in subsection (1), is responsible for a civil fine as follows:

(a) For a first violation, not more than \$5,000.00. If the person is a retailer of low-impact fireworks and, within 30 days of receiving a notice of violation, the person remits to the department the collected fees that are the subject of the violation, the department shall waive the civil fine described in this subdivision.

(b) For a second violation, not more than \$20,000.00.

(c) For a third or subsequent violation, not more than \$40,000.00.

Sec. 11. (1) The fireworks safety fund is created within the department of treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money deposited in the fund as follows:

(a) One hundred percent of the money received from fireworks safety fees under section 8 to be used for the training of firefighters under the direction and approval of the firefighters training council established under the firefighters training council act, 1966 PA 291, MCL 29.361 to 29.377.

(b) One hundred percent of the money received from consumer fireworks certificate fees under section 4 to administer this act and to pay the costs of delegating inspections under this act to local units of government under subsection (5).

(c) One hundred percent of the money received from the fees collected under section 11 of the firefighters training council act, 1966 PA 291, MCL 29.371, to be used for the training of firefighters under the direction and approval of the firefighters training council established under the firefighters training council act, 1966 PA 291, MCL 29.361 to 29.377.

(5) The department may establish a program for delegating inspection duties under this act to 1 or more local units of government. If a local unit of government agrees to carry out inspections, the department shall pay 50% of the consumer fireworks certificate fee paid by each retail location inspected by the local unit of government and retain the remaining 50% of that fee. If a local unit of government declines to participate in the program described in this subsection, the department shall retain its inspection duties under this act.

Sec. 12. (1) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises. Except as otherwise provided in this section, a person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(2) A person shall not sell consumer fireworks to a minor. A person that violates this subsection shall be ordered to pay a civil fine of not more than \$1,000.00, or, for a second or subsequent violation of this subsection, a civil fine of not more than \$2,500.00. For a second or subsequent violation, the department shall suspend the person's consumer fireworks certificate for 90 days beginning on the date a civil fine is ordered. The age of an individual purchasing consumer fireworks shall be verified by any of the following:

(a) An operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(b) An official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(c) An enhanced driver license or enhanced official state personal identification card issued under the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.

(d) A military identification card.

(e) A passport.

(f) Any other bona fide photograph identification that establishes the identity and age of the individual.

(3) 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 a controlled substance. A person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$1,000.00. As used in this subsection:

(a) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

(b) "Controlled substance" means that term as defined in section 8b of the Michigan vehicle code, 1949 PA 300, MCL 257.8b.

(4) An individual who violates the smoking prohibition described in NFPA 1124, 7.3.11.1, regardless of the type or quantity of consumer or low-impact fireworks present, is responsible for a civil fine of \$1,000.00.

(5) Signage stating the smoking prohibition described in subsection (4) satisfies the requirements of NFPA 1124.

(6) 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. As used in this subsection, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

Sec. 14. (1) A governmental or law enforcement agency that identifies a firework that is in violation of this act shall secure the firework and immediately notify the department of the alleged violation. The department or law enforcement agency shall investigate the alleged violation for compliance with this act.

(2) If the department or law enforcement agency determines through its investigation under subsection (1) that a violation of this act has occurred, except for a violation of section 6(2), the department or law enforcement agency may seize the firework as evidence of the violation. The department or law enforcement agency shall store, or cause to be stored, the evidence seized under this section pending disposition of any criminal or civil proceedings arising from the violation. If the person subject to criminal or civil proceedings under this section is found guilty, responsible, or liable for the violation, the person shall be required to pay the storage expense for the evidence seized.

Sec. 15. (1) Fireworks seized for an alleged violation of this act shall be stored in compliance with this act and the rules promulgated under this act.

(2) Following a final disposition of an appeal of a conviction under this act that affirms the conviction, the department may dispose of or destroy any fireworks retained as evidence in that prosecution.

(3) A person from whom fireworks are seized under this act shall pay the actual costs of storage and disposal of the seized fireworks if found guilty, responsible, or liable for a violation under this act.

(4) The department may use fireworks described in subsection (2) for training purposes.

Sec. 16. (1) The legislative body of a city, village, or township, upon application in writing on forms provided by the department on the department's website and payment of a fee set by the legislative body, if any, may grant a permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, consumer fireworks, or special effects manufactured for outdoor pest control or agricultural purposes, or for public or private display within the city, village, or township by municipalities, fair associations, amusement parks, or other organizations or individuals approved by the city, village, or township authority, if the applicable provisions of this act are met. After a permit has been granted, a permit holder may sell, possess, or transport fireworks for only the purposes described in the permit. A permit granted under this subsection is not transferable and shall not be issued to a minor.

(2) Before a permit for articles pyrotechnic or a display fireworks ignition is issued, the person applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the local governing authority to protect the public and to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person or an agent or employee of the person.

(3) The department shall not issue under this act a permit to a nonresident person for ignition of articles pyrotechnic or display fireworks in this state until the person has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person may be served.

(4) Before granting a permit under this act, the local governing authority shall rule on the competency and qualifications of an articles pyrotechnic and display fireworks operator, as furnished by the operator on the operator's application form, in accordance with the requirements provided under NFPA 1123, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks.

(5) A local unit of government that charges and collects a fee to issue a permit under this section shall retain the collected fee.

Sec. 17. Except as otherwise provided in this act, this act does not prohibit any of the following:

(a) A wholesaler, retailer, commercial manufacturer, or importer from selling, storing, using, transporting, or distributing consumer fireworks or low-impact fireworks.

(b) The use of fireworks by railroads or other transportation agencies or law enforcement agencies for signal purposes or illumination.

(c) The use of agricultural or wildlife fireworks.

(d) The sale or use of blank cartridges for any of the following:

(i) A show or play.

(ii) Signal or ceremonial purposes in athletics or sports.

(iii) Use by military organizations.

(iv) Use by law enforcement agencies.

(e) The possession, sale, or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who possess a permit to possess, store, or sell explosives from the bureau of alcohol, tobacco, firearms, and explosives of the United States Department of Justice.

(f) Interstate wholesalers from selling, storing, using, transporting, or distributing fireworks.

(g) A person from parking a motor vehicle, or trailer, that is not being used for the storage of consumer fireworks, within 10 feet of a permanent building or structure used in the retail sale of consumer fireworks.

Sec. 17a. (1) If, as a result of an inspection or investigation, the state fire marshal or the state fire marshal's designee believes that a person has violated this act, an order issued under this act, or a rule promulgated under this act, the state fire marshal or the state fire marshal's designee shall issue a citation not more than 90 days after the completion of the physical inspection or investigation.

(2) The state fire marshal or the state fire marshal's designee shall issue the citation described in subsection (1) to the holder of the consumer fireworks certificate for, or to a person conducting or directing the sale of consumer fireworks without a consumer fireworks certificate at, the retail location that is the subject of the inspection or investigation. A holder of a consumer fireworks certificate, or a person conducting or directing the sale of consumer fireworks without a consumer fireworks certificate, as described in this subsection, is responsible for the acts or omissions of an individual under that person's employ or control.

(3) Except as otherwise provided in this act, upon issuance of a citation, the state fire marshal may immediately suspend the consumer fireworks certificate of the person receiving the citation.

(4) Upon a proper petition, a court of competent jurisdiction may enjoin a violation of this act.

(5) All of the following apply to a citation issued by the state fire marshal or the state fire marshal's designee under this act:

(a) It shall be in writing.

(b) It shall state on its face that it is an allegation of a violation of this act, describe with particularity the nature of the violation, and include a reference to the provision, rule, or order alleged to be violated.

(c) It shall contain all of the following:

(i) The date of the citation.

(ii) The name and title of the individual who issued the citation.

(iii) The name and address of the person receiving the citation.

(iv) The actions necessary to bring the person receiving the citation into compliance, including the payment of a fine.

(v) A space for the signature of the person receiving the citation indicating that the person has received the citation.

(vi) A space where the person receiving the citation may accept the citation and agree to comply or, in the alternative, indicate the person's intent to contest the citation.

(vii) A notice that the person receiving the citation must accept or reject the terms of the citation in writing within 15 days of the receipt of the citation.

(viii) A brief description of the administrative hearing process and the process for settlement as provided for by rule.

(d) A citation may either be mailed to the person receiving the citation by certified mail, return receipt requested, or delivered in person by the state fire marshal, or the state fire marshal's designee who issued the citation.

Sec. 18a. (1) Except as otherwise provided in this section, a person that receives a citation for a serious violation, an order issued under this act, or a rule promulgated under this act shall be assessed a civil fine of not more than \$1,000.00 for each violation.

(2) Except as otherwise provided in this section, a person that receives a citation for a violation of this act that is not a serious violation may be assessed a civil fine of not more than \$500.00 for each violation.

(3) Subsections (1) and (2) do not apply to violations for which a specific civil fine is provided by this act.

(4) The state fire marshal may request that the prosecuting attorney for the county in which a violation of this act occurred issue a complaint and request a warrant for the prosecution of an individual who commits a criminal violation of this act.

(5) A civil fine ordered under this act shall be paid to the department within 15 working days after the date the civil fine is ordered, not subject to further review, and credited to the fireworks safety fund.

(6) The department of treasury shall institute proceedings to collect any civil fines ordered but not paid under this act.

Sec. 18b. (1) The department shall not issue, and an individual is ineligible to be issued, a consumer fireworks certificate if, as verified by the internet criminal history access tool (ICHAT) maintained by the department of state police, the individual was convicted of a felony involving theft, fraud, or arson.

(2) If due to a criminal conviction an individual will be ineligible for a consumer fireworks certificate on April 30 of the year following the year for which the individual currently holds a consumer fireworks certificate, the department shall revoke the current consumer fireworks certificate for the balance of the current year.

Sec. 18c. (1) A person that is found responsible for any of the following is ineligible, beginning on the date of the finding, to obtain a consumer fireworks certificate for the period of time indicated:

(a) A second violation of section 4(1), 5 years.

(b) A third or subsequent violation of section 4(1), 10 years.

(c) A first violation of section 8(4), 1 year.

(d) A second violation of section 8(4), 5 years.

(e) A third or subsequent violation of section 8(4), 10 years.

(f) A violation subject to section 18(1)(b), 1 year.

(g) A violation subject to section 18(1)(c), permanently.

(h) A violation subject to section 18(1)(d), permanently.

(2) A sanction imposed under subsection (1) shall be imposed in addition to any other penalty or sanction imposed for a violation of this act.

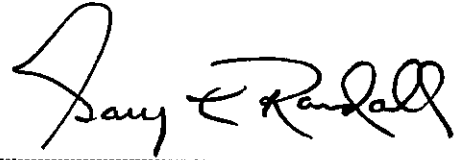
Enacting section 1. Section 13 of the Michigan fireworks safety act, 2011 PA 256, MCL 28.463, is repealed.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

(a) House Bill No. 5940.

(b) House Bill No. 5941.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Act No. 635
Public Acts of 2018
Approved by the Governor
December 28, 2018
Filed with the Secretary of State
December 28, 2018
EFFECTIVE DATE: December 28, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Chirkun and Yaroch

ENROLLED HOUSE BILL No. 5940

AN ACT to amend 2011 PA 256, entitled "An act to revise, consolidate, and codify the laws relating to certain fireworks; to regulate the purchase, possession, sale, and use of certain fireworks; to establish a fireworks safety fund; to establish a fireworks safety fee; to provide for the transfer and expenditure of funds; to prescribe the powers and duties of certain state agencies; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 7 (MCL 28.457), as amended by 2013 PA 65.

The People of the State of Michigan enact:

Sec. 7. (1) Except as provided in this act, a local unit of government shall not enact or enforce an ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under this act.

(2) A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks, including, but not limited to, an ordinance prescribing the hours of the day or night during which a person may ignite, discharge, or use consumer fireworks. If a local unit of government enacts an ordinance under this subsection, the ordinance shall not regulate the ignition, discharge, or use of consumer fireworks on the following days after 11 a.m.:

- (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.

(3) An ordinance under subsection (2) shall impose a civil fine of \$1,000.00 for each violation of the ordinance and no other fine or sanction. The ordinance must provide for the remittance of \$500.00 of the fine collected under the ordinance to the local law enforcement agency responsible for enforcing the ordinance.

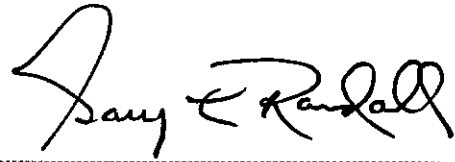
(4) Beginning August 1, 2019, a local unit of government with a population of 100,000 or more or a local unit of government located in a county with a population of 750,000 or more may enact or enforce an ordinance that regulates the use of a temporary structure. An ordinance established under this subsection may include, but is not limited to, a restriction on the number of permits issued for a temporary structure, regulation of the distance required between 2 or more temporary structures, or a zoning ordinance that regulates the use of a temporary structure. An ordinance established under this subsection may not prohibit the temporary storage, transportation, or distribution of fireworks by a consumer fireworks certificate holder at a retail location that is a permanent building or structure. As used in this subsection, "temporary structure" means a movable structure that is used in the sale, display, storage, transportation, or distribution of fireworks, including, but not limited to, a tent or a stand.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

(a) House Bill No. 5939.

(b) House Bill No. 5941.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

Act No. 636
Public Acts of 2018
Approved by the Governor
December 28, 2018
Filed with the Secretary of State
December 28, 2018
EFFECTIVE DATE: December 28, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Lilly and Chirkun

ENROLLED HOUSE BILL No. 5941

AN ACT to amend 1941 PA 207, entitled "An act to provide for the prevention of fires and the protection of persons and property from exposure to the dangers of fire or explosion; to authorize the investigation of fires and the discovery of crime or other offenses in relation thereto; to require the razing, repair, or alteration of buildings, and the clearing and improvement of premises which constitute a fire hazard or a menace to the peace, security, or safety of persons or property; to control the construction, use, and occupancy of buildings and premises in relation to safety, including fire safety; to provide for the certification of fire inspectors and the delegation of certain powers to those certified fire inspectors; to provide for the regulation of the storage and transportation of hazardous material; to provide for the issuance of certificates; to prohibit the use of certain fire extinguishers and fire extinguishing agents; to provide immunity from liability for certain persons; to provide for the administration and enforcement of this act; to prescribe penalties; to provide for the promulgation of rules; to provide for the assessment of fees; and to repeal acts and parts of acts," by amending section 7a (MCL 29.7a) and by adding section 7d.

The People of the State of Michigan enact:

Sec. 7a. (1) Subject to section 7d, if the state fire marshal or the commanding officer of the fire department of a city, village, township, or county, or a fire fighter in uniform acting under the orders and directions of the commanding officer determines a dangerous condition exists, the state fire marshal, the commanding officer of the fire department of a city, village, township, or county, or the fire fighter in uniform acting under the orders and direction of the commanding officer upon finding an emergency condition dangerous to persons or property, may take all necessary steps and prescribe all necessary restrictions and requirements to protect persons and property until the dangerous condition is abated.

(2) Subject to section 7d, the state fire marshal, the commanding officer of the fire department of a city, village, township, or county, or a fire fighter in uniform acting under the orders and directions of the commanding officer, responding to a fire or emergency call, who, upon arriving at the scene of a fire or emergency, finds a condition dangerous to persons or property, may take all necessary steps and requirements to protect persons and property until the dangerous condition is abated.

(3) The state fire marshal or the commanding officer of the fire department of a city, village, township, or county, or a fire fighter in uniform acting under the orders and direction of the commanding officer may investigate causes and effects related to dangerous conditions.

Sec. 7d. (1) If the environmental concerns based on the department of natural resources fire division criteria are elevated to extreme fire conditions or if the environmental concerns based on the department of natural resources fire division criteria are elevated to very high for 72 consecutive hours, the commanding officer of the fire department of a city, village, township, or county, in consultation with the department of natural resources, has the authority to enforce a no burning restriction that includes a ban on the ignition, discharge, and use of consumer fireworks within a city,

village, township, or county. If a no burning restriction is instituted under this subsection, the commanding officer of the fire department enforcing the restriction shall ensure that adequate notice of the restriction is provided to the public.

(2) The governor, department of natural resources, or state fire marshal may enforce a statewide no burning restriction, including a ban on the ignition, discharge, and use of fireworks as provided under subsection (1).

(3) Not more than 24 hours after the fire condition is downgraded from extreme or very high fire condition, the commanding officer of the fire department of a city, village, township, or county that enforced a no burning restriction under subsection (1) that included a ban on the ignition, discharge, and use of consumer fireworks shall lift the restriction 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.

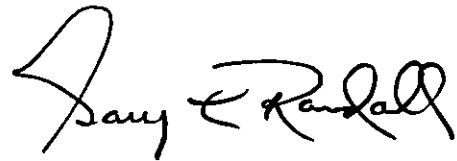
(4) As used in this section, "consumer fireworks" means that term as defined in section 2 of the Michigan fireworks safety act, 2011 PA 256, MCL 28.452.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

(a) House Bill No. 5939.

(b) House Bill No. 5940.

This act is ordered to take immediate effect.



.....
Clerk of the House of Representatives



.....
Secretary of the Senate

Approved

.....
Governor



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5939 (Substitute S-1 as reported)
House Bill 5940 (Substitute H-3 as reported without amendment)
House Bill 5941 (Substitute H-3 as reported without amendment)
Sponsor: Representative Jim Lilly (H.B. 5939 & 5941)
Representative John Chirkun (H.B. 5940)
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

CONTENT

House Bill 5939 (S-1) would amend the Michigan Fireworks Safety Act to do the following:

- Specify that a person who sold consumer fireworks and failed to obtain and maintain a consumer fireworks certificate would be responsible for a civil fine, instead of a misdemeanor.
- Increase the fees an applicant would have to pay to obtain a certificate.
- Require an applicant to submit a bond to secure the collection of estimated sales tax and fireworks safety fees, under certain circumstances.
- Prohibit the Department of Licensing and Regulatory Affairs (LARA) from issuing an initial certificate until the Department of Treasury had confirmed to LARA that each sales tax license submitted by the applicant was current and valid.
- Allow LARA to deny a certificate renewal if the applicant had not paid all of the required fees for all preceding years, or sales tax for any of the preceding five years.
- Increase the civil fine for failing to prominently display a certificate at each retail location the certificate applied.
- Require a retailer to provide with every purchase of consumer fireworks a notice listing the dates and times permitted under the Act for the ignition, discharge, and use of consumer fireworks, and require a notice to contain certain language.
- Specify that a retailer who failed to provide the notice would be responsible for a civil fine for each day on which one or more violations occurred.
- Prohibit a person from selling at retail consumer fireworks over the phone, internet, or other like manner unless the fireworks were picked up or shipped from a permanent location for which the person held a valid certificate.
- Specify that a person who failed to pay a fireworks safety fee would be responsible for a civil fine.
- Increase the civil fine for a person who sold consumer fireworks to a minor.
- Specify that an individual who discharged, ignited, or used consumer fireworks or low-impact fireworks while under the influence would be responsible for a civil fine.
- Prohibit a person from igniting, discharging, or using consumer fireworks or low-impact fireworks in a manner that was intended to harass, scare, or injure livestock.
- Specify that a person from whom fireworks were seized would have to pay the actual costs for the storage and disposal of the seized firework if the person were found guilty, responsible, or liable for a violation of the Act.
- Specify that LARA, instead of LARA and the Department of State Police, could use the disposal or destruction of a seized firework for training purposes

- Specify that LARA could not issue, and an individual would not be eligible to be issued, a certificate if he or she had ever been convicted of a felony involving theft, fraud, or arson.

The bill also would repeal Section 13 of the Act, which requires a wholesaler of consumer fireworks or low-impact fireworks to maintain a resident agent.

House Bill 5940 (H-3) would amend the Act to modify when a local unit of government could not enact an ordinance to regulate the ignition, discharge, or use of consumer fireworks, and to allow a local unit that met certain population thresholds to enact or enforce an ordinance that regulated the use of a temporary structure.

House Bill 5941 (H-3) would amend the Fire Prevention Code to do the following:

- Grant the commanding officer of the fire department of a city, village, township, or county the authority to enforce a no-burning restriction if the environment concerns based on the Department of Natural Resources (DNR) Fire Division criteria were elevated to extreme fire conditions, or if the environmental concerns were elevated to "very high" for 72 consecutive hours.
- Allow the Governor, the DNR, or the State Fire Marshal to enforce a statewide no-burning restriction.
- Require a commanding officer to lift a ban and inform the public that the ban was lifted, nor more than 24 hours after the fire condition had been downgraded.

MCL 28.452 et al. (H.B. 5939)
 28.457 (H.B. 5940)
 29.7a (H.B. 5591)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

House Bill 5939 (S-1) would have a positive fiscal impact on the Department of Licensing and Regulatory Affairs (LARA).

The bill contains several proposed fee increases for Consumer Fireworks Certificates:

Fee Type	Current Law	HB 5939 (S-1)
Certificate (permanent structure)	\$1,000	\$1,250
Certificate (non-permanent structure)	\$600	\$1,000
Certificate (10+ nonpermanent structures) [†]	\$600	\$700
Transfer	\$25	\$250

[†] fee per structure

The magnitude of the increase in fee revenue would depend on the number of Consumer Fireworks Certificate applications received. This fee revenue is used to administer the Act and to pay the cost of delegating inspections to local units of government. As of August 2018, there were 665 active temporary certificates and 260 active permanent certificates. If the same number of certificates were issued under the new fee structure, the Department would see a fee revenue increase of \$350,000.

The bill also would add a registry application fee of \$100 for each retail location selling low-impact fireworks, with a maximum fee of \$1,000 per person. The magnitude of this impact would depend on the number of persons registering a low-impact retail location. As of August

2018, there were 558 active low-impact temporary registrations and 1,227 active low-impact permanent registrations.

Under the bill, a person who failed to register would be subject to a civil fine of not more than \$1,000. The bill also would increase the civil fine for failure to properly display a consumer fireworks certificate from \$100 to \$200. A person who failed to remit a Fireworks Safety Fee as required under the Act would be responsible for a civil fine of up to \$5,000 for a first violation, up to \$20,000 for a second violation, and up to \$40,000 for a third or subsequent violation. Revenue from each of these civil fines would be deposited into the Fireworks Safety Fund within LARA. The Department estimates that these increase would result in an additional \$14,000 annually, depending on the number and type of violations.

In addition, the bill would revise the percentage of the certificate fees paid to local governments that agree to carry out inspection duties under the Act. Under the bill, the Department would retain 50% of the fee rather than the 30% retained under current law.

Overall, the Department expects the bill would result in an additional \$1.2 million in annual revenue.

Otherwise, the bill would have no fiscal impact on the State and likely would increase revenue to local law enforcement agencies by an indeterminate amount. Aside from those civil fines discussed above, the bill would mandate a \$100 per day civil fine on retailers who failed to provide notice of the permitted dates and times for the use of fireworks. Fines collected for this violation would be remitted to the local law enforcement agency responsible for enforcing the notice requirement. The amount of increased fine revenue would depend on the number of violations.

The bill also would remove misdemeanor offenses for violations surrounding the sale and use of consumer fireworks. To the extent that changes in the bill led to decreased misdemeanor arrests and prosecutions, it could reduce resource demands on law enforcement, court systems, and jails. Any related decrease in penal fine revenue would reduce funding to public libraries.

House Bill 5940 (H-3) would have no fiscal impact on the State and likely would increase revenue to local law enforcement agencies by an indeterminate amount. It would increase the civil fine for violations of local ordinances regulating the ignition, discharge, and use of consumer fireworks. The Act currently allows for a civil fine of up to \$500, while the bill would mandate a fine of \$1,000, with \$500 to be remitted to the local law enforcement agency responsible for enforcing the ordinance. The amount of increased fine revenue would depend on the number of violations.

House Bill 5941 (H-3) would have no fiscal impact on State or local government.

Date Completed: 12-17-18

Fiscal Analyst: Ryan Bergan
Abbey Frazier
Elizabeth Raczowski
Josh Sefton

floor\hb5939

Bill Analysis @ www.senate.michigan.gov/sfa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

AGENDA NOTE

Old Business: Item # 2

MEETING DATE: January 28, 2019

PERSON PLACING ITEM ON AGENDA: Fire Chief Robert Vogel

AGENDA TOPIC: Second reading of an Ordinance to amend the City of South Lyon code of Ordinances, Chapter 46 – Fire Prevention and protection, Article II – Fire Prevention Code, sections 46-31 and 46-32 to adopt the 2015 edition of the International Fire Code.

EXPLANATION OF TOPIC: ISO requires the current International Fire Code be no longer than 10 years old, the current City Ordinance is the 2006 edition. Failure to update the 2006 edition could cause the Cities current ISO rating of 3 to be raised and cost taxpayers high insurance rates.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

POSSIBLE COURSES OF ACTION: Approve/deny/no action/postpone, Ordinance to amend the City of South Lyon code of Ordinances, Chapter 46 – Fire Prevention and protection, Article II – Fire Prevention Code, sections 46-31 and 46-32 to adopt the 2015 edition of the International Fire Code.

RECOMMENDATION: Approve the Ordinance to amend the City of South Lyon code of Ordinances, Chapter 46 – Fire Prevention and protection, Article II – Fire Prevention Code, sections 46-31 and 46-32 to adopt the 2015 edition of the International Fire Code.

SUGGESTED MOTION:

Motion by _____, supported by _____ to approve the second reading of the Ordinance to amend the City of South Lyon code of Ordinances, Chapter 46 – Fire Prevention and protection, Article II – Fire Prevention Code, sections 46-31 and 46-32 to adopt the 2015 edition of the International Fire Code.

Sec. 46-31. - Adoption of code.

That a certain document, three copies of which are on file in the office of the Clerk of the City of South Lyon, being marked and designated as the International Fire Code, 2006 edition, including Appendix Chapters B, C, E, F and G, as published by the International Code Council, be and is hereby adopted as the Fire Code of the City of South Lyon, in the State of Michigan regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the City of South Lyon are hereby referred to adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in section 46-32 of this article.

(Code 1988, § 8.11; Ord. of 7-24-06; Ord. of 2-9-09(1))

Sec. 46-32. - Supplemental information and amendments.

That the following sections are hereby revised:

Section 101.1 is revised as follows:

These regulations shall be known as the Fire Code of the City of South Lyon, hereinafter referred to as "this code."

Section 105.1.1 is revised as follows:

Permits required by this code shall be obtained from the building inspector. Permit fees, if any shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the building inspector.

Section 105.6 is revised as follows:

The building inspector is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.47.

Section 105.6.31 is deleted.

Section 105.7 is revised as follows:

The building inspector is authorized to issue construction permits for work as set forth in Section 105.7.1 through 105.7.12

Section 108 and its subparts are deleted.

Section 109.3 is revised as follows:

Any person who shall violate a provision of this code or fail to comply with any order issued pursuant to any section thereof shall be responsible for committing a municipal civil infraction and subject to the penalties provided in 18-36 of the City Code. Each day a violation continues shall be deemed a separate offense.

Section 111.4 is revised as follows:

Failure to comply. Any person who shall continue any work after having been served with a stop work order except such work as that person is directed to perform to remove a violation or unsafe condition, shall be responsible for committing a municipal civil infraction and subject to a fine of not less than \$100.00 or more than \$500.00.

Section 307 is deleted.

- (a) That the geographic limits referred to in certain sections of the 2003 International Fire Code are hereby established as follows:

Section 3204.3.1.1 is revised as follows:

Stationary containers shall be located in accordance with Section 3203.6. Containers of cryogenic fluids shall not be located within diked areas containing other hazardous materials.

Section 3404.2.9.51 is revised as follows:

Storage of Class I and II liquids in above ground tanks outside of buildings is prohibited within the city limits.

Section 3406.2.4.4 is revised as follows:

The storage of Class I and II liquids in above-ground tanks is allowed only in districts zoned I-1 and I-2.

Section 3804.2 is revised as follows:

The aggregate capacity of any one installation for the storage of liquefied petroleum gas shall not exceed a water capacity of 2,000 gallons. (7570 L)

Exception: In particular installations this capacity limit shall be determined by the building inspector, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided and capabilities of the local fire department.

- (b) Constitutionality. That if any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this article. The Council of the City of South Lyon hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.
- (c) Effect. That nothing in this article or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.
- (d) That the Clerk of the City of South Lyon shall publish this ordinance in a manner required by law. A complete copy of the Code is made available at the office of the city clerk in compliance with state law requiring that records of public offices be made available to the general public.

(Code 1988, § 8.12; Ord. of 7-24-06; Ord. of 2-9-09(1))

ORDINANCE NO. __-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 II – FIRE PREVENTION CODE, SECTIONS 46-31 AND 46-32 TO ADOPT THE 2015 EDITION OF THE INTERNATIONAL FIRE CODE.

THE CITY OF SOUTH LYON ORDAINS:

PART I. Amendment of Section 46-31 - Adoption of Code – IFC 2015. Chapter 46 – Fire Prevention and Protection, Article II – Fire Prevention Code, Section 46-31 – Adoption of Code, of the Code of Ordinances of the City of South Lyon, is hereby amended to read as follows:

Sec. 46-31. – Adoption of code.

The International Fire Code, 2015 Edition, including Appendices B, C, D, E, F, H, I, K, L and M, as published by the International Code Council, is hereby adopted as the Fire Code of the City of South Lyon, in the State of Michigan regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life and property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the City of South Lyon are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 46-32 of this article.

PART II. Amendment of Section 46-32 – Supplemental Information and Amendments. Chapter 46 – Fire Prevention and Protection, Article II – Fire Prevention Code, Section 46-32 – Supplemental Information and Amendments, of the Code of Ordinances of the City of South Lyon, is hereby amended to read as follows in its entirety:

Sec. 46-32. - Supplemental information and amendments.

- (a) That the following sections of the 2015 International Fire Code are hereby revised as follows:

Section 101.1. Insert "City of South Lyon."

Section 105.1.1 is revised to read as follows:

"Permits required by this code shall be obtained from the building official. Permit fees, if any shall be paid prior to issuance of the permit. Issued

permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the building official."

Section 105.6 is revised to read as follows:

"The building official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.48 upon consultation with the fire code official."

Section 105.7 is revised to read as follows:

"The building official is authorized to issue construction permits for work as set forth in Section 105.7.1 through 105.7.18."

Section 109.4 is revised to read as follows:

"Failure to comply. Any person who shall violate a provision of this code or fail to comply with any order issued pursuant to any section thereof shall be responsible for a municipal civil infraction and subject to the penalties provided for in Section 18-36 of the City Code. Each day a violation continues shall be deemed a separate offense."

Section 111.4 is revised to read as follows:

"Any person who shall continue any work after having been served with a stop work order except such work as that person is directed to perform to remove a violation or unsafe condition, shall be responsible for committing a municipal civil infraction and subject to a fine of not less than \$100.00 or more than \$500.00."

Section 307 is deleted.

- (b) That the geographic limits referred to in certain sections of the 2015 International Fire Code are hereby established as follows:

Section 5704.2.9.6.1 is revised to read as follows:

"The storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the City."

Section 5706.2.4.4 is revised to read as follows:

"The storage of Class I and II liquids in above-ground tanks is allowed only in districts zoned I-1 and I-2."

Section 5806.2 is revised to read as follows:

"Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited in the City."

Section 6104.2 is revised to read as follows:

"Within the limits established by law restricting the storage of liquified petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons. (7570 L).

Exception: In particular installations this capacity limit shall be determined by the building official, after consultation with the fire code official and consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided and capabilities of the local fire department."

- (c) Constitutionality. That if any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this article. The Council of the City of South Lyon hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.
- (d) Effect. That nothing in this article or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.
- (e) Publication. That the Clerk of the City of South Lyon shall publish this ordinance in a manner required by law. A complete copy of the Code is made available at the office of the city clerk in compliance with state law requiring that records of public offices be made available to the general public.

PART II. Severability. Should any division, section, subsection, 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 III. 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 IV. 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 V. Effective Date; Publication. This Ordinance shall take effect upon the later of ten (10) days after adoption or upon publication thereof as provided by the Charter of the City of South Lyon.

Made, passed and adopted by the South Lyon City Council this ____ day of _____, 2019.

Daniel L. Pelchat, Mayor

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 ____ day of _____, 2019.

Lisa Deaton, City Clerk

Adopted:
Published:
Effective:

AGENDA NOTE

New Business: Item # /

MEETING DATE: January 28, 2019

PERSON PLACING ITEM ON AGENDA: City Manager Paul Zelenak

AGENDA TOPIC: New phone systems for Waste Water/ DPW Departments

EXPLANATION OF TOPIC: Current Systems are outdated and not supported. Parts are no longer available for phones, buttons and displays are failing. Trouble hearing through the handsets.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: 3 Quotes attached/Spreadsheet Breakdown / Pictures

POSSIBLE COURSES OF ACTION: Approve/deny the purchase.

RECOMMENDATION: CTI
@ \$277.45 a month with \$1 buyout at the end of 5years.

SUGGESTED MOTION: Motion by _____, supported by _____ to approve

Avatel Technologies	PROPOSED SOLUTION FOR 23500 DIXBORO RD: 60 Mo SLG Lease @ \$168.09 / Mo	$\$168.09 + \$100.17 =$ \$268.26
	PROPOSED SOLUTION FOR 520 ADA ST: 60 Mo SLG Lease @ \$100.17 / Mo	
Avaya	PROPOSED SOLUTION FOR 23500 DIXBORO RD: FMV True Lease: \$254.63/Mo 60 Months (W/Maint. Contract)	$\$254.63 + \$100.13 =$ \$354.76
	PROPOSED SOLUTION FOR 520 ADA ST: FMV True Lease: \$100.13/Mo 60 Months (W/O Maint. Contract)	
CTI Technologies	PROPOSED SOLUTION FOR 23500 DIXBORO RD: \$1 Purchase Option 0 Advance Rentals: \$125.38 plus \$55 maint. per month 60 Months $\$125.38 + \$55.00 = \$180.38$	$\$180.38 + \$97.07 =$ \$277.45
	PROPOSED SOLUTION FOR 520 ADA ST: \$1 Purchase Option 0 Advance Rentals: \$67.07 plus \$30 maint. per month 60 Months $\$67.07 + \$30.00 = \$97.07$	

	Cost Comparison: Lease vs Capital Purchase (The lease offer are @ 0% so if you multiply out the monthly x60 you attain the capital purchase)	Totals for Phones & Maintenance both departments	Service Agreement	Advantage to alternatives	Disadvantages to alternatives	Compatibility to current infrastructure
Avatel Technologies		\$268.26	See Service Agreement Attachment	Pre-Existing business relationship / Remaining term of current agreement refunded / Full Service Agreement for 5 Years (includes on-site visits, programming support, hardware, software, and internal wire coverage) / No Additional Install Charges / State & Local Government Lease program offers certain safeguards in the event of municipal budgetary shortfalls.	Out of State, Third party hired for installation and repair. Did not make an onsite visit to confirm equipment needed.	Compatible with current paging solution and the learning curve would be less of an issue as this is the updated AVAYA solution (Although training is provided Site to site transfer is possible as other sites have like equipment. No need to rewire anything as the AVAYA solution is compatible with current wiring.
	PROPOSED SOLUTION FOR 23500 DIXBORO RD: 60 Mo SLG Lease @ \$168.09 / Mo OR \$10,085.40 CAPITAL PURCHASE					
	PROPOSED SOLUTION FOR 520 ADA ST: 60 Mo SLG Lease @ \$100.17 / Mo OR \$6,010.20 CAPITAL PURCHASE					
Avaya	PROPOSED SOLUTION FOR 23500 DIXBORO RD: Finance Lease \$1 PD: \$277.06/Mo FMV True Lease: \$254.83/Mo 60 Months (W/Maint. Contract)	\$354.76				
	PROPOSED SOLUTION FOR 520 ADA ST: Finance Lease \$1 PD: \$108.95/Mo FMV True Lease: \$100.13/Mo 60 Months (W/O Maint. Contract)			Local Company/ Similar Contract to our previous contract/Full 5 Year Service Agreement/ No additional installation cost/ Made Onsite Visit to evaluate equipment and needs	Most expensive option	
CTI Technologies	PROPOSED SOLUTION FOR 23500 DIXBORO RD: \$1 Purchase Option 0 Advance Rentals: \$125.98 plus \$55 maint. per month FMV: Purchase 0 Advance Rental: \$118.51 plus Maint. \$55 60 Months	\$277.45				
	PROPOSED SOLUTION FOR 520 ADA ST: \$1 Purchase Option 0 Advance Rentals: \$67.07 plus \$30 maint. per month 60 Months			Local Company / Did an onsite review of our current system and demonstrated new system/will work with ATT to remove further static happening from the line/ Deal directly with CTI for maintenance & support (no 3rd parties)/Less expensive option for DPW/ Provided list of references from other communities and businesses utilizing them	\$9 more then the lowest bid	

