

**AN ORDINANCE TO ADOPT A NEW CHAPTER TO THE BROWN CITY
CODE TO PROVIDE FOR THE REGULATION OF THE IGNITION,
DISCHARGE, AND USE OF CONSUMER FIREWORKS AS ALLOWED
UNDER THE MICHIGAN FIREWORKS SAFETY ACT, ACT 256 OF 2011,
MCL 28.451 ET SEQ., WHICH SHALL BE KNOWN AS CHAPTER 98 -
CITY FIREWORKS ORDINANCE.**

THE CITY OF BROWN CITY ORDAINS:

Section 98.01. Purpose:

The purpose of this Ordinance is to provide for the regulation of the ignition, discharge, and use of consumer fireworks as allowed under the Michigan Fireworks Act, Act 256 of 2011, MCL 28.451 et seq.

Section 98.02. Definitions:

As used in this ordinance, the following terms shall be defined as follows:

Section 98.02.01. "APA standard 87-1" means 2001 APA standards 87-1, standard for the construction and approval for transportation of fireworks, novelties and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, MD.

Section 98.02.02. "Consumer fireworks" means fireworks devices that are designed to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Protection 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 do not include low-impact fireworks.

Section 98.02.03. "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, and special effects.

Section 98.02.04. "Low Impact Fireworks" means ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1.1.1 to 3.1.1.8 and 3.5.

Section 98.02.05. "Minor" means an individual who is less than 18 years of age.

Section 98.02.06. "National Holiday" means the following legal, public holidays:

- Section 98.02.06.1. New Years' Day (January 1)
- Section 98.02.06.2. Martin Luther King Jr. Birthday, (3rd Monday in January)
- Section 98.02.06.3. President's Day, (3rd Monday in February)
- Section 98.02.06.4. Memorial Day, (last Monday in May)
- Section 98.02.06.5. Independence Day, (July 4)
- Section 98.02.06.6. Labor Day, (1st Monday in September)
- Section 98.02.06.7. Columbus Day, (2nd Monday in October)
- Section 98.02.06.8. Veteran's Day, (November 11)
- Section 98.02.06.9. Thanksgiving, (4th Thursday in November)
- Section 98.02.06.10. Christmas Day, (December 25)

Section 98.03. Ignition, Discharge, and Use of Consumer Fireworks

A person shall not ignite, discharge, or use consumer fireworks except on the day preceding, the day of, or the day after a national holiday. Consumer fireworks shall not be used, discharged and/or ignited' in the City of Brown City, Sanilac County between the hours of one (1) a.m. and eight (8) a.m. on the day before, the day of and the day after a National Holiday.'

Section 98.04. Possession of Fireworks by a Minor

A minor shall not possess consumer fireworks.

Section 98.05. Determination of Violation: Seizure

If an enforcement officer determines that a violation of this Ordinance has occurred, the officer may seize the fireworks as evidence of the violation.

Section 98.06. Penalty

- Section 98.06.01.** Municipal Civil Infraction. In addition to remedies allowed by the Municipal Civil Infraction Act, all violations of this ordinance shall be a municipal civil infraction, and upon conviction, thereof, shall be punishable by a fine or not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars.
- Section 98.06.02.** Disposition of Evidence. Following the final disposition of a finding of responsibility for violating this Ordinance, the City may dispose of, or destroy any consumer fireworks retained as evidence in that prosecution.
- Section 98.06.03.** Costs of Storage and Disposal. In addition to any other penalty, a person found responsible for a violation of this Ordinance shall be required to reimburse the City for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated for a violation of this Ordinance.

Section 98.07. Severability

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, rule, regulation, section of subsection is declared void or inoperable for any reason by any court, it shall not affect any other part or portion thereof other than the part declared void or inoperable.

Section 98.08. Effective Date

This ordinance shall take effect 30 days after adoption (November 13, 2013).

INTRODUCTION:

This Ordinance was introduced by Councilmember William Walters on September 23rd, 2013, during a Regular Meeting of the City Council. The Public Hearing thereon was held on October 14, 2013.

MOTION AND VOTE:

MOTION by Councilmember Julie Miller, SECOND by Councilmember Patricia Jacobson, to adopt Ordinance Chapter 98: City Fireworks Ordinance.

Roll Call vote on this Ordinance, six (6) members being present, was as follows:

Yeas: _____	6	Nays: _____	0
Abstaining: _____	0	Absent: _____	0

CERTIFICATION:

I hereby certify that the foregoing constitutes a true and complete copy of Brown City Code Chapter 98, adopted as an Ordinance by the Brown City Council at a Regular Meeting of the City Council held at the City Hall on the 14th day of October, 2013.

I do hereby further certify that the said Brown City Code Chapter 98 was published as required by the Brown City Charter in *The Banner*, a newspaper published and circulated in the City of Brown City, County of Sanilac, Michigan, on the 21st day of October, 2013.

Witness my official signature this 21st day of October, 2013.

Juanita M. Smith
City Clerk