

ORDINANCE #08-2017

ORDINANCE TO AMEND “CHAPTER 38 – FIRE PREVENTION AND PROTECTION” OF THE CITY OF MARLETTE CODE OF ORDINANCES

WHEREAS, the City of Marlette has completed a thorough review of its Code of Ordinances in pursuit of publishing a comprehensive update of the Code of Ordinances book; and

WHEREAS, the following amendments are necessary to complete the update.

THE CITY OF MARLETTE ORDAINS . . . .

**Section 1.** That Section 38-1 of Chapter 38 of the City of Marlette Code of Ordinances is hereby amended in its entirety as follows:

***Section 38-1. Fireworks.***

*Sec. 38-1.2. Definitions.*

As used in this chapter, the following definitions shall apply:

*Act 256* means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011, being MCL 28.451, et seq., as it may be amended from time to time.

*Consumer fireworks* means that term as defined in Act 256.

*Firework or fireworks* means that term as defined in Act 256.

*Retailer* means that term as defined in Act 256.

*Wholesaler* means that term as defined in Act 256.

*Sec. 38-1.3. Compliance with applicable ordinances and codes.*

Unless otherwise provided in this chapter, a retailer or wholesaler of fireworks located within the City must comply with the requirements of the City’s Zoning Ordinance, as well as all building codes and regulations.

*Sec. 38-1.4. Use of consumer fireworks prohibited.*

(1) No person shall ignite, discharge or use consumer fireworks in the City; except this prohibition shall not preclude any person from igniting, discharging or using consumer fireworks within the City on the day proceeding, the day of, or the day after a national holiday.

(2) On the day proceeding, the day of, or the day after a national holiday, no person shall ignite, discharge or use consumer fireworks ~~between the hours of 12 midnight and 8 a.m. or~~ between the hours of 1 a.m. and 8 a.m. ~~on New Year’s day.~~

*Sec. 38-1.5. Firework safety*

No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge or use of consumer fireworks.

Sec. 38-1.6. Penalty.

The City Manager, Police Chief, and their designees are authorized to enforce this ordinance. A violation shall be enforced as a municipal civil infraction under Chapter 44, Municipal Civil Infractions, of the Marlette Code of Ordinance. The enforcing person may issue a notice of violation or proceed directly to a municipal civil infraction citation within his or her discretion. Nothing in this ordinance shall prohibit filing other causes of action including criminal prosecution or a request for injunctive relief in a court of competent jurisdiction. The penalties and fines for violation of this ordinance are as follows:

- (1) A notice violation shall be considered a Grade D offense as described in Section 44-38.
- (2) A municipal civil infraction violation processed in court shall be not more than \$500.00 for each violation plus costs, fees, and injunctive relief as allowed by the Revised Judicature Act of 1961, Act 236 of 1962, as amended, Chapter 87 Municipal Civil Infractions, and as allowed under the Michigan Rules of Court.

**Section 2.** That subsection (a) of Section 38-63 of Chapter 38 of the City of Marlette Code of Ordinances is hereby amended in its entirety as follows:

**Section 38-63. Open burning prohibited.**

(a) It shall be a violation to burn garbage, refuse, litter, ~~or~~ rubbish, leaves, grass clippings, or any other material which tends to create an offensive smoke or odor within the city.

**Section 3.** This Ordinance is declared necessary for the peace, health and safety of the residents of the City of Marlette and shall become effective upon twenty five days after enactment and publication.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Published: \_\_\_\_\_

The foregoing ordinance was offered by Council Member \_\_\_\_ and supported by Council Member \_\_\_\_\_:

AYES:

NAYS:

ABSENT:

The Clerk declared the ordinance adopted.

I, Sandra Cargill, the duly qualified and acting Clerk of the City of Marlette, Sanilac County, Michigan do hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Council at a regular meeting held on Monday, \_\_\_\_\_, 2017, the original of which is on file in the City Office.

\_\_\_\_\_  
Sandra Cargill, City Clerk