

ORDINANCE NO. 2023-15

AN ORDINANCE AMENDING CHAPTER 549 OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOWICK, OHIO, TITLED "WEAPONS AND EXPLOSIVES"; SPECIFICALLY, SECTION 549.10 TITLED "FIREWORKS," AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOWICK, COUNTY OF LAKE, STATE OF OHIO:

Section 1. Chapter 549 of the Codified Ordinances of the City of Willowick, Ohio, titled "Weapons and Explosives" specifically Section 549.10 Titled "Fireworks," is hereby amended to read and provide as follows:

**CHAPTER 549
Weapons and Explosives**

549.10 FIREWORKS.

(f) Possession, Sale, Discharge and Advertising; Falsification.

(1) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 through 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 through 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 through 3743.55, or as authorized by any municipal ordinance that is substantially equivalent to any of these statutes, and except as provided in Ohio R.C. 3743.80 or a substantially equivalent municipal ordinance.

(2) Except as provided in Ohio R.C. 3743.80 or a substantially equivalent municipal ordinance, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 through 3743.55 or a substantially equivalent municipal ordinance, no person shall discharge, ignite, or explode any fireworks in this Municipality.

(3) 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.

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

(5) Except as otherwise provided in R.C. § 3743.44, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder shall possess 1.3G fireworks in this Municipality.

(6) No owner of property within the Municipality shall permit the possession or discharge of fireworks on or from his/her/its property in violation of this Chapter.

(g) Transporting and Shipping.

(1) No person shall transport fireworks in this Municipality except in accordance with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.58.

(2) As used in this division, "fireworks" includes only 1.3G and 1.4G fireworks. No person shall ship fireworks into this Municipality by mail, parcel post, or common carrier unless the person possesses a valid shipping permit issued under Ohio R.C. 3743.40, and the fireworks are shipped directly to the holder of a license issued under Ohio R.C. 3743.03, 3743.16 or 3743.51.

(3) No person shall ship fireworks within this Municipality by mail, parcel post, or common carrier unless the fireworks are shipped directly to the holder of a license issued under Ohio R.C. 3743.01, 3743.16 or 3743.51.

(h) Exceptions. This section does not prohibit or apply to the following:

(1) The manufacture, sale, possession, transportation, storage, or use in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation, or highway use;

(2) The manufacture, sale, possession, transportation, storage or use of fusees, torpedoes, or other signals necessary for the safe operation of railroads;

(3) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals for ceremonial purposes;

(4) The manufacture for, the transportation, storage, possession or use by, or the sale to the armed forces of the United States and the militia of this State of pyrotechnic devices;

(5) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing 0.25 grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;

(6) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms, or model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;

(7) The manufacture, sale, possession, transportation, storage or use of wire sparklers.

(8) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not

connected in any manner to propellant charges; provided, that the exhibition complies with all of the following:

A. No explosive aerial display is conducted in the exhibition;

B. The exhibition is separated from spectators by not less than 200 feet;

C. The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.

(i) Forfeiture and Disposal. Fireworks manufactured, sold, possessed, transported, or used in violation of this section shall be forfeited by the offender. The Fire Marshal's office or certified fire safety inspector's office shall dispose of seized fireworks pursuant to the procedures specified in Ohio R.C. 2981.11 to 2981.13 for the disposal of forfeited property by law enforcement agencies, and the Fire Marshal or that office is not liable for claims for the loss of or damages to the seized fireworks.

(j) Penalty.

(1) Except as otherwise provided in division (j)(2) or (j)(3) of this section, whoever violates or fails to comply with any of the provisions of this section is guilty of a minor misdemeanor and shall be fined not less than one hundred and fifty dollars (\$150.00) for a first offense; for a second offense, such person is guilty of a misdemeanor of the third degree and shall be fined not less than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both; for a third offense, such person is guilty of a misdemeanor of the second degree and shall be fined not less than seven hundred fifty dollars (\$750.00) or imprisoned not more than ninety (90) days; for a fourth offense, such person is guilty of a misdemeanor of the first degree and shall be fined not less than one thousand dollars (\$1,000.00) or imprisoned not more than one hundred eighty (180) days, or both.

(2) If the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 3743.60(I) or Ohio R.C. 3743.61(I), or a substantially equivalent municipal ordinance, a violation of division (b)(5) of this section or division (c)(5) of this section is a felony to be prosecuted under appropriate state law.

(3) Whoever violates division (c)(10) of this section is guilty of a misdemeanor of the first degree. In addition to any other penalties that may be imposed on a licensed exhibitor of fireworks under this division and unless the third sentence of this division applies, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be suspended. If the violation of division (c)(10) of this section results in serious physical harm to persons or serious physical harm to property, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be revoked.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were conducted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were conducted in meetings open to the public in compliance with all legal requirements including Chapter 123 of the Codified Ordinances of the City of Willowick.

Section 3. This Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Willowick and the operation of its police department; wherefore, this Ordinance shall be in full force and take effect immediately upon its passage by Council and approval by the Mayor.

Adopted by Council: _____, 2023

Robert Patton, Council President

Submitted to the Mayor: _____, 2023

Michael J. Vanni, Mayor

Approved by the Mayor: _____, 2023

ATTEST: _____
Christine Morgan, Clerk of Council