

ORDINANCE NO. 10 - 2022

AN ORDINANCE AMENDING CHAPTER 550, SECTIONS 550.01 AND 550.02, OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MADISON TO REVISE REGULATIONS RELATED TO THE POSSESSION, SALE AND DISCHARGE OF FIREWORKS, AND DECLARING AN EMERGENCY.

WHEREAS, Sub. H.B. 172 of the 134th General Assembly enacted comprehensive amendments to Chapter 3743 of the Ohio Revised Code related to the regulation of fireworks in the State, inclusive of their possession and discharge under specific circumstances; and

WHEREAS, the Village previously enacted Chapter 550 of the Codified Ordinances prohibiting the possession, sale and discharge of fireworks in the Village, unless specific exceptions apply as further set forth in Chapter 550; and

WHEREAS, to avoid any confusion with new State law as well as to harmonize Village ordinances with various terms, phrases, licensing schemes, and other aspects of State law, the Council desires to enact amendments to Chapter 550 which will continue to prohibit the discharge of fireworks in the Village except under specific exceptions as well as to continue other prohibitions; and

WHEREAS, the Council finds that it is in furtherance of the public peace, health, welfare and safety to enact fireworks regulations and hereby does so pursuant to the Charter and plenary power conferred upon the Village by Article XVIII, §§ 3 and 7 of the Ohio Constitution.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MADISON, COUNTY OF LAKE, STATE OF OHIO:

SECTION 1. That Chapter 550, § 550.01 of the Codified Ordinances of the Village of Madison be and the same is hereby amended as shown in Exhibit "1," attached hereto and incorporated herein by this reference as if fully re-written, wherein the amendments to the current text are shown as stricken (to wit: ~~abcd~~), replacement text is shown as underlined text (to wit: abcd), and all current text to remain is shown as retaining its existing font and format.

SECTION 2. That Chapter 550, § 550.02 of the Codified Ordinances of the Village of Madison be and the same is hereby amended as shown in Exhibit "2," attached hereto and incorporated herein by this reference as if fully re-written, wherein the amendments to the current text are shown as stricken (to wit: ~~abcd~~), replacement text is shown as underlined text (to wit: abcd), and all current text to remain is shown as retaining its existing font and format.

SECTION 3. That publication of these Ordinances shall occur in book form containing the certification of the President of Council and Fiscal Officer of their correctness.

SECTION 4. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that, except as otherwise provided by § 121.22 of the Ohio Revised Code, all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 5. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety of the inhabitants of this Village, and for the further reason to immediately address amendments to State law which take operative effect on July 1, 2022 and which may be the source of confusion in the absence of the actions taken hereunder by this Ordinance, WHEREFORE, this Ordinance shall take effect and be in force from and immediately upon its passage.

PASSED:

1st Reading: 6-27-2022
2nd Reading: N/A
3rd Reading: N/A




Mark V. Vest
President of Council

Attested:



Kristie M. Crockett,
Fiscal Officer / Clerk of Council

Approved:



Sam Britton, Jr.,
Mayor

6/27/2022
Date

Exhibit "1"
Ordinance No. 10-2022

550.01 DEFINITIONS.

As used in this chapter:

(a) "Fireworks" means any composition or device prepared for the purpose of producing a visible or audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in ~~Section~~ § 3743.80 of the Ohio Revised Code.

(b) "Fountain device" means a specific type of 1.4G firework that meets all of the following criteria:

- (i) It is nonaerial and nonreport producing.
- (ii) It is recognized and manufactured in accordance with §§ 3.1.1 and 3.5 of APA standard 87-1 (2001 edition).
- (iii) It is a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition, with or without additional effects that may include a colored flame, audible crackling effect, audible whistle effect, or smoke.
- (iv) It contains not more than seventy-five grams of the nonexplosive pyrotechnic mixture in any individual tube and not more than five hundred grams or less for multiple tubes.

(3) "Licensed fountain device retailer" or "licensed retailer" means a person licensed pursuant to § 3743.26 of the Ohio Revised Code.

(4) "Person" has the same meaning as defined in § 301.23 of the Codified Ordinances.

(5) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

(6) "Wholesale sale" or "sell at wholesale" means a sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

Exhibit "2"
Ordinance No. 10-2022

550.02 RESTRICTIONS FOR USE OF FIREWORKS.

(a) ~~No person shall possess fireworks in the Village of Madison or shall possess for sale or sell fireworks in the Village of Madison except when their possession is authorized by the Ohio Revised Code a licensed manufacture of fireworks as authorized by § 3743.02 to § 3743.08 of the Revised Code, a licensed wholesaler of fireworks as authorized by § 3743.15 to § 3743.21 of the Revised Code, an out-of-state resident as authorized by § 3743.44 of the Revised Code, a resident of this state as authorized by § 3743.45 of the Revised Code, or a licensed exhibitor of fireworks as authorized by § 3743.50 to § 3743.55 of the Revised Code, and except as provided in § 3743.80 of the Revised Code.~~

(b) Regardless of whether the person is in lawful possession of fireworks within the Village of Madison Except as provided in § 3743.80 of the Revised Code and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to § 3743.50 to § 3743.55 of the Revised Code, no person shall discharge, ignite or explode any fireworks in the Village of Madison. This prohibition is enacted pursuant to the Village of Madison's powers of local self-government conferred by the Ohio Constitution as well as § 3743.45(D)(2) of the Ohio Revised Code.

(c) No person shall sell fireworks of any kind to a person under eighteen (18) years of age.

(d) No person shall possess for sale at retail or sell at retail fireworks within the Village of Madison. This prohibition does not apply to sales of fountain devices by a licensed fountain device retailer or to the wholesale sale of fireworks.

3743.65

Possession and sales prohibited (unless an exception applies):

- (A) No person shall **possess** fireworks in this state or **shall possess for sale or sell** fireworks in this state, except a **licensed manufacturer** of fireworks as authorized by sections 3743.02 to 3743.08 of the Revised Code, a **licensed wholesaler** of fireworks as authorized by sections 3743.15 to 3743.21 of the Revised Code, a **shipping permit holder** as authorized by section 3743.40 of the Revised Code, a **licensed fountain device retailer** as authorized by section 3743.27 of the Revised Code, a **person as authorized** by sections 3743.44 [possession of 1.3G obtained from licensed manufacturer or wholesaler] and 3743.45 [possession of 1.4G obtained from licensed retailer, manufacturer or wholesaler] of the Revised Code, or a **licensed exhibitor** of fireworks as authorized by sections 3743.50 to 3743.55 of the Revised Code, and except as provided in section **3743.80** [this section contains a variety of exceptions for distress signals, military, railroads, blanks, model rockets, cap guns, wire sparklers, and special effects use] of the Revised Code.
M1 [3743.99(C)]

Discharge prohibited (unless an exception applies):

- (B) Except as provided in sections 3743.45 [permits discharge on specific days] and 3743.80 of the Revised Code and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to sections 3743.50 to 3743.55 of the Revised Code, no person shall discharge, ignite, or explode any fireworks in this state.
M1 [3743.99(C)]

Use of fireworks showers in theaters prohibited:

- (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.
M1 [3743.99(C)]

Sales to persons under 18 prohibited:

- (D) No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.
M1 [3743.99(C)]

Possession of 1.3G fireworks prohibited (unless licensed):

- (E) Except as otherwise provided in section 3743.44 (license required in order to purchase) of the Revised Code, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3G fireworks in this state.
M1 [3743.99(C)]

Disabling of fire suppression system:

- (F) Except as otherwise provided in division (J) of section 3743.06 and division (K) of section 3743.19 of the Revised Code, no person shall knowingly disable a fire suppression system as defined in section 3781.108 of the Revised Code on the premises of a fireworks plant of a licensed manufacturer of fireworks or on the premises of the business operations of a licensed wholesaler of fireworks.
F5 [3743.99(E)]

Negligent discharge while having or being under the influence of alcohol or controlled substance:

- (G) 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.
M1 [3743.99(F)]

Negligent discharge on the property of another:

- (H) No person shall **negligently discharge, ignite, or explode fireworks on the property of another person** without that person's permission to use fireworks on that property.
MM [3743.99(H)]