

ORDINANCE NO. 22-41

BY: Tres Roeder

Amending Sections 919.01 and 919.02 of the Fire Code of the Codified Ordinances of the City of Shaker Heights in order to ban the discharge of consumer fireworks.

WHEREAS, Sections 919.01 and 919.02 of the Fire Code were most recently enacted in Ordinance 10-11, enacted on February 22, 2010; and

WHEREAS, the Ohio General Assembly enacted H.B. 172, which amended Ohio Revised Code Section 3743.45, effective July 1, 2022, allowing any person authorized to possess consumer grade fireworks to discharge, ignite or explode fireworks on their property, or if permitted, on another person's property, on certain designated days of the year; and

WHEREAS, H.B. 172 also recognizes that, pursuant to the authority granted in the Home Rule Amendment to the Ohio Constitution, a city may choose to restrict the days and times that a person may discharge consumer grade fireworks or may impose a complete ban on the use of consumer grade fireworks; and

WHEREAS, the City's existing fireworks ordinance in Chapter 919 prohibits the discharge of consumer grade fireworks "except as specifically authorized by Ohio law," which means that, unless this Council amends the City's fireworks ordinance, the discharge of consumer grade fireworks will become lawful in the City on certain days of the year on and after July 1, 2022; and

WHEREAS, the Fire Chief of the City recommends that the City should continue to ban the discharge of consumer grade fireworks, because the discharge of fireworks poses a significant danger to the public, may cause serious injuries, poses a threat of significant property damage, especially in densely populated residential and business areas, and causes significant disturbance of the public peace and residents' quiet enjoyment of their homes; and

WHEREAS, this Council finds that it is in the best interests of the public to continue to ban the discharge, ignition and explosion of consumer grade fireworks.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, State of Ohio:

Section 1. Sections 919.01 and 919.02 of the Fire Code of the Codified Ordinances of the City of Shaker Heights as heretofore in effect are hereby repealed.

Section 2. Sections 919.01 and 919.02 of the Fire Code of the Codified Ordinances of the City of Shaker Heights are hereby enacted as amended, as follows:

919.01 DEFINITIONS.

As used in this chapter, terms shall have the meaning set forth below and as they may be defined in the Ohio Fire Code and in Revised Code Section 3743.01:

- (a) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.
- (b) "1.4G fireworks" means consumer fireworks, including fountain devices as defined in R.C. Section 3743.01, consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.
- (ca) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in the Ohio Fire Code and Section 3743.80 of the Ohio Revised Code. "Fireworks" do not include wire sparklers, toy caps for use in toy pistols, toy canes, toy guns, novelties, trick noisemakers, or other devices not containing more than an average of twenty-five hundredths (0.25) grains (sixteen (16) mg) of explosive composition per cap, provided they are so constructed that the hand cannot come in contact with the cap when it is in place for explosion.
- (db) "Novelties and trick noisemakers" include the following items:
 - (1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers and snappers;
 - (2) Snakes or glow worms;
 - (3) Smoke devices;
 - (4) Trick matches.
- (ee) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling string protruding from the item, and from which paper streamers are expelled when the item is ignited.
- (fd) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.
- (ge) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.
- (hf) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.
- (ig) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.
- (j) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a non-explosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.

919.02 POSSESSION, SALE OR DISCHARGE PROHIBITED; EXCEPTIONS.

(a) No person shall possess fireworks in the City, nor shall any person possess for sale or sell fireworks in the City, except as specifically authorized by Ohio law.

(b) ~~Except as specifically authorized by Ohio law, No~~ person shall discharge, ignite or explode any 1.4G fireworks in the City at any time.

(c) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(d) No person shall sell fireworks, wire sparklers, novelties ~~or~~ trick noisemakers of any kind to a person under eighteen years of age.

(e) No person shall advertise Class C fireworks for sale. A sign located on a seller's premises identifying the seller as a seller of fireworks is not the advertising of fireworks for sale. (ORC 3743.65)

(f) No person under eighteen years of age shall discharge, ignite or explode novelties, ~~and~~ trick noisemakers or sparklers of any kind unless in the company of a person of at least eighteen years of age.

(g) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3G fireworks. No person shall discharge, ignite or explode display fireworks (1.3G) without a State license and a permit issued by the Fire Department pursuant to Section 901.07 of the Fire Code.

(h) No person shall negligently discharge, ignite, or explode fireworks while in possession or control of, or under the influence of, any intoxicating liquor, beer, or controlled substance.

Section 3. This Ordinance shall be effective on the earliest date permitted by law.

Enacted April 25, 2022

Approved this _____ day of _____, 2022.

DAVID E. WEISS, Mayor

Attest:

JERI E. CHAIKIN
Clerk of Council

coun22/0425fireworks919CODORDAMEND