



AGENDA
Committee of the Whole
Monday, June 10, 2019 @ 5:30 p.m.
Tony Benavides Lansing City Council Chambers
City Hall 10th Floor

Council Member Wood, Chairperson
Council Member Spadafore, Vice Chairperson

- 1. Call to Order**
- 2. Roll Call**
- 3. Minutes**
 - June 3, 2019
- 4. Public Comment on Agenda Items (Up to 3 Minutes)**
- 5. Presentation:**
 - Sustainability Practices: Urgency and Possibilities-Terry Link
- 6. Discussion/Action:**
 - A.) DISCUSSION/ORDINANCE AMENDMENT – Fireworks Regulations and PA 256
- 7. Other**
- 8. Adjourn**

The City of Lansing's Mission is to ensure quality of life by:

- I. Promoting a vibrant, safe, healthy and inclusive community that provides opportunity for personal and economic growth for residents, businesses and visitors
- II. Securing short and long term financial stability through prudent management of city resources.
- III. Providing reliable, efficient and quality services that are responsive to the needs of residents and businesses.
- IV. Adopting sustainable practices that protect and enhance our cultural, natural and historical resources.
- V. Facilitating regional collaboration and connecting communities

PUBLIC COMMENT AND SIGN IN SHEET

COMMITTEE OF THE WHOLE

5:30 P.M.

DATE June 10, 2019

Please print

NAME	ADDRESS	Purpose for Attending	Email Address	PHONE
Loretta Stanaway	5460 Livingston	FOLHC	.	6485730
Nancy Mahlow	430 N Farmer #8912	EAD		372 3249
Kate Fichtel	2536 WINDBREAK	Energy/Clean		
Jacqueline Stewart	832 Lakem Hill	Clean energy.		517 565 7072
Mary Reynolds				

DRAFT



MINUTES **Committee of the Whole** **Monday, June 3, 2019 @ 5:30 p.m.** **Tony Benavides Lansing City Council Chambers**

CALL TO ORDER

Council Member Wood called the meeting called to order at 5:30 p.m.

PRESENT

Councilmember Kathie Dunbar- arrived at 6:01 p.m.
Councilmember Jeremy A. Garza
Councilmember Adam Hussain
Council Member Brian T. Jackson
Councilmember Peter Spadafore
Councilmember Patricia Spitzley- excused
Councilmember Jody Washington
Councilmember Carol Wood

OTHERS PRESENT

Sherrie Boak, Council Staff
Eric Brewer, Council Internal Auditor
Jim Smiertka, City Attorney
Samantha Harkins, Executive Staff, Mayor's Office
Angela Bennett, Finance Director
Linda Sanchez, HR Director
Calvin Jones, BWL
Jean Bolley, Librarian
Deb Bloomquist, CADL Board Chairperson
Margaret Bossenbery, CADL Board Member
Vern Johnson, CADL Board Member
Scott Duimstra, CADL Ex. Director
Melissa Cole, Librarian
Brett Kaschinske, Parks and Recreation Director
Breina Pugh, BWL
Elaine Womboldt
Loyd Stonner
Ronshon Fisher
David Weiner
Bryan Beverly

DRAFT

Minutes

MOTION BY COUNCIL MEMBER SPADAFORE TO APPROVE THE MINUTES FROM MAY 20, 2019 AS PRESENTED. MOTION CARRIED 6-0.

Public Comment on Agenda Items

Ms. Stanaway spoke on the topics on the Council agenda for later, and the veto presented by the Mayor. Ms. Stanaway spoke in opposition to it and wanted funds towards roads, parks, fire and police. Ms. Stanaway then spoke on the Scott Garden progress and her concerns on plant transfers, asking Council to ask where the funds came from for the new plantings.

Presentation

Capital Area District Library Annual Presentation

Mr. Duimstra provided introductions and went through their 2018 initiatives, programs and items listed in their annual report. Ms. Cole spoke on the highlights at the South Lansing Branch which included reviews by some of their patrons. Ms. Bolley spoke on the Foster Library location and what services they provide. Council President Wood referenced a letter from November 20, 2018 regarding the TIFA and the decision of the CADL Board to not opt into agreements with taxing authorities. Mr. Duimstra confirmed that there is legislation that protects library millages that were passed after December 2016, and those could not be captured by a taxing authority without an agreement for the 2018 millage and after. The 2018 was not just a "renewal", but rate was renewed, but technically it was a new rate per their attorney the Michigan Library Association. That passage the Board did discuss going into an agreement with the taxing authority and they chose to take funds the voters chose to go to library, to go to the library. Council President Wood asked for confirmation that the City of Lansing does pay for CADL rent at the South Lansing branch and gives CADL space at Foster, and Mr. Duimstra confirmed, and added that there is an agreement with the municipalities that if they provide the space CADL will provide the library services. Council President Wood then asked what the amount of the reduction was from not being able to capture and Mr. Duimstra and Ms. Harkins confirmed it was \$63,000. Council Member Garza asked how often library cards are renewed and was told four (4) years. Council Member Washington asked the CADL to research and invest more services on the north side of Lansing, and reach out to corporate and community partners. Ms. Cole confirmed that they are working with Parks and Recreation to bring services to Hildebrandt and Mt. Vernon for the summer. Council Member Hussain asked about the activity of the Friends of the Library, and was told that their only fund raiser is the used book sales in the basement of the Downtown Library. Council Member Hussain then asked where they received their operating funds from, and it was stated to the Committee that it was 90% from the operating millage and they do get some Federal and State aid funds.

Discussion/Action:

RESOLUTION –Reappointments

Jason Wilkes, At Large; Board of Public Service; Term to Expire June 30, 2023
James Tischler, Business Owner; Downtown Lansing Inc.; Term to Expire June 30, 2023
Brian McGrain, City of Lansing Representative; LDFA; Term to Expire June 30, 2023
Elaine Barr; Michigan Avenue Authority; Term to Expire June 30, 2023
Zoe Ahlstrom, At Large Member; Park Board; Term to Expire June 30, 2023

MOTION BY COUNCIL MEMBER SPADAFORE TO APPROVE THE RESOLUTION FOR THE REAPPOINTMENTS OF JASON WILKES, JAMES TISCHLER, BRIAN MCGRain, ELAINE BARR AND ZOE AHLSTROM. MOTION CARRIED 7-0.

DRAFT

DISCUSSION – Update on the Scott Garden transplants and new landscaping

Mr. Kaschinske, Parks Director and Ms. Pugh with BWL presented to the Committee. Council President Wood recapped for them the comments at other meetings regarding the garden material that was removed from Scott Gardens and the transplanting of or new material in the new Scott Garden. Mr. Kaschinske summarized that the garden was moved in fall 2016, and the peonies were the only items that did not survive, but 99% of the other plants did. All of the bricks from Sunken Garden were moved over, and in process it was replaced “brick by brick”. Mr. Kaschinske then spoke briefly on the construction of the wall and the holes that were placed in the wall for the proposed sedum. Then beginning in 2017 they held meetings with garden club members responsible for Scott Garden, the Cooley Garden Master Garden Volunteers, and former and current City staff along with BWL and consultants. This group he stated took the opportunity to redesign the garden and the opportunity with this site now being full sun, redesign with input from the Garden Club Members of the Sunken Garden. Their goal was to add more color and have plants that can survive with more sun, and based on the USDA ratings, the zones went from 4 to 5, with zone 5 being warmer, that changed their plantings. They have 450+ shrubs, annuals, and perennials planted.

Council Member Spadafore stepped away from the meeting at 6:07 p.m.

Mr. Kaschinske stated that within 4-5 years they will see the full size of the plants they chose, and the group chose different blooming colors for each area based on time of year and time of bloom. He confirmed that 99% of the original plants were saved and in either Cooley Garden or the Sunken Garden.

Council Member Spadafore returned to the meeting at 6:09 p.m.

Mr. Kaschinske then highlighted changes including ten (10) markers highlighted items in the park, parking in the area of the parks and a connection between the parks. Council President Wood asked, out of the 450+ plantings, how many were actually from the former garden, and Mr. Kaschinske stated that 50% from the original garden are now in the current, and the other 50% is staying in the Cooley Garden.

Council Member Jackson asked about the BWL stump removal progress at Colonial Village, and Ms. Pugh confirmed they have been talking to those residents, and are waiting on coordination from them on a follow up meeting. Ms. Harkins was asked if there was a meeting with them and the Administration, and Ms. Harkins acknowledged she was not aware of one but would check. Council President Wood stated the Committee would ask for an update at the June 10th Committee meeting. Council Member Garza asked if there were any additional costs for the plantings and if so who bid on those new plantings. Mr. Kaschinske confirmed with the project over all there were additional costs. Council President Wood asked if the percentage of the new plantings were paid for by BWL and that was confirmed.

DISCUSSION - General Fund Status Report, FY2019 3rd Quarter and Vacancy Factor Report

Council President Wood acknowledged Ms. Bennett and Ms. Sanchez-Gazelle for providing the vacancy factor report prior to the meeting. Ms. Bennett then went through the 3rd Quarter GF report highlighting where they are on target and how the revenues are benchmarked over the last three (3) years. Council President Wood asked if she had met with the Courts on the numbers noted in fines and forfeitures and Ms. Bennett confirmed that the deficiencies reflect changes in case revenues and the civil filing revenues. Mr. Smiertka added that other than a variation of caseloads, he was not sure why there would be a difference. Ms. Bennett then went into details on the expenditure portion of the report. Trends are driving on patterns in payroll, at it is currently at 70.4%, she then spoke briefly on a proposed budget amendment for the vacancy factor. Council President Wood asked if the Clerk’s budget will be reimbursed by

DRAFT

the School District for the recent school election, and was told it would. She then asked what the amount was they were front loading for the LPD positions, at which Ms. Bennett stated \$200,000-250,000.000 which equates to front loading 5-8 officers, however she was not sure of the exact number, so Council President Wood asked for the exact numbers to be provided. Ms. Bennett moved into the vacancy report, noting it is budgeted for \$500,000 and in March they expect to be at \$375,000 however this year they are at \$868,000. Council Member Spadafore asked if the number is less, if that means they hired more than they anticipated, therefore filled more vacancies. Ms. Bennett clarified that if the number is less not as many people left therefore fewer vacancies. Council Member Spadafore then asked when it would be considered a budget problem, and Ms. Bennett said that in March they expected \$375,000 and if it would have been lower they would think about budget adjustments. Council President Wood then noted to the Committee that the Administration, HR and Mr. Brewer have been working on getting a metric spreadsheet to work out what is off-set by contract. She acknowledged that the report that was provided offered a lot than in the past, however they are still looking for more. Ms. Sanchez-Gazelle offered to answer any questions. Council President Wood referenced the \$868,000 and asked how she was dealing with hiring practices and if it was a matter of not getting applicants, or not getting qualified applicants, and if so why. Ms. Sanchez-Gazelle acknowledged that a year ago there were more vacancies and while there are a number of issues, her HR staff is working hard to fill the vacancies. She hopes the software program she proposed in her budget will make things run smoother, however also noted that some positions such as engineers and public service has been difficult to fill because those position have to have the qualifying individuals apply.

Council Member Jackson stepped away from the meeting at 6:30 p.m.

Council President Wood then referenced all the positions that stated "on hold by department" on the report. Ms. Sanchez-Gazelle has asked the department directors to prioritize all their openings to they can move on the urgent ones first. Council President Wood referred to a City Attorney position that has been vacant since June, 2011 and a LPD Administrative Assistant vacant since 2011. The HR Director confirmed the legal position was filled April 6th, and the LPD position is being worked on for a new job description. The other one listed in Finance for an appraiser, she added, was filled March 23rd.

Council Member Jackson returned to the meeting at 6:33 p.m.

Ms. Sanchez-Gazelle stated her department is working diligently to fill vacancies. Council President Wood provided an example from the vacancy report where it was noted an electrical technician position had been vacant since 2006. The HR Director confirmed that positions like that are problematic because they are not successful in getting applications. Offhand she was not able to provide the salary figure being offered but stated she would look into it.

Ms. Bennett stated that the Council will be referred a budget amendment at the next Council meeting which will have an adjustment in it for the difference in the vacancy factor.

ADJOURN

The meeting was adjourned at 6:36 p.m.

Respectfully Submitted by,
Sherrie Boak, Recording Secretary
Lansing City Council
Approved by the Committee on

Sustainable Lansing: the Urgency and the Possibilities



Terry Link

One Planet, One family, One Future



1992 Scientists' Warning to Humanity

Human beings and the natural world are on a collision course. Human activities inflict harsh and often irreversible damage on the environment and on critical resources. If not checked, many of our current practices put at serious risk the future that we wish for human society and the plant and animal kingdoms, and so alter the living world that it will be unable to sustain life in the manner that we know. Fundamental changes are urgent if we are to avoid the collision our present course will bring about.

100 Nobel Laureates Statement

December 7, 2001

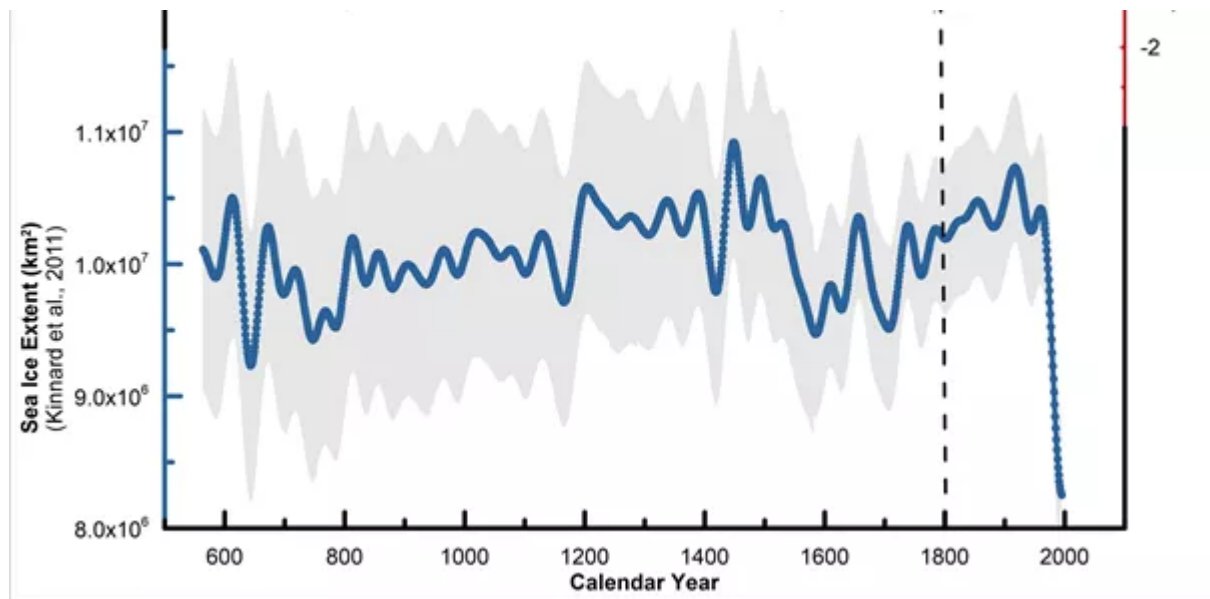


. The most profound danger to world peace in the coming years will stem not from the irrational acts of states or individuals but from the legitimate demands of the world's dispossessed. Of these poor and disenfranchised, the majority live a marginal existence in equatorial climates. Global warming, not of their making but originating with the wealthy few, will affect their fragile ecologies most. Their situation will be desperate and manifestly unjust.

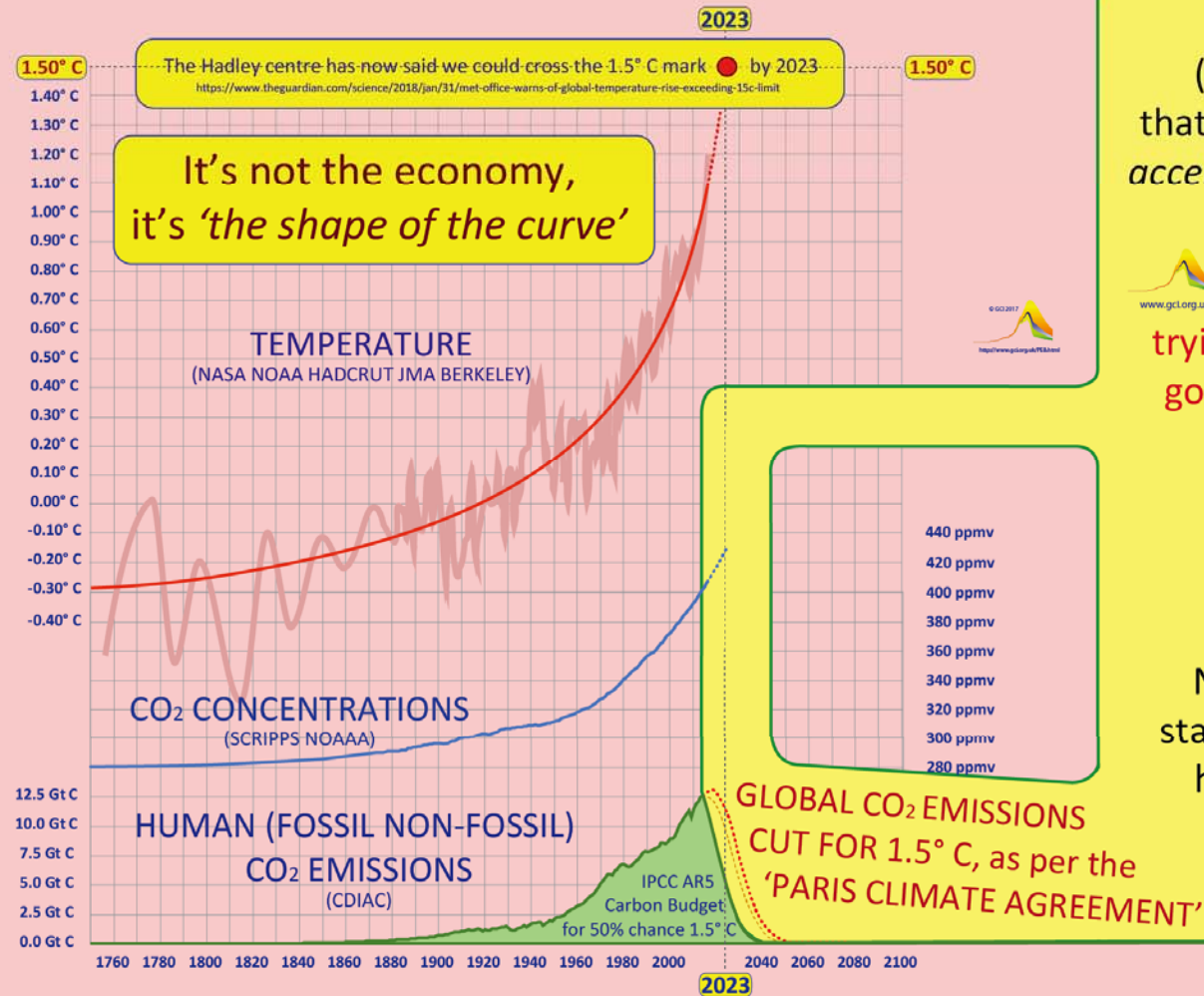


“You never change things by fighting existing reality. To change something build a new model that makes the existing model obsolete.”

Arctic Sea Ice for 1,500 Years



GLOBAL WARMING IS *ACCELERATING*



It is clear from these curves (using data from respected sources) that 'quite obviously' global warming is *accelerating* (though some still say not).

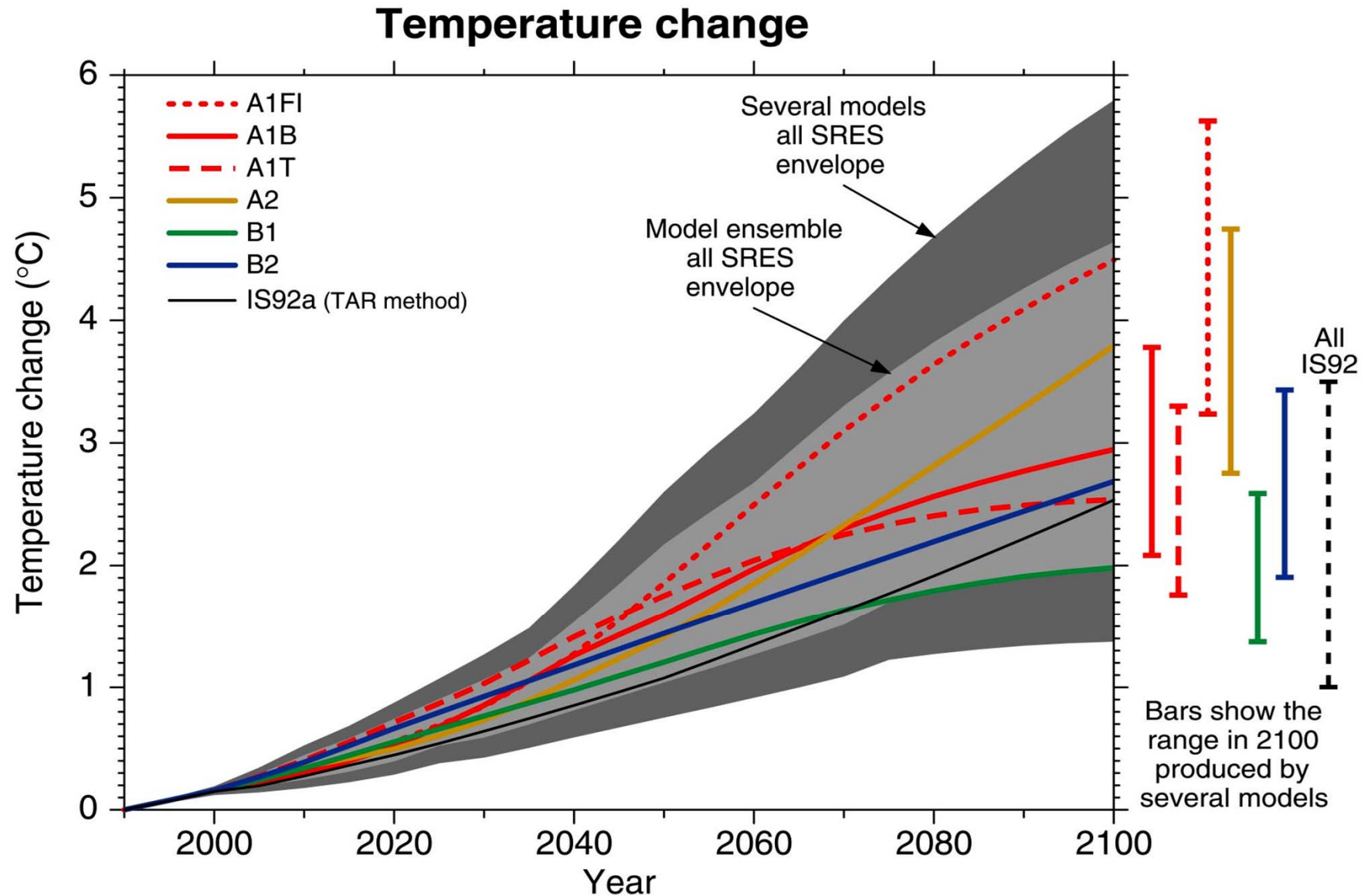
Others say we will never get to zero emissions globally by 2035, trying to meet the 1.5° C temperature goal in the 'Paris Climate Agreement'.

Well maybe/maybe-not, but let us all ask ourselves, where will that accelerating temperature curve go if we don't?

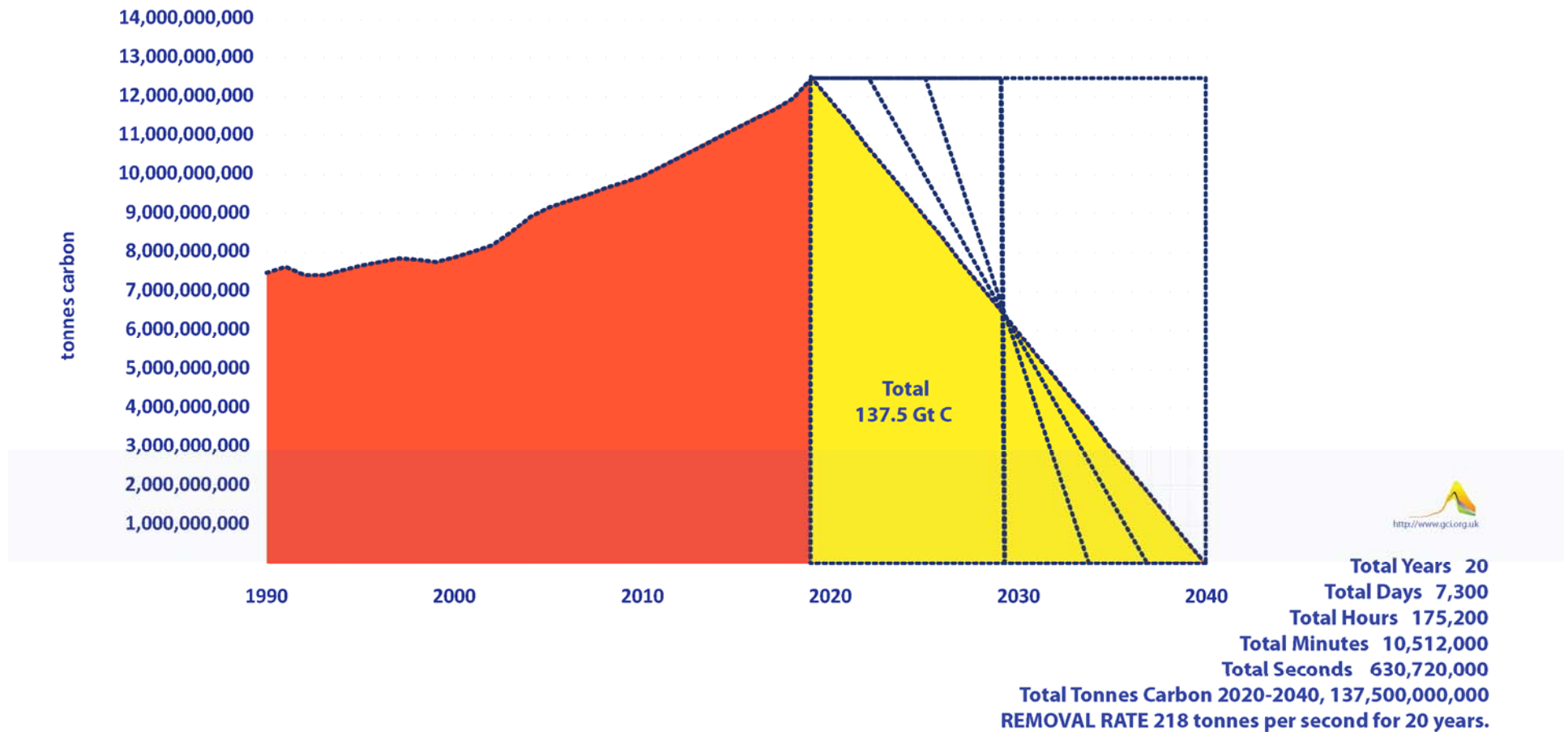
Non-human feedback-emissions are starting to add to the rising integral of human-emissions & concentrations.

Best not to throw the kids under this bus; so **"1.5° to stay alive"**.

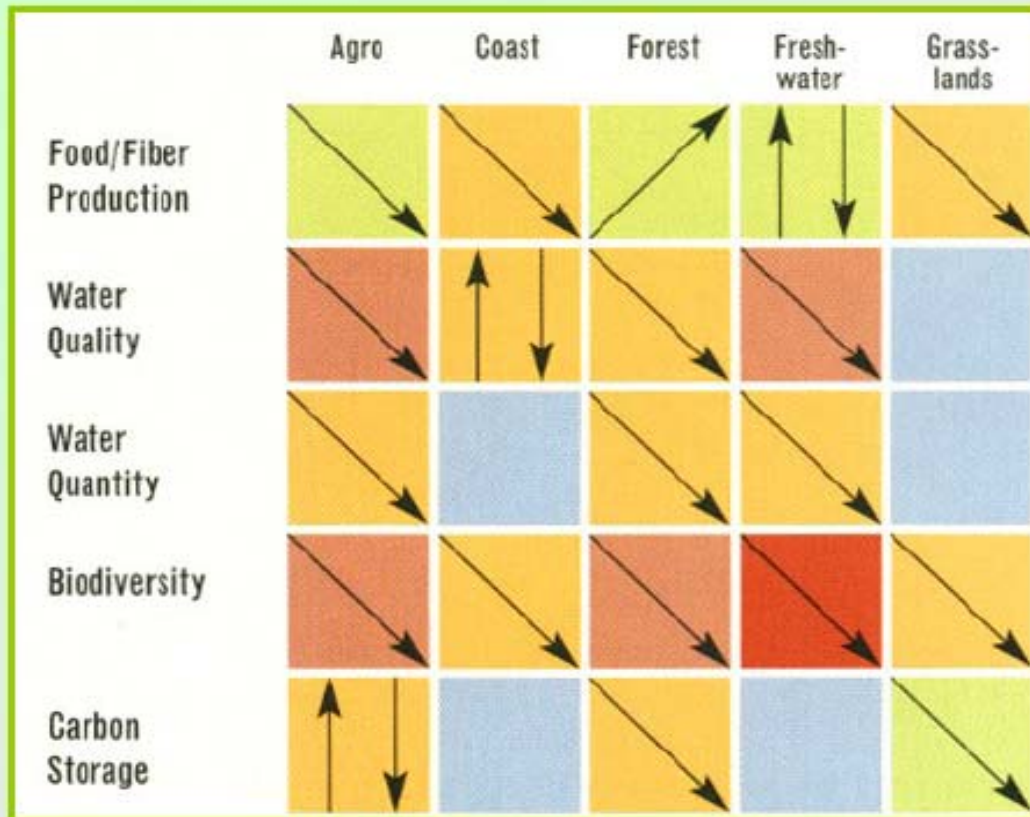
Global mean surface temperature is projected to increase during the 21st century



**Global carbon emissions output from 12.5 billion tonnes
in 2019 to '0' by 2040, requires a removal rate of 218 tonnes/second for 20 years.
Halving total emissions by 2030 is sine qua non to success & the irrationality of any delay is obvious.**



DECLINING ECOSYSTEM HEALTH



KEY

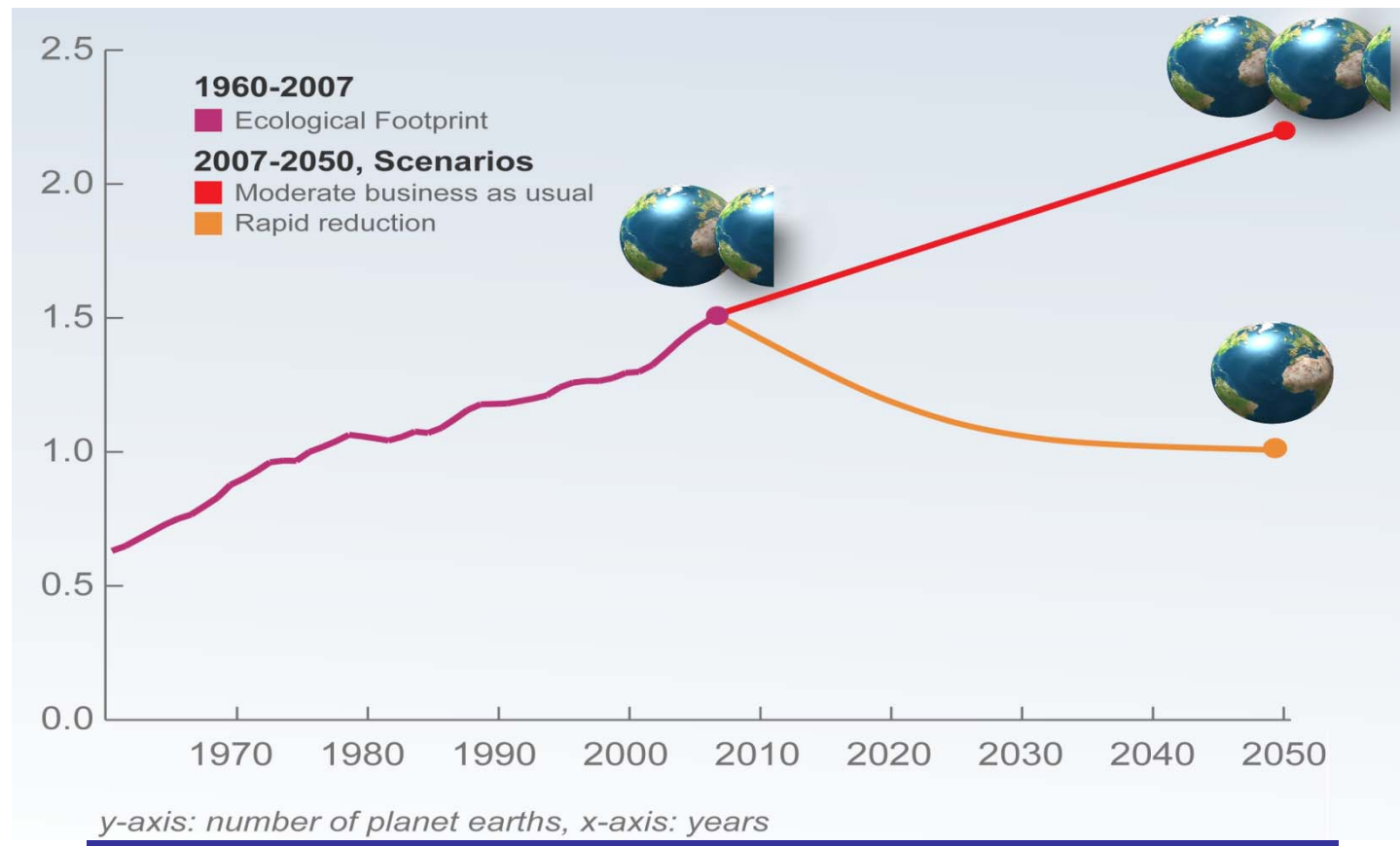
Condition



Changing Capacity



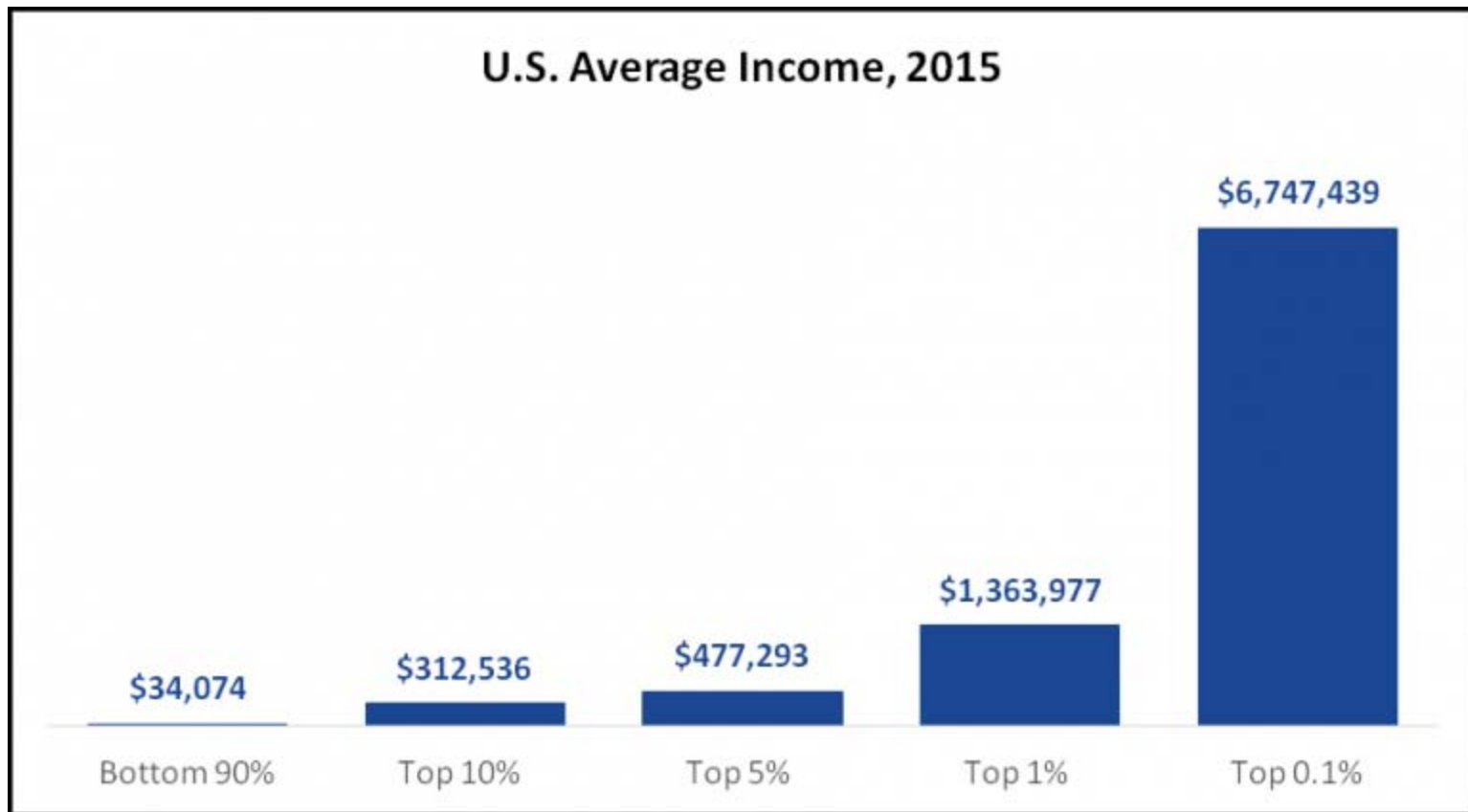
Ecological Footprint



International Panel on Social Progress (2018)

- *“We cannot simply undertake minor changes, small fine-tuning of policies, and avert the looming crises. A more fundamental transformation is needed. We believe that this transformation is possible... Three main goals must be pursued and achieved in conjunction, and they relate to three fundamental values:*
- **Equity** - reduce inequalities of development between countries and social inequalities within countries;
- **Sustainability** - put the planet back on a track that preserves ecosystems and the human beings of future generations;
- **Freedom** - expand and deepen basic liberties, the rule of law, and democratic rights for all populations.”

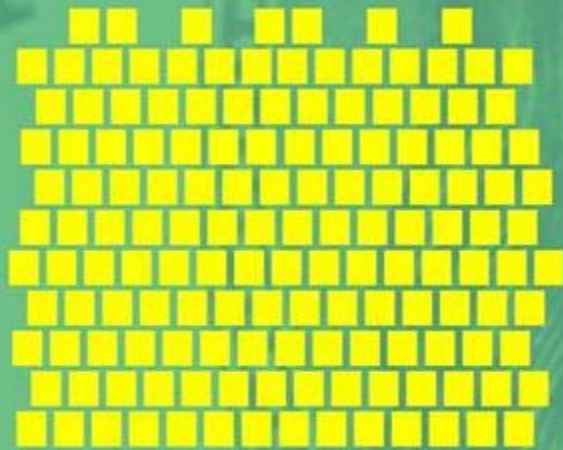
(A Manifesto for Social Progress, Cambridge University Press, 2018, p.85)





6/7/2019

MEDIAN FAMILY WEALTH TODAY:



**WHITE
FAMILY:
\$147,000**



**LATINO
FAMILY:
\$6,600**



**BLACK
FAMILY:
\$3,600**

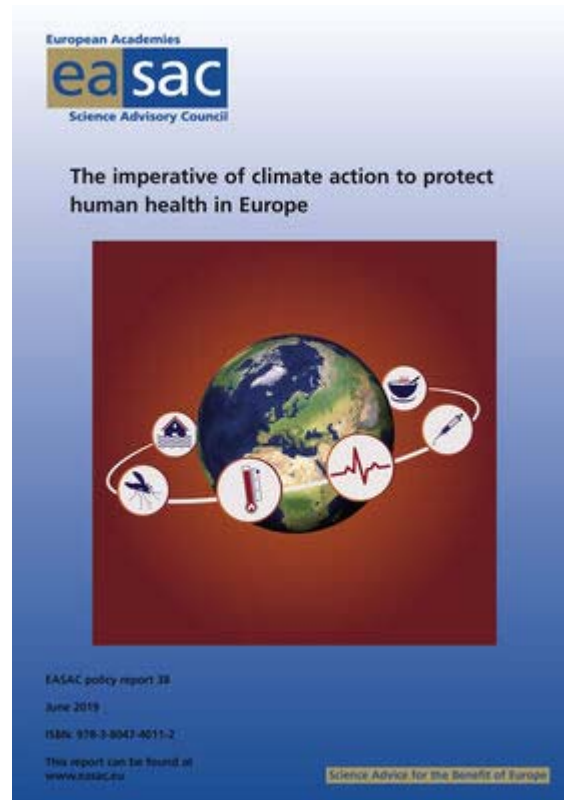
**REPORT: DREAMS
DEFERRED 2019**

INEQUALITY.ORG
AN INSTITUTE FOR POLICY STUDIES PROJECT



Institute for
Policy Studies

Declining Health



Air Pollution Affecting Every Cell in Us

Table 1 Pollution Has Been Associated With These Pathobiologic Processes in Addition to the Effects in the Organ as shown in Figure 1

Allergy: allergic sensitization

Blood and blood vessels: endothelial dysfunction, atherosclerosis, thrombosis, impaired hemoglobin formation; carboxyhemoglobinemia

Bone: bone demineralization

Brain: cognitive dysfunction; impaired psychomotor development and intelligence development; social stress; mood disorders; unfavorable emotional symptoms

Cancer: shortened telomere length; detrimental expression of genes involved in DNA damage and repair; inflammation; immune and oxidative stress response; epigenetic effects

Diabetes and metabolism: increased glycosylated hemoglobin, insulin resistance, leptin, and endothelin-1 levels; lower glucagon-like peptide-1, ghrelin, and glucagon levels

Eye: increased tearing (acutely) and drying (chronically)

Heart: changes in heart rate, BP, and vascular tone; reduced heart rate variability; conduction defects

Kidney: decreased glomerular filtration rate; increased mortality in patients undergoing dialysis

Respiratory tract: cough, phlegm, difficulty breathing, and bronchial hyperresponsiveness; exacerbations of many respiratory conditions; impeded lung development; transformation of asthma into COPD; decreased exercise performance; decreased spirometric measurements (lung function)

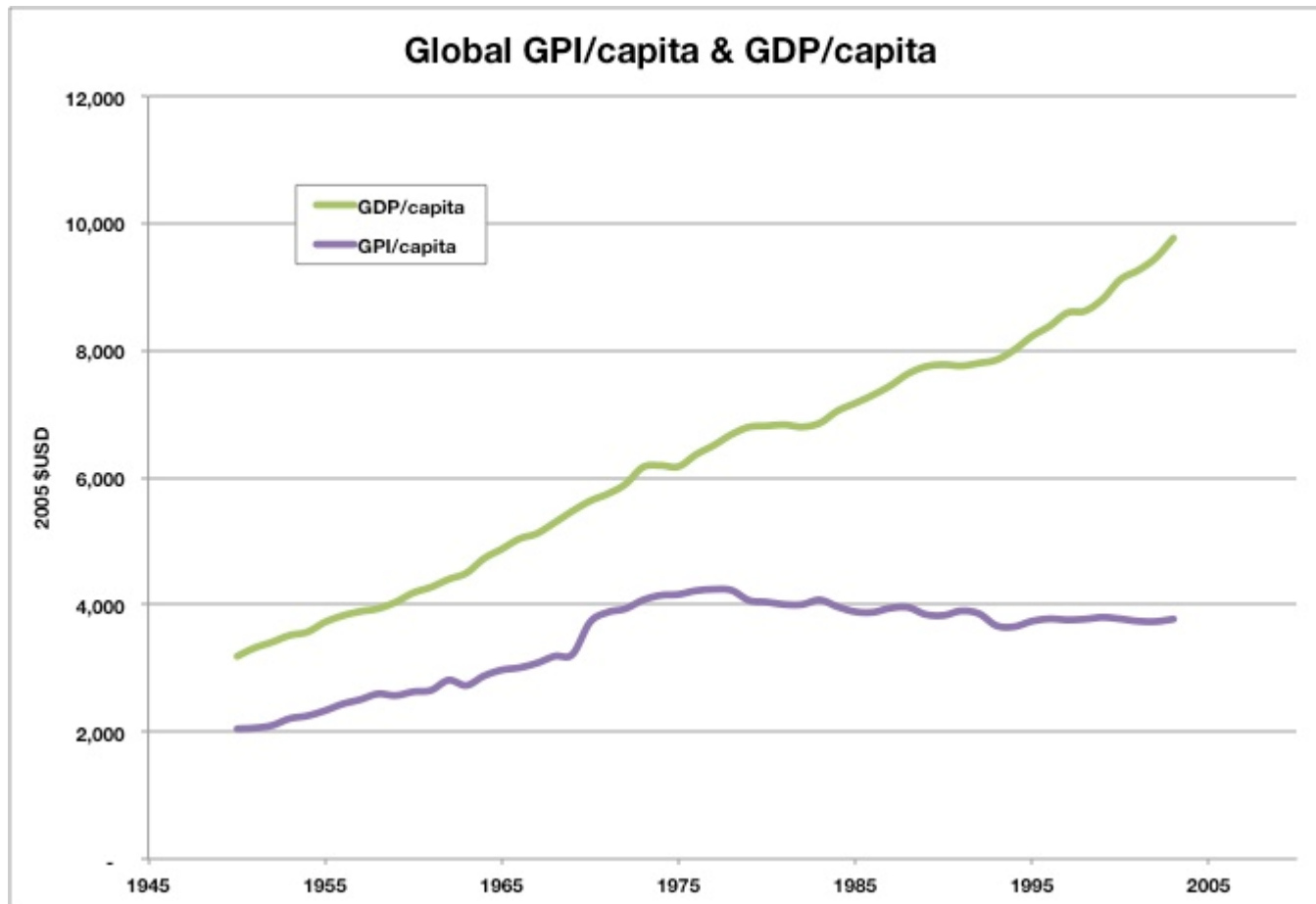
Reproductive: premature birth; low birth weight; poor sperm quality; impaired fetal growth; intrauterine inflammation; reduced fertility rates; increased risk of miscarriage, spontaneous abortions, premature rupture of membranes, and preeclampsia. Exposure during pregnancy is associated with childhood neoplasms and childhood asthma

Skin: aging

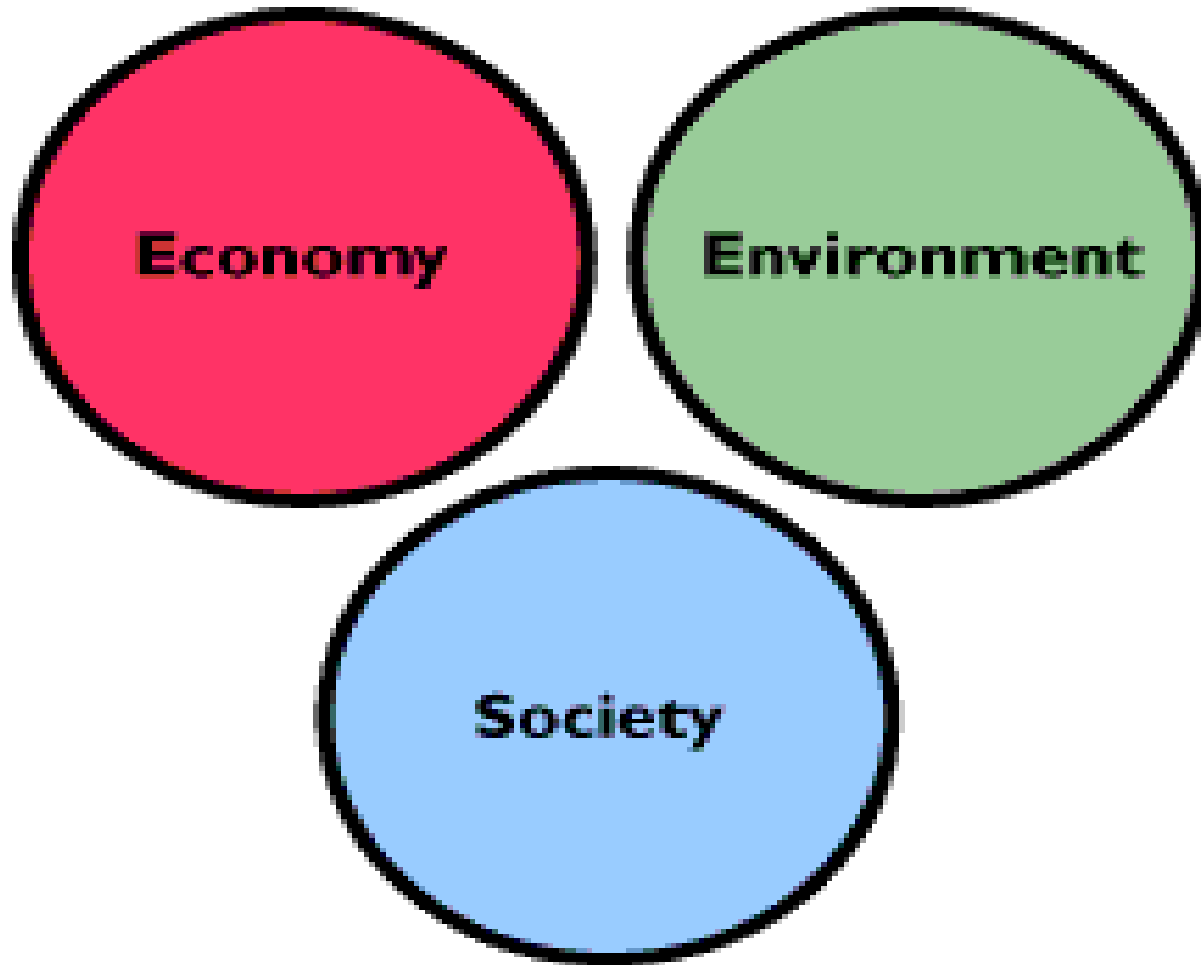
Sleep: associated with increased sleep apnea symptoms

Overall: shortened life expectancy, with additive or multiplicative effects in vulnerable persons

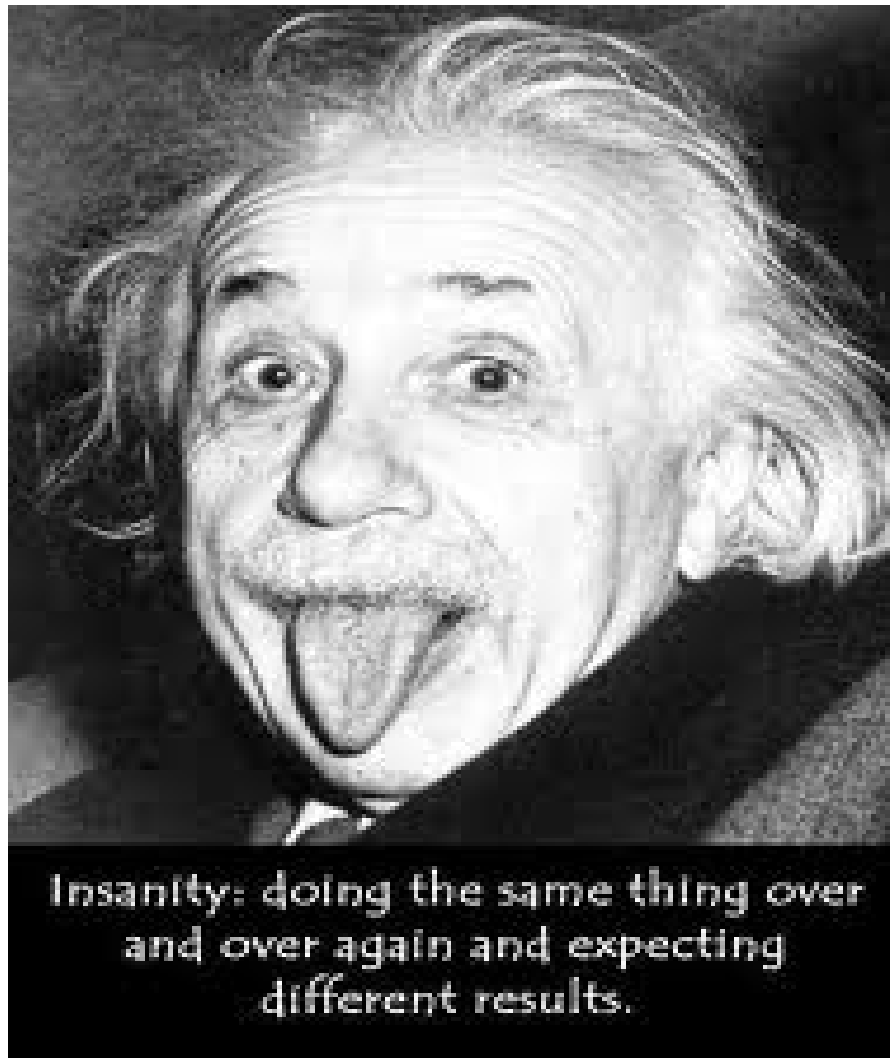
This is Progress?



Dominant Operating Framework



Time for a New Framework



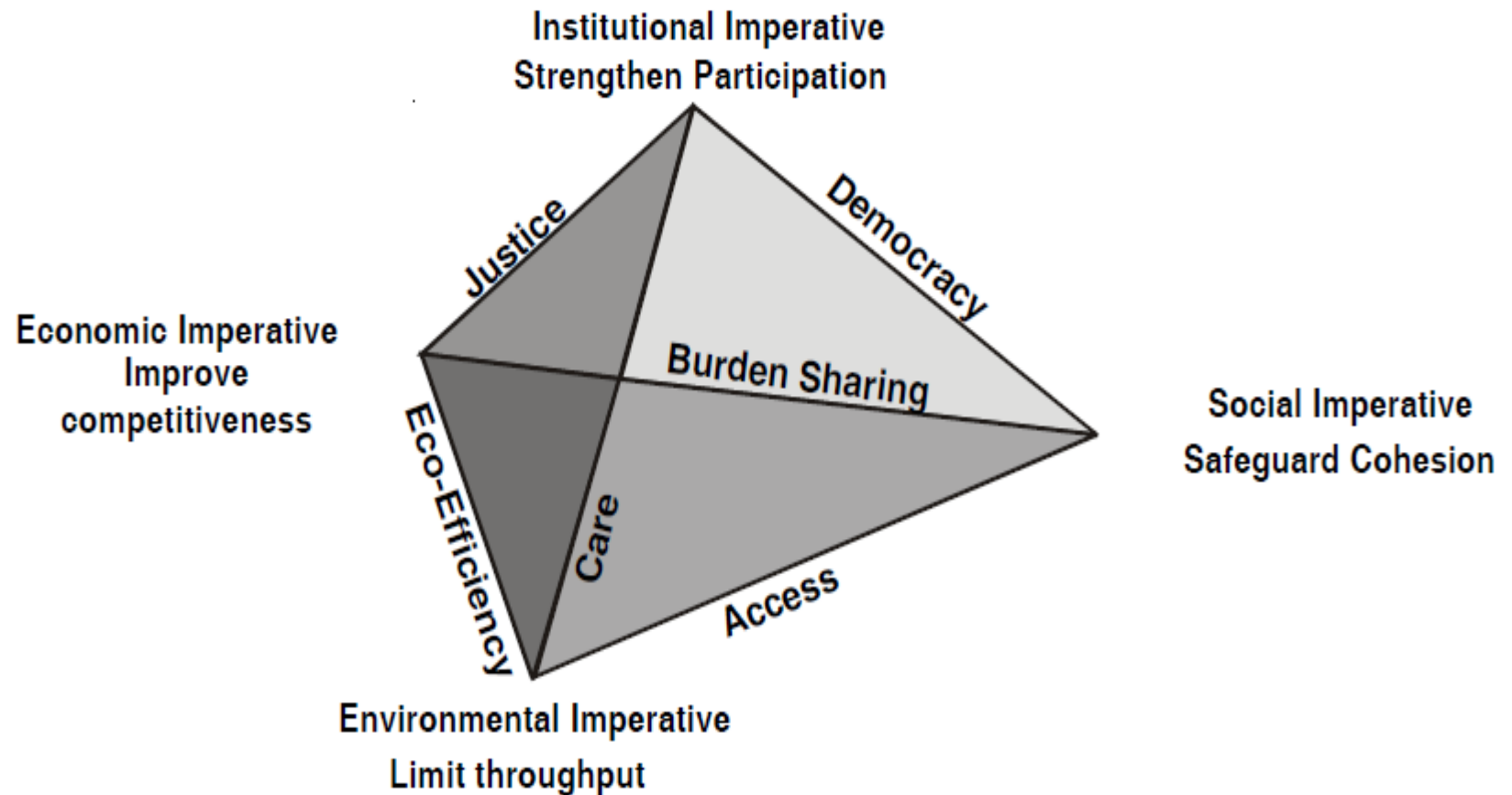
Sustainable Development

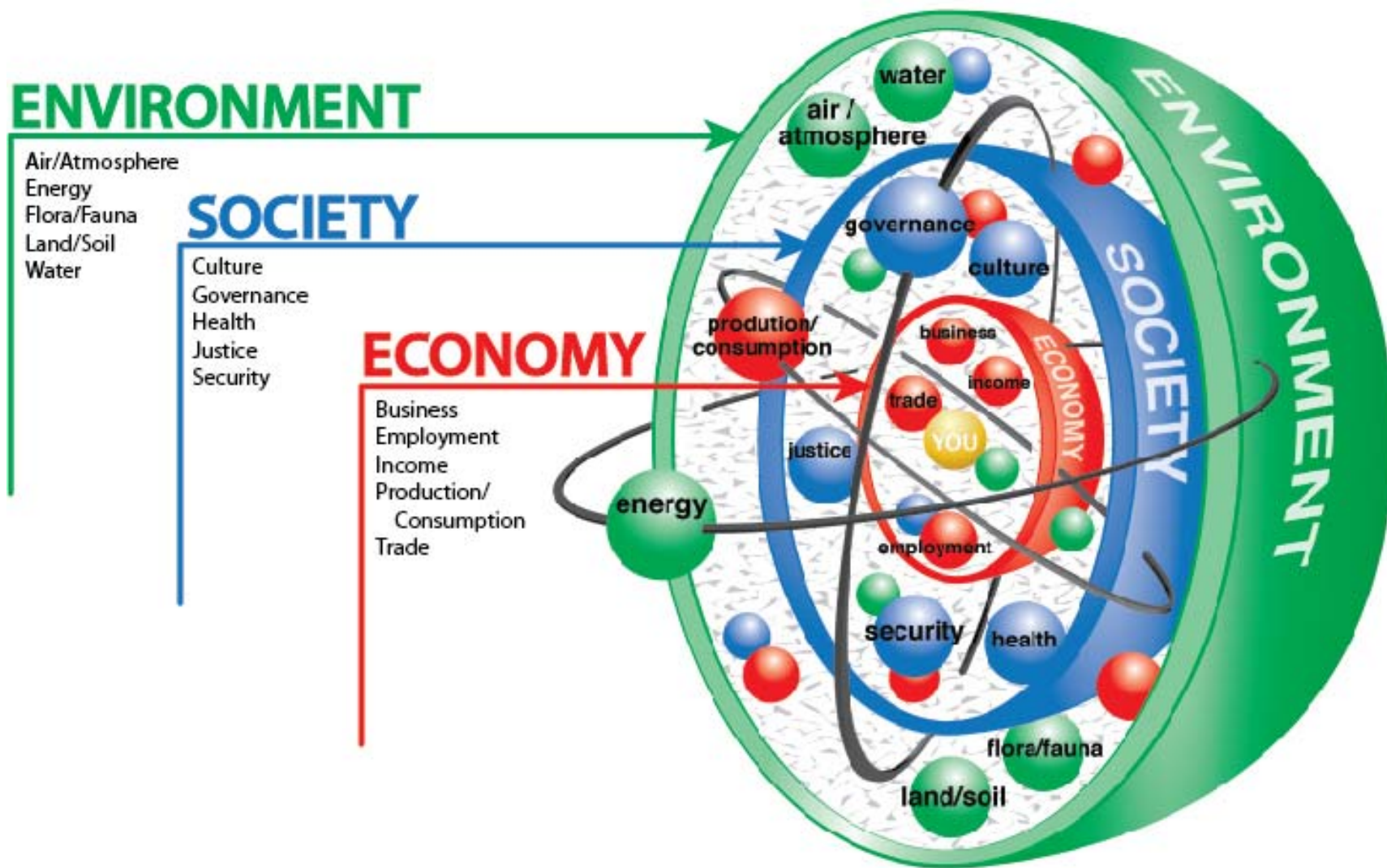
Meeting the needs of the present generation,
without prejudicing the ability of future
generations to meet their own needs.



The Triple Bottom Line

Prism of Sustainability







SUSTAINABLE DEVELOPMENT GOALS

17 GOALS TO TRANSFORM OUR WORLD



An Introductory Guide



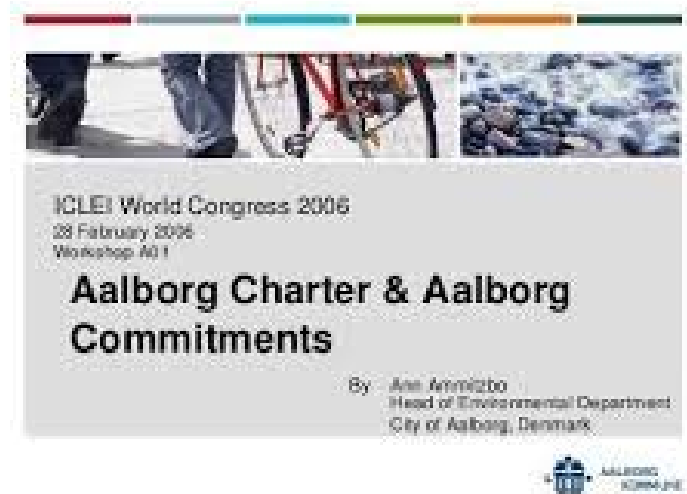
6/7/2019

<http://unsdsn.org/wp-content/uploads/2019/01/190123-2019-us-cities-guide-INT.pdf>

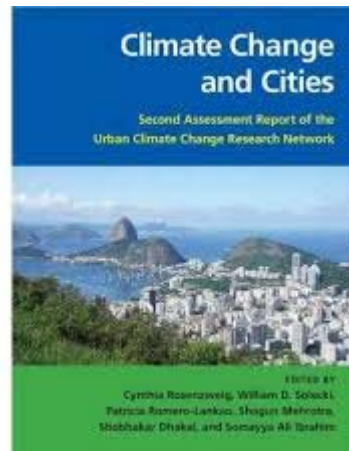
Aalborg Charter (2004)

10 Commitments

- Governance
- Urban management
- Natural common goods
- Responsible consumption
- Planning and design
- Better mobility
- Local action for health
- Sustainable local economy
- Social equity and justice
- Local to global



Pathways to Urban Transformation



- Actions that reduce greenhouse gas emissions while increasing resilience are a win-win.
- Disaster risk reduction and climate change adaption are the cornerstones of resilient cities.
- Risk assessments and climate action plans co-generated with full range of stakeholders and scientists are most effective.
- Needs of the most disadvantaged and vulnerable citizens should be addressed in climate change planning and action.
- Advancing city creditworthiness, developing robust city institutions, and participating in city networks enable climate action.
- Cities need to start immediately to develop and implement climate action.

Oxfam's 5 Essential Virtues of Sustainable Cities



- Access to Public Resources
- Urban Renewal Actions
- Reduction of CO2 Emissions
- Favoring Ethical Consumption
- Reduce, Reuse, and Recycle

C40 Climate Action Framework

- Emissions Neutrality
- Resilience to Climate Hazards
- Inclusivity and Benefits
- Governance and Collaboration



Cities Co-Learning Together





Mayors Climate Protection Center

Taking Local Action

Mayors and Climate Protection Best Practices

June 2009



THE UNITED STATES CONFERENCE OF MAYORS

6/7/2019

<http://www.usmayors.org/wp-content/uploads/2017/06/ClimateAwards2017Winners.pdf>

World Business Council for Sustainable Development – Zero Emissions Cities



6/7/2019

Global Covenant of Mayors

AN OPPORTUNITY THAT MUST BE SEIZED OVER
THE NEXT TWO DECADES.

“The impacts of climate change will be experienced in the next decades by the world’s 8 billion people, most of them in cities. Urban policymakers play a key role in adapting to and driving solutions to climate change, but they must act fast and cannot do it alone.”

Vancouver's Sustainability Transition

Three Key Factors

- Governance model that engages new actors in creative ways.
- Exploring and exploiting synergies between climate change, sustainability and other urban priorities.
- Growing inertia behind political calculus that favors environmental risk-taking and leadership.

Economy for the Common Good

VALUE	HUMAN DIGNITY	SOLIDARITY AND SOCIAL JUSTICE	ENVIRONMENTAL SUSTAINABILITY	TRANSPARENCY AND CO-DETERMINATION
STAKEHOLDER				
A: SUPPLIERS	A1 Human dignity in the supply chain	A2 Solidarity and social justice in the supply chain	A3 Environmental sustainability in the supply chain	A4 Transparency and co-determination in the supply chain
B: OWNERS, EQUITY- AND FINANCIAL SERVICE PROVIDERS	B1 Ethical position in relation to financial resources	B2 Social position in relation to financial resources	B3 Use of funds in relation to the environment	B4 Ownership and co-determination
C: EMPLOYEES	C1 Human dignity in the workplace and working environment	C2 Self-determined working arrangements	C3 Environmentally friendly behaviour of staff	C4 Co-determination and transparency within the organisation
D: CUSTOMERS AND BUSINESS PARTNERS	D1 Ethical customer relations	D2 Cooperation and solidarity with other companies	D3 Impact on the environment of the use and disposal of products and services	D4 Customer participation and product transparency
E: SOCIAL ENVIRONMENT	E1 Purpose of products and services and their effects on society	E2 Contribution to the community	E3 Reduction of environmental impact	E4 Social co-determination and transparency

A Few Suggestions

- Commit to Becoming a Sustainable Community, beginning now
- Hire a passionate, committed sustainability coordinator who knows how to connect
- Hire a climate action coordinator who knows energy
- Bring together stakeholders to build vision and plan
- Take it to the neighborhoods – give them voice!

I say all this to you because hope is not like a lottery ticket you can sit on the sofa and clutch, feeling lucky. I say this because hope is an ax you break down doors with in an emergency; because hope should shove you out the door, because it will take everything you have to steer the future away from endless war, from the annihilation of the earth's treasures and the grinding down of the poor and marginal. Hope just means another world might be possible, not promised, not guaranteed. Hope calls for action; action is impossible without hope. ... To hope is to give yourself to the future, and that commitment to the future makes the present inhabitable. -

Rebecca Solnit, Hope in the Dark

One Planet, One Family, One Future



Thank You for Considering These Ideas

Now for Perhaps the Most Useful Part



Q & A

CHAPTER 1615. - FIREWORKS ORDINANCE

1615.01. - Definitions.

For purposes of this Chapter, any term defined by the Michigan Fireworks Safety Act, MCL 28.451 et seq., has the definition given in that Act. The City presumes that the Michigan Fireworks Safety Act uses the terms "agricultural or wildlife fireworks" and "agricultural and wildlife fireworks" interchangeably. The City further presumes that the Michigan Fireworks Safety Act uses the terms "special effects manufactured for outdoor pest control or agricultural purposes" and "special effects" interchangeably.

(Ord. No. 1182, § 1, 12-10-12)

1615.02. - Prohibitions

- (a) Fireworks shall not be manufactured in the City.
- (b) Consumer fireworks shall not be used in the City without a license:
 - (1) On any day except the day preceeding, day of, or day after a national holiday.
 - (2) Between the hours of 12:00 midnight and 8:00 a.m. on the day preceeding, day of, or day after a national holiday, or between the hours of 1:00 a.m. and 8:00 a.m. on New Year's Day.

(Ord. No. 1182, § 1, 12-10-12; Ord. No. 1185, § 1, 7-29-13)

1615.03. - Display licenses.

- (a) No person shall use or conduct a display of agricultural and wildlife fireworks, articles pyrotechnic, display fireworks, special effects, or consumer fireworks without obtaining a license to do so. However, consumer fireworks may be used on any day on which State law preempts local regulation of the use of consumer fireworks.
- (b) Council shall establish, by resolution, a fee for licenses issued under this section.
- (c) Application for a license required by this section shall be made in writing to the City Clerk at least 30 business days before the proposed date of the use or display unless application within a shorter period of time is approved by the Fire Marshal. The application shall include the following:
 - (1) A nonrefundable license fee in the amount set by Council resolution;
 - (2) Proof of an insurance policy naming the City as an additional insured party and covering damages arising out of the licensed activities in the amount of \$1 million each for property damage and personal injury;
 - (3) If the applicant is not a resident of the State of Michigan, written appointment of a resident agent upon whom all process in an action against

the applicant may be served.

- (d) The application shall be made on forms provided by the State Department of Licensing and Regulatory Affairs. However, if the State Department of Licensing and Regulatory Affairs does not provide any such forms, the City Clerk may develop and require submission of an application that contains all of the following:
 - (1) The applicant's name, address, phone number, and email address;
 - (2) The name of each individual who will operate a display, their ages, descriptions of their relevant experience, and copies of their state-issued identifications;
 - (3) The proposed date, time, and location of the use or display;
 - (4) A description of the type and quantity of agricultural and wildlife fireworks, articles pyrotechnic, display fireworks, special effects, and consumer fireworks to be used in the display;
 - (5) The manner and location of the storage of the agricultural and wildlife fireworks, articles pyrotechnic, display fireworks, special effects, and consumer fireworks prior to the use or display;
 - (6) Disclosure of any conviction for or guilty plea to a violation of any Federal, State, or local law regulating the sale, use, or possession of agricultural and wildlife fireworks, articles pyrotechnic, display fireworks, special effects, or consumer fireworks by the applicant, any person with an ownership interest in the applicant, or any individual who will operate a display;
 - (7) An affidavit that neither the applicant nor any person with an ownership interest in the applicant is in default to the City;
 - (8) Any other item or information deemed necessary by the City Clerk, the Fire Marshal, the City Attorney, or the Police Department to complete an investigation of the application.
- (e) The City Clerk shall refer the application to the City Attorney, the Fire Marshal, the Police Department, and the City Treasurer for approval.
- (f) Before approving the application, the Fire Marshal shall:
 - (1) Inspect the location of the proposed use or display to confirm that it is a safe and proper location;
 - (2) Confirm that the time and all other aspects of the use or display are adequate to ensure the safety of persons and property and are otherwise in accordance with NFPA 1123 and NFPA 1126;
 - (3) Examine the agricultural and wildlife fireworks, articles pyrotechnic, display fireworks, special effects, and consumer fireworks proposed to be used;
 - (4) Confirm that the applicant is not under the age of 18 and that any person who will operate a display is not under the age of 18 and is otherwise competent to operate a display in a safe manner.
- (g) The Fire Marshal may impose additional reasonable limitations or requirements on the license to satisfy the requirements of NFPA 1123 and NFPA 1126.
- (h) If every person and department listed in subsection (d) approves the application in writing, the application shall be referred to City Council for

approval.

- (i) The Fire Marshal or his or her designee may be present at any use or display for which this section requires a license and may terminate any use or display that (1) is not conducted in strict compliance with any representation made on the license application or any provision of the license; or (2) is otherwise unsafe.
- (j) No license issued under this section may be transferred to any other person.
- (k) A licensee shall report any change in the information required to be contained on an application to the City Clerk, but no such changes may be made within one business day of the date for which the license was issued unless the Fire Marshal or his or her designee consents. The City Clerk shall forward any information received pursuant to this subsection to the City Attorney, the Fire Marshal, and the Police Department.
- (l) A license issued pursuant to this section may be denied on any of the following bases:
 - (1) Commission of fraud or misrepresentation or the making of a false statement during the application process;
 - (2) A conviction for or guilty plea to any Federal, State, or local law regulating the sale, use, or possession of agricultural and wildlife fireworks, articles pyrotechnic, display fireworks, special effects, or consumer fireworks by the applicant, any person with an ownership interest in the applicant, or any person who will operate a display;
 - (3) A default to the City of the applicant or any person with an ownership interest in the applicant.

(Ord. No. 1182, § 1, 12-10-12)

1615.04. - Enforcement.

The Fire Marshal and all fire inspectors are authorized to enforce this Chapter and issue citations for violations of this Chapter.

(Ord. No. 1182, § 1, 12-10-12)

1615.05. - Storage costs.

The City may seek to recover the actual costs of storage and disposal of fireworks it seizes pursuant to the Michigan Fireworks Safety Act.

(Ord. No. 1182, § 1, 12-10-12)

1615.06. - Penalty.

Unless otherwise provided by law, any person who violates any provision of this Chapter or a provision of any license issued under this Chapter is responsible for a municipal civil infraction and subject to a fine not exceeding \$500.00, plus costs of prosecution, for each violation.

(Ord. No. 1182, § 1, 12-10-12)

PA. 250

New firework rules for the city of Jackson



By Elissa Kedziorek | Posted: Thu 11:53 AM, May 23, 2019 | Updated: Thu 6:25 PM, May 23, 2019

JACKSON, MI (WILX) -- If you live in the city of Jackson and you're planning on letting off fireworks this Memorial Day weekend, you might want to be aware of some new changes.

To reflect new state firework laws put into place by former Gov. Rick Snyder in December of 2018, the Jackson City Council changed the city of Jackson's firework ordinance in April.

The biggest change focuses on the number of days that the public can use consumer fireworks, or large-scale aerial fireworks that shoot into the sky for a large, visual effect.

Before, residents were allowed to use consumer fireworks the day before, the day of and the day after national holidays. Now, the city of Jackson only allows the use of consumer fireworks on the following dates and times:

From 11 a.m. on Dec. 31 until 1 a.m. on Jan 1.

From 11 a.m. until 11:45 p.m. on June 29 through July 4.

July 5, if that date is a Friday or Saturday, from 11 a.m. to 11:45 p.m.

From 11 a.m. until 11:45 p.m. on the Saturday and Sunday before Labor day.

However, because July 5 is taking place on a Friday this year, consumer fireworks will be allowed on that day.

These new changes mean consumer fireworks will not be allowed on Memorial Day or Labor Day.

The state of Michigan said that because consumer fireworks cause so much noise, the changes are necessary in order to not disturb people who have to return to work the next morning.

These new changes also bring an increase in a civil fine from \$500 to \$1,000 for violation of the fireworks ordinance.

The use of low-impact fireworks like ground fireworks and hand-held sparkling devices are not effected by these changes.

If you have questions about fireworks usage, you can call the Jackson Police Department at 517-788-4100.

Copyright 2019 WILX. All rights reserved.



Hover for Circula



Hover for Circula



Hover for Circula

Powered by

Changes in the Fireworks
Safety Act

PA 256 Amended Dec 31,
2018

MICHIGAN FIREWORKS SAFETY ACT PA 256

LAW CHANGES SEC 7 (1,2)

- (1) Except as provided in this act, a local unit of government shall not enact or enforce an ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under this act.
- (2) A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks, including, but not limited to, an ordinance prescribing the hours of the day or night during which a person may ignite, discharge, or use consumer fireworks. If a local unit of government enacts an ordinance under this subsection, the ordinance shall not regulate the ignition, discharge, or use of consumer fireworks on the following days after 11 a.m.:
 - (a) December 31 until 1 a.m. on January 1.
 - (b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
 - (c) June 29 to July 4 until 11:45 p.m. on each of those days.
 - (d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
 - (e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

LAW CHANGES SEC 7 (3)

- (3) An ordinance under subsection (2) shall impose a civil fine of \$1,000.00 for each violation of the ordinance and no other fine or sanction. The ordinance must provide for the remittance of \$500.00 of the fine collected under the ordinance to the local law enforcement agency responsible for enforcing the ordinance.

LAW CHANGES
SEC 12 (1)
USE ON PROPERTY OF OTHERS

- (1) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises. Except as otherwise provided in this section, a person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

Act No. 634
Public Acts of 2018
Approved by the Governor
December 28, 2018
Filed with the Secretary of State
December 28, 2018
EFFECTIVE DATE: December 28, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Lilly, Farrington, Pagan, Vaupel, Lucido, Chirkun, Yaroach, Howell, Hornberger, Victory, Crawford, Miller, Kelly, Lasinski, VanderWall, Hammoud and Hoadley

ENROLLED HOUSE BILL No. 5939

AN ACT to amend 2011 PA 256, entitled “An act to revise, consolidate, and codify the laws relating to certain fireworks; to regulate the purchase, possession, sale, and use of certain fireworks; to establish a fireworks safety fund; to establish a fireworks safety fee; to provide for the transfer and expenditure of funds; to prescribe the powers and duties of certain state agencies; to provide for penalties and remedies; and to repeal acts and parts of acts,” by amending sections 2, 4, 5, 6, 8, 10, 11, 12, 14, 15, 16, 17, 17a, 18a, 18b, and 18c (MCL 28.452, 28.454, 28.455, 28.456, 28.458, 28.460, 28.461, 28.462, 28.464, 28.465, 28.466, 28.467, 28.467a, 28.468a, 28.468b, and 28.468c), sections 2, 8, and 17 as amended and sections 17a, 18b, and 18c as added by 2012 PA 257, sections 4, 5, 10, 12, and 18a as amended by 2013 PA 65, and section 11 as amended by 2017 PA 145; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) “Agricultural and wildlife fireworks” means fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of the Interior or the department of natural resources of this state.

(b) “APA Standard 87-1” means the “APA Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics”, 2001 edition, published by the American Pyrotechnics Association of Bethesda, Maryland.

(c) “Articles pyrotechnic” means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

(d) “Citation” means that term as described in section 17a.

(e) “Commercial manufacturer” means a person engaged in the manufacture of consumer fireworks.

(f) “Consumer fireworks” means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product 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 does not include low-impact fireworks.

(g) “Consumer fireworks certificate” means a certificate issued under section 4.

(h) “Department” means the department of licensing and regulatory affairs.

(i) “Display fireworks” means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA Standard 87-1, 4.1.

(j) “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, homemade fireworks, and special effects.

(k) “Fireworks safety fund” means the fireworks safety fund created in section 11.

(l) “Homemade fireworks” means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507.

(m) “Local unit of government” means a city, village, or township.

(n) “Low-impact fireworks” means ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

(o) “Minor” means an individual who is less than 18 years of age.

(p) “NFPA” means the National Fire Protection Association headquartered at 1 Batterymarch Park, Quincy, Massachusetts.

(q) “NFPA 1” means the “Uniform Fire Code”, 2006 edition, developed by NFPA.

(r) “NFPA 72” means the “National Fire Alarm Code”, 2002 edition, developed by NFPA.

(s) “NFPA 101” means the “Life Safety Code”, 2009 edition, developed by NFPA.

(t) “NFPA 1123” means the “Code for Fireworks Display”, 2010 edition, developed by NFPA.

(u) “NFPA 1124” means the “Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles”, 2006 edition, developed by NFPA.

(v) “NFPA 1126” means the “Standard for the Use of Pyrotechnics Before a Proximate Audience”, 2011 edition, developed by NFPA.

(w) “Novelties” means that term as defined under APA Standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

(i) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(ii) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

(iii) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(iv) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer’s name and the quantity contained in each box are printed on the box, and toy smoke devices.

(x) “Permanent building or structure” is a building or structure that is affixed to a foundation on a site that has fixed utility connections and that is intended to remain on the site for more than 180 consecutive calendar days.

(y) “Person” means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.

(z) “Retailer” means a person that sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

(aa) “Retail location” means a facility listed under NFPA 1124, 7.1.2.

(bb) “Rule” means a rule, as that term is defined in section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207, promulgated by the department.

(cc) “Serious impairment of a body function” means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(dd) “Serious violation” means a violation of this act, an order issued under this act, or a rule promulgated or adopted by reference under this act for which a substantial probability exists that death or serious impairment of a body function to an individual other than the violator may result unless the violator did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.

(ee) “Special effects” means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

(ff) "State fire marshal" means the state fire marshal appointed under section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b.

(gg) "Warehouse" means a permanent building or structure used primarily for the storage of consumer fireworks or low-impact fireworks.

(hh) "Wholesaler" means a person that sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person that sells only display fireworks or special effects.

Sec. 4. (1) A person shall not sell consumer fireworks unless the person annually obtains and maintains a consumer fireworks certificate from the department under this section.

(2) A person that fails or neglects to comply with subsection (1) is responsible for a civil fine as follows:

(a) For a first violation, not more than \$5,000.00. The department shall determine the amount of the fine imposed under this subdivision by applying a scale, as developed by the department, that reflects the severity of the violation.

(b) For a second violation, not more than \$20,000.00.

(c) For a third or subsequent violation, not more than \$40,000.00.

(3) An applicant for a consumer fireworks certificate shall do all of the following:

(a) Submit an application no later than April 1 of each year in which the applicant will sell consumer fireworks.

(b) Include on the application the name and address of each retail location from which the applicant will sell consumer fireworks.

(c) Submit with the application all of the following, as applicable:

(i) A nonrefundable consumer fireworks certificate fee of \$1,250.00 for each retail location that is a permanent building or structure or \$1,000.00 for each retail location that is not a permanent building or structure. If the application includes 10 or more retail locations that are not permanent buildings or structures, the fee described in this subdivision shall be \$700.00 for each of those locations.

(ii) For an applicant who applies for a consumer fireworks certificate for a retail location that is not a permanent building or structure and who does not hold a consumer fireworks certificate for a permanent building or structure, a bond in the amount of \$5,000.00 to secure the collection of estimated sales tax and fireworks safety fees.

(iii) A copy of the applicant's current sales tax license, including the applicant's account number, issued by the department of treasury for each retail location where the applicant will sell consumer fireworks.

(iv) Any other document required by the department.

(4) The department shall not issue an initial consumer fireworks certificate to an applicant until the department of treasury has confirmed to the department that each sales tax license submitted by the applicant is current and valid, and that the applicant is otherwise eligible to obtain a consumer fireworks certificate under this act.

(5) A consumer fireworks certificate issued under this section is valid from the date of issue until April 30 of the year following the year in which it is issued. A person may renew a consumer fireworks certificate for a retail location by making application on a form prescribed by the department certifying that all information on file with the department is true and correct, that the person's sales tax license for the retail location is current and valid, and that the person has properly remitted all required fireworks safety fees for the preceding year. The department may deny the renewal of a consumer fireworks certificate if the department determines that the applicant did not properly remit all of the required fireworks safety fees for all preceding years, or sales tax for any of the preceding 5 years, during which the applicant held a consumer fireworks certificate. The department shall provide to the department of treasury the sales tax license information received from the applicant and any additional information as may be necessary to allow the department of treasury to confirm that each sales tax license submitted by the applicant is current and valid. The department shall enter into an agreement with the department of treasury under section 28(1) of 1941 PA 122, MCL 205.28, that will allow the department of treasury to provide that information to the department.

(6) Not more than 30 days after an application and all required supporting documentation and fees are submitted to the department under this section, the department shall issue a consumer fireworks certificate to the applicant or deny the application. If the department denies the application, the department shall indicate to the applicant the reason for denial.

(7) If the department denies an application for a consumer fireworks certificate under this section, the applicant may cure any defect in the application within 45 days after the denial without paying an additional fee. The department shall not unreasonably delay or deny an application.

(8) A consumer fireworks certificate is transferable upon approval by the department and the payment of a \$250.00 transfer fee. The department shall approve the transfer of a consumer fireworks certificate unless the transferee does not satisfy the eligibility requirements for an original consumer fireworks certificate under this act. The department shall not process a request for a transfer of location between June 1 and July 31.

(9) The holder of a consumer fireworks certificate shall prominently display the original certificate or a copy of the certificate in the each retail location to which the certificate applies. A person that violates this subsection is responsible for a civil fine of \$200.00.

(10) The department shall not issue a consumer fireworks certificate to either of the following:

(a) A person that is ineligible under this act.

(b) A person that has an outstanding fine issued under this act not currently under appeal.

(11) The face of the consumer fireworks certificate must indicate the location or address for which it was issued.

(12) Fees collected under this section shall be deposited in the fireworks safety fund.

Sec. 5. (1) A person shall not sell consumer fireworks from a retail location unless all of the following conditions are met:

(a) Except as provided in subdivision (b), the retail location and any adjacent or directly associated retail storage satisfies the applicable requirements of NFPA 101 and NFPA 1124 for consumer and low-impact fireworks that are not in conflict with this act and the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. Any provision of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, that is inconsistent with the applicable requirements of NFPA 101 and NFPA 1124 is superseded to the extent of the inconsistency or conflict.

(b) If the retail location is a permanent building or structure, the building or structure is equipped with a fire suppression system in compliance with NFPA 1124. Beginning on the effective date of the 2018 act that added this sentence and notwithstanding the NFPA 1124 requirements regarding automatic sprinkler systems, if the retail location is in a permanent multitenant building or structure, the building or structure must be equipped with an automatic sprinkler system. The requirement for an automatic sprinkler system described in this subdivision does not apply to the retail location of a person that held a consumer fireworks certificate for a retail location of the same address in a permanent building or structure during the calendar year before the effective date of the 2018 act that added this sentence.

(c) The retailer at that retail location is licensed under section 3 of the general sales tax act, 1933 PA 167, MCL 205.53.

(d) The retailer has a valid federal taxpayer identification number. This requirement does not apply to a retailer that is a sole proprietorship.

(2) A person that fails or neglects to comply with subsection (1) is responsible for a civil fine of not more than \$2,500.00 for each violation. The department shall determine the amount of the fine imposed under this subsection by applying a scale, as developed by the department, that reflects the severity of the violation. Each day that a person is in noncompliance is a separate violation.

(3) During any period of time in which a person is selling consumer fireworks, the person shall add as an additional insured, or obtain and maintain public liability and product liability insurance coverage for, each retail location at which the person is selling consumer fireworks, in an amount not less than \$10,000,000.00 per occurrence. If the department determines that a person has failed or neglected to comply with this subsection, the department shall order the person to immediately cease operations and pay a civil fine of not more than \$5,000.00.

(4) A retailer shall provide with every purchase of consumer fireworks a notice listing the dates and times permitted under this act for the ignition, discharge, and use of consumer fireworks. The notice shall begin with the following statement: "State law permits, under MCL 28.457, the ignition, discharge, and use of consumer fireworks at the following times:". The retailer may provide the notice in a form and manner determined by the retailer, including, but not limited to, printing or stamping the notice on, or affixing the notice to, a receipt, bag, or the product being purchased, or a printed handout provided at the time of purchase. Posting the notice on a wall, window, display, or otherwise, at the retail location, does not satisfy the requirements of this subsection. A retailer who fails to provide the notice required by this subsection is responsible for a civil fine of \$100.00 for each day on which 1 or more violations occur. The department shall provide for the remittance of the fine collected under this subsection to the local law enforcement agency responsible for enforcing the notice requirement.

(5) A person shall not engage in the retail sale of consumer fireworks over the telephone, internet, or other like manner unless the consumer fireworks are picked up or shipped from a permanent location for which the person holds a valid consumer fireworks certificate.

Sec. 6. (1) The department shall establish and maintain, or cause to be established and maintained, an internet website that has as its purpose the protection of the residents of this state who purchase, use, or transport fireworks. The website must include, but is not limited to, both of the following:

(a) A list of every person that is issued a consumer fireworks certificate under section 4.

(b) A low-impact fireworks retail registry.

(2) A person shall not sell low-impact fireworks unless that person registers with the low-impact fireworks retail registry not less than 10 days before selling the fireworks in each calendar year and pays a \$50.00 registry application fee for each retail location registered. For a person with multiple retail locations, the registry application fees in total shall not exceed \$1,000.00. A person that holds a valid consumer fireworks certificate issued under section 4 is not required to register with the low-impact fireworks retail registry.

(3) If the department determines that a person that sells low-impact fireworks at retail has failed to register as described in this section, the department shall order the person to immediately cease the sale of low-impact fireworks until the person complies with subsection (2) and pay a civil fine of not more than \$1,000.00. For a first violation of this section, if a person complies with subsection (2) within 30 days of receiving a notice of violation, the department shall waive the civil fine described in this subsection.

Sec. 8. (1) A user fee, known as the fireworks safety fee, is imposed on retail transactions made in this state for consumer fireworks and low-impact fireworks as provided in section 9.

(2) A person that acquires consumer fireworks or low-impact fireworks in a retail transaction is liable for the fireworks safety fee on the transaction and, except as otherwise provided in this act, shall pay the fireworks safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the fireworks safety fee as an agent for the state.

(3) The fireworks safety fee shall be deposited in the fireworks safety fund.

(4) A person that fails to collect a fireworks safety fee as required under this section is responsible for a civil fine as follows:

(a) For a first violation, not more than \$5,000.00. If the person is a retailer of low-impact fireworks and, within 30 days of receiving a notice of violation, the person remits to the department the estimated equivalent of the amount the person should have collected under this section, the department shall waive the civil fine described in this subdivision.

(b) For a second violation, not more than \$20,000.00.

(c) For a third or subsequent violation, not more than \$40,000.00.

Sec. 10. (1) A person that holds a consumer fireworks certificate or that is a retailer of low-impact fireworks is responsible for remitting all fireworks safety fees, as described in section 9, to the department. The person shall remit the fees collected with a form provided and in a manner prescribed by the department. The person shall hold in trust for the state the fees collected until those fees are remitted to the state. An individual who holds a consumer fireworks certificate or who is a retailer of low-impact fireworks is personally liable for the payment of the fees collected.

(2) The department may refer for collection to the department of treasury past due amounts of the fireworks safety fee consistent with section 13 of 1941 PA 122, MCL 205.13 or may initiate subrogation for collection within the department.

(3) A person that is responsible for remitting the collected fireworks safety fees under subsection (1) shall remit those fees no later than 20 days after the end of each preceding month. A person that operates 25 or more retail locations in this state that are permanent buildings or structures may remit the collected fees in an aggregate filing under 1 common identification number as determined by the department.

(4) A person that fails to remit the collected fireworks safety fees, as described in subsection (1), is responsible for a civil fine as follows:

(a) For a first violation, not more than \$5,000.00. If the person is a retailer of low-impact fireworks and, within 30 days of receiving a notice of violation, the person remits to the department the collected fees that are the subject of the violation, the department shall waive the civil fine described in this subdivision.

(b) For a second violation, not more than \$20,000.00.

(c) For a third or subsequent violation, not more than \$40,000.00.

Sec. 11. (1) The fireworks safety fund is created within the department of treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money deposited in the fund as follows:

(a) One hundred percent of the money received from fireworks safety fees under section 8 to be used for the training of firefighters under the direction and approval of the firefighters training council established under the firefighters training council act, 1966 PA 291, MCL 29.361 to 29.377.

(b) One hundred percent of the money received from consumer fireworks certificate fees under section 4 to administer this act and to pay the costs of delegating inspections under this act to local units of government under subsection (5).

(c) One hundred percent of the money received from the fees collected under section 11 of the firefighters training council act, 1966 PA 291, MCL 29.371, to be used for the training of firefighters under the direction and approval of the firefighters training council established under the firefighters training council act, 1966 PA 291, MCL 29.361 to 29.377.

(5) The department may establish a program for delegating inspection duties under this act to 1 or more local units of government. If a local unit of government agrees to carry out inspections, the department shall pay 50% of the consumer fireworks certificate fee paid by each retail location inspected by the local unit of government and retain the remaining 50% of that fee. If a local unit of government declines to participate in the program described in this subsection, the department shall retain its inspection duties under this act.

Sec. 12. (1) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises. Except as otherwise provided in this section, a person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(2) A person shall not sell consumer fireworks to a minor. A person that violates this subsection shall be ordered to pay a civil fine of not more than \$1,000.00, or, for a second or subsequent violation of this subsection, a civil fine of not more than \$2,500.00. For a second or subsequent violation, the department shall suspend the person's consumer fireworks certificate for 90 days beginning on the date a civil fine is ordered. The age of an individual purchasing consumer fireworks shall be verified by any of the following:

(a) An operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(b) An official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(c) An enhanced driver license or enhanced official state personal identification card issued under the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.

(d) A military identification card.

(e) A passport.

(f) Any other bona fide photograph identification that establishes the identity and age of the individual.

(3) An individual shall not discharge, ignite, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. A person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$1,000.00. As used in this subsection:

(a) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

(b) "Controlled substance" means that term as defined in section 8b of the Michigan vehicle code, 1949 PA 300, MCL 257.8b.

(4) An individual who violates the smoking prohibition described in NFPA 1124, 7.3.11.1, regardless of the type or quantity of consumer or low-impact fireworks present, is responsible for a civil fine of \$1,000.00.

(5) Signage stating the smoking prohibition described in subsection (4) satisfies the requirements of NFPA 1124.

(6) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks in a manner that is intended to harass, scare, or injure livestock. As used in this subsection, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

Sec. 14. (1) A governmental or law enforcement agency that identifies a firework that is in violation of this act shall secure the firework and immediately notify the department of the alleged violation. The department or law enforcement agency shall investigate the alleged violation for compliance with this act.

(2) If the department or law enforcement agency determines through its investigation under subsection (1) that a violation of this act has occurred, except for a violation of section 6(2), the department or law enforcement agency may seize the firework as evidence of the violation. The department or law enforcement agency shall store, or cause to be stored, the evidence seized under this section pending disposition of any criminal or civil proceedings arising from the violation. If the person subject to criminal or civil proceedings under this section is found guilty, responsible, or liable for the violation, the person shall be required to pay the storage expense for the evidence seized.

Sec. 15. (1) Fireworks seized for an alleged violation of this act shall be stored in compliance with this act and the rules promulgated under this act.

(2) Following a final disposition of an appeal of a conviction under this act that affirms the conviction, the department may dispose of or destroy any fireworks retained as evidence in that prosecution.

(3) A person from whom fireworks are seized under this act shall pay the actual costs of storage and disposal of the seized fireworks if found guilty, responsible, or liable for a violation under this act.

(4) The department may use fireworks described in subsection (2) for training purposes.

Sec. 16. (1) The legislative body of a city, village, or township, upon application in writing on forms provided by the department on the department's website and payment of a fee set by the legislative body, if any, may grant a permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, consumer fireworks, or special effects manufactured for outdoor pest control or agricultural purposes, or for public or private display within the city, village, or township by municipalities, fair associations, amusement parks, or other organizations or individuals approved by the city, village, or township authority, if the applicable provisions of this act are met. After a permit has been granted, a permit holder may sell, possess, or transport fireworks for only the purposes described in the permit. A permit granted under this subsection is not transferable and shall not be issued to a minor.

(2) Before a permit for articles pyrotechnic or a display fireworks ignition is issued, the person applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the local governing authority to protect the public and to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person or an agent or employee of the person.

(3) The department shall not issue under this act a permit to a nonresident person for ignition of articles pyrotechnic or display fireworks in this state until the person has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person may be served.

(4) Before granting a permit under this act, the local governing authority shall rule on the competency and qualifications of an articles pyrotechnic and display fireworks operator, as furnished by the operator on the operator's application form, in accordance with the requirements provided under NFPA 1123, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks.

(5) A local unit of government that charges and collects a fee to issue a permit under this section shall retain the collected fee.

Sec. 17. Except as otherwise provided in this act, this act does not prohibit any of the following:

(a) A wholesaler, retailer, commercial manufacturer, or importer from selling, storing, using, transporting, or distributing consumer fireworks or low-impact fireworks.

(b) The use of fireworks by railroads or other transportation agencies or law enforcement agencies for signal purposes or illumination.

(c) The use of agricultural or wildlife fireworks.

(d) The sale or use of blank cartridges for any of the following:

(i) A show or play.

(ii) Signal or ceremonial purposes in athletics or sports.

(iii) Use by military organizations.

(iv) Use by law enforcement agencies.

(e) The possession, sale, or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who possess a permit to possess, store, or sell explosives from the bureau of alcohol, tobacco, firearms, and explosives of the United States Department of Justice.

(f) Interstate wholesalers from selling, storing, using, transporting, or distributing fireworks.

(g) A person from parking a motor vehicle, or trailer, that is not being used for the storage of consumer fireworks, within 10 feet of a permanent building or structure used in the retail sale of consumer fireworks.

Sec. 17a. (1) If, as a result of an inspection or investigation, the state fire marshal or the state fire marshal's designee believes that a person has violated this act, an order issued under this act, or a rule promulgated under this act, the state fire marshal or the state fire marshal's designee shall issue a citation not more than 90 days after the completion of the physical inspection or investigation.

(2) The state fire marshal or the state fire marshal's designee shall issue the citation described in subsection (1) to the holder of the consumer fireworks certificate for, or to a person conducting or directing the sale of consumer fireworks without a consumer fireworks certificate at, the retail location that is the subject of the inspection or investigation. A holder of a consumer fireworks certificate, or a person conducting or directing the sale of consumer fireworks without a consumer fireworks certificate, as described in this subsection, is responsible for the acts or omissions of an individual under that person's employ or control.

(3) Except as otherwise provided in this act, upon issuance of a citation, the state fire marshal may immediately suspend the consumer fireworks certificate of the person receiving the citation.

(4) Upon a proper petition, a court of competent jurisdiction may enjoin a violation of this act.

(5) All of the following apply to a citation issued by the state fire marshal or the state fire marshal's designee under this act:

(a) It shall be in writing.

(b) It shall state on its face that it is an allegation of a violation of this act, describe with particularity the nature of the violation, and include a reference to the provision, rule, or order alleged to be violated.

(c) It shall contain all of the following:

(i) The date of the citation.

(ii) The name and title of the individual who issued the citation.

(iii) The name and address of the person receiving the citation.

(iv) The actions necessary to bring the person receiving the citation into compliance, including the payment of a fine.

(v) A space for the signature of the person receiving the citation indicating that the person has received the citation.

(vi) A space where the person receiving the citation may accept the citation and agree to comply or, in the alternative, indicate the person's intent to contest the citation.

(vii) A notice that the person receiving the citation must accept or reject the terms of the citation in writing within 15 days of the receipt of the citation.

(viii) A brief description of the administrative hearing process and the process for settlement as provided for by rule.

(d) A citation may either be mailed to the person receiving the citation by certified mail, return receipt requested, or delivered in person by the state fire marshal, or the state fire marshal's designee who issued the citation.

Sec. 18a. (1) Except as otherwise provided in this section, a person that receives a citation for a serious violation, an order issued under this act, or a rule promulgated under this act shall be assessed a civil fine of not more than \$1,000.00 for each violation.

(2) Except as otherwise provided in this section, a person that receives a citation for a violation of this act that is not a serious violation may be assessed a civil fine of not more than \$500.00 for each violation.

(3) Subsections (1) and (2) do not apply to violations for which a specific civil fine is provided by this act.

(4) The state fire marshal may request that the prosecuting attorney for the county in which a violation of this act occurred issue a complaint and request a warrant for the prosecution of an individual who commits a criminal violation of this act.

(5) A civil fine ordered under this act shall be paid to the department within 15 working days after the date the civil fine is ordered, not subject to further review, and credited to the fireworks safety fund.

(6) The department of treasury shall institute proceedings to collect any civil fines ordered but not paid under this act.

Sec. 18b. (1) The department shall not issue, and an individual is ineligible to be issued, a consumer fireworks certificate if, as verified by the internet criminal history access tool (ICHAT) maintained by the department of state police, the individual was convicted of a felony involving theft, fraud, or arson.

(2) If due to a criminal conviction an individual will be ineligible for a consumer fireworks certificate on April 30 of the year following the year for which the individual currently holds a consumer fireworks certificate, the department shall revoke the current consumer fireworks certificate for the balance of the current year.

Sec. 18c. (1) A person that is found responsible for any of the following is ineligible, beginning on the date of the finding, to obtain a consumer fireworks certificate for the period of time indicated:

(a) A second violation of section 4(1), 5 years.

(b) A third or subsequent violation of section 4(1), 10 years.

(c) A first violation of section 8(4), 1 year.

(d) A second violation of section 8(4), 5 years.

(e) A third or subsequent violation of section 8(4), 10 years.

(f) A violation subject to section 18(1)(b), 1 year.

(g) A violation subject to section 18(1)(c), permanently.

(h) A violation subject to section 18(1)(d), permanently.

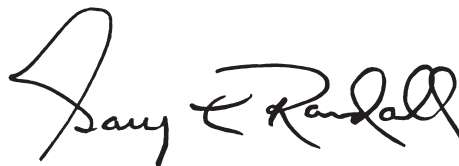
(2) A sanction imposed under subsection (1) shall be imposed in addition to any other penalty or sanction imposed for a violation of this act.

Enacting section 1. Section 13 of the Michigan fireworks safety act, 2011 PA 256, MCL 28.463, is repealed.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

- (a) House Bill No. 5940.
- (b) House Bill No. 5941.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5939 (Substitute H-3 as passed by the House)
House Bill 5940 (Substitute H-3 as passed by the House)
House Bill 5941 (Substitute H-3 as passed by the House)
Sponsor: Representative Jim Lilly (H.B. 5939 & 5941)
Representative John Chirkun (H.B. 5940)
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 12-12-18

CONTENT

House Bill 5939 (H-3) would amend the Michigan Fireworks Safety Act to do the following:

- Specify that a person who sold consumer fireworks and failed to obtain and maintain a consumer fireworks certificate would be responsible for a civil fine.
- Increase the fees an applicant would have to pay to obtain a certificate.
- Require an applicant to submit a bond to secure the collection of estimated sales tax and fireworks safety fees, under certain circumstances.
- Prohibit the Department of Licensing and Regulatory Affairs (LARA) from issuing an initial certificate until the Department of Treasury had confirmed to LARA that each sales tax license submitted by the applicant was current and valid.
- Allow LARA to deny a certificate renewal if the applicant had not paid all of the required fees for all preceding years, or sales tax for any of the preceding five years.
- Increase the civil fine for failing to prominently display a certificate at each retail location the certificate applied.
- Require a retailer to provide with every purchase of consumer fireworks a notice listing the dates and times permitted under the Act for the ignition, discharge, and use of consumer fireworks, and require a notice to contain certain language.
- Specify that a retailer who failed to provide the notice would be responsible for a civil fine for each day on which one or more violations occurred.
- Prohibit a person from selling at retail consumer fireworks over the phone, internet, or other like manner unless the fireworks were picked up or shipped from a permanent location for which the person held a valid certificate.
- Specify that a person who failed to pay a fireworks safety fee would be responsible for a civil fine.
- Increase the civil fine for a person who sold consumer fireworks to a minor in violation of the Act.
- Specify that an individual who discharged, ignited, or used consumer fireworks or low-impact fireworks while under the influence would be responsible for a civil fine.
- Specify that a person from whom fireworks were seized would have to pay the actual costs for the storage and disposal of the seized firework if the person were found guilty, responsible, or liable for a violation of the Act.
- Specify that LARA could use the disposal or destruction of a seized firework for training purposes.

- Specify that LARA could not issue, and an individual would not be eligible to be issued, a certificate if he or she had ever been convicted of a felony involving theft, fraud, or arson.

The bill also would repeal Section 13 of the Act, which requires a wholesaler of consumer fireworks or low-impact fireworks to maintain a resident agent.

House Bill 5940 (H-3) would amend the Act to modify when a local unit of government could not enact an ordinance to regulate the ignition, discharge, or use of consumer fireworks, and to allow a local unit that met certain population thresholds to enact or enforce an ordinance that regulated the use of a temporary structure.

House Bill 5941 (H-3) would amend the Fire Prevention Code to do the following:

- Grant the commanding officer of the fire department of a city, village, township, or county the authority to enforce a no-burning restriction if the environment concerns based on the Department of Natural Resources (DNR) Fire Division criteria were elevated to extreme fire conditions, or if the environmental concerns were elevated to "very high" for 72 consecutive hours.
- Allow the Governor, the DNR, or the State Fire Marshal to enforce a statewide no-burning restriction.
- Require a commanding officer to lift a ban and inform the public that the ban was lifted, no more than 24 hours after the fire condition had been downgraded.

House Bill 5939 (H-3)

Consumer Fireworks Certificate

The Act prohibits a person from selling consumer fireworks unless he or she obtains and maintains a consumer fireworks certificate from LARA.

Failure to Obtain a Certificate. A person who knows, or should know, that he or she is required to obtain and maintain a certificate, and who fails or neglects to do so is guilty of a misdemeanor punishable by up to two years' imprisonment or a fine, with the fines as follows:

- For a first violation, not more than \$5,000.
- For a second violation, not more than \$20,000.
- For a third or subsequent violation, not more than \$40,000.

Under the bill, a person who failed or neglected to obtain and maintain a certificate would be responsible for one of the civil fines currently specified in the Act. For a first violation, LARA would have to determine the amount of the fine imposed by applying a scale, as developed by the Department, that reflected the severity of the violation.

Application Fees. An applicant for a consumer fireworks certificate must submit with his or her application the following:

- A copy of the applicant's current sales tax license for each retail location where the applicant will sell consumer fireworks.
- A \$1,000 fee for a certificate for each retail location that is a permanent building or structure, or a \$600 fee for each retail location that is not a permanent building or structure.

The bill would prescribe a \$1,250 nonrefundable certificate fee for each retail location that was a permanent building or structure, and a \$1,000 nonrefundable certificate fee for each retail location that was not a permanent building or structure. If an application included 10 or more retail locations that were not permanent buildings or structures, the fee would be \$700 for each of those locations.

The bill also would require an applicant to submit the following with his or her application:

- A \$5,000 bond to secure the collection of estimated sales tax and fireworks safety fees, for an applicant who applied for a certificate for a retail location that was not a permanent building or structure and who did not hold a certificate for a permanent building or structure.
- Any other document required by LARA.

The Department could not issue an initial certificate to an applicant until the Department of Treasury had confirmed to LARA that each sales tax license submitted by the applicant was current and valid, and that the applicant was otherwise eligible to obtain a certificate.

Renewal. A person may renew a consumer fireworks certificate for a retail location by making an application. The bill would require a renewal application to be on a form prescribed by the Department certifying that all the information on file with LARA was true and correct, that the person's sales tax license for the retail location was current and valid, and that the person had properly paid all required fireworks safety fees for the preceding year.

Under the Act, the Department may not issue a certificate renewal unless it determines that the applicant properly paid all of the required fireworks safety fees required to be paid in the preceding bill. Under the bill, the Department *could* deny a certificate renewal if the applicant had not paid all of the required fees for all preceding years, or sales tax for any of the preceding five years, during which the applicant held a certificate.

Issuance & Denial. Not more than 30 days after an application is submitted, LARA must issue a certificate or deny an application. Under the bill, not more than 30 days after an application was submitted and all required supporting documentation and fees were submitted, the Department would have to issue a certificate or deny an application.

The Act prohibits the Department from issuing a certificate to a person that is ineligible under the Act. Under the bill, LARA also could not issue a certificate to a person that had an outstanding fine issued under the Act not currently under appeal.

Certificate Transfer. A certificate is transferable upon LARA's approval and the payment of a \$25 transfer fee. Under the bill, the transfer fee would be \$250. Also, the Department could not process a request for a transfer of location between June 1 and July 31.

Display. The holder of a certificate must prominently display the original certificate or a copy in each retail location to which the certificate applies. A person that violates this provision is responsible for a \$100 civil fine. Each day that the certificate is not displayed is a separate violation. The bill would delete this provision. Also, under the bill, the civil fine would be \$200.

Sale of Consumer Fireworks

Under the Act, a person may not sell consumer fireworks unless certain conditions are met (described below).

The retailer must be licensed under the General Sales Tax Act, and must have a valid Federal taxpayer identification number.

The Act requires a retail location to satisfy all applicable requirements of National Fire Protection Association (NFPA) 101 and NFPA 112. Under the bill, this provision would apply to a retail location and any adjacent or directly associated retail space.

Under the Act, if the retail location is a permanent building or structure, it must be equipped with a fire suppression system in compliance with NFPA 1124. Under the bill, beginning on the bill's effective date, and notwithstanding the requirements of NFPA 1124 regarding automatic sprinklers, if the retail location were a permanent multitenant building or structure, it would have to be equipped with an automatic sprinkler system. This requirement would not apply to the retail location of a person that held a consumer fireworks certificate for a retail location of the same address in a permanent building or structure during the calendar year before the bill's effective date.

The Act specifies that a person that knows, or should know, that he or she is required to comply with the above provisions, and who fails or neglects to comply with these requirements, is responsible for a civil fine of \$2,500 for each violation. Under the bill, a person that failed or neglected to comply with those requirements would be responsible for a civil fine of *not more than* \$2,500 for each violation. The Department would have to determine the amount of the fine imposed by applying a scale, as developed by the LARA, that reflected the severity of the violation.

During any period of time in which a person is selling consumer fireworks, the person must add as an additional insured, or obtain and maintain public liability and product liability insurance coverage for, each retail location at which the person is selling consumer fireworks, in an amount of at least \$10.0 million per occurrence. A person that knows, or should know, that he or she is required to comply with those requirements and who fails or neglects to do so is liable for a civil fine of not more than \$5,000. Instead, under the bill, if the Department determined that a person had failed or neglected to comply with those requirements, it would have to order the person to *cease operations immediately and* pay a civil fine of not more than \$5,000.

Additionally, the bill would require a retailer to provide with every purchase of consumer fireworks a notice listing the dates and times permitted under the Act for the ignition, discharge, and use of consumer fireworks. The notice would have to begin with the following statement: "State law permits, under MCL 28.457, the ignition, discharge, and use of consumer fireworks at the following times:". The retailer could provide the notice in a form and manner determined by the retailer, including printing or stamping the notice on, or affixing it to, a receipt, bag, or the product being purchased, or a printed handout provided at the time of purchase. A retailer who failed to provide the notice would be responsible for a civil fine of \$100 for each day on which one or more violations occurred. The Department would have to provide for the payment of a fine collected for a violation to the local law enforcement agency responsible for enforcing the notice requirement.

A person could not engage in the retail sale of consumer fireworks over the telephone, internet, or other like manner unless the fireworks were picked up or shipped from a permanent location for which the person held a valid consumer fireworks certificate.

Registry

The Act requires LARA to establish and maintain an internet website that includes, among other things, a low-impact fireworks retail registry. All of the following apply to the online

registry: a) it must be maintained and operated at no cost to the user; b) the cost of maintenance and operation must be paid with funds from the Fireworks Safety Fund; and c) it must provide for instant registry without condition. The bill would delete this provision.

Under the Act, a person may not sell low-impact fireworks unless he or she registers with the registry at least 10 days before selling the fireworks. The bill also would require the person to pay a \$100 registry application fee for each retail location registered. For a person with multiple retail locations, the registry application fees in total could not exceed \$1,000. A person that held a valid consumer fireworks certificate would not be required to register.

The Act specifies that if a person that sells low-impact fireworks at retail and fails to register, the Department must order the person to cease the sale of low-impact fireworks immediately until the person registered. Under the bill, the Department also would have to order the person to pay a civil fine of not more than \$1,000.

Past Due Fees

Under the Act, LARA may refer for collection to the Department of Treasury any past due fireworks safety fees. The bill also could allow LARA to initiate subrogation for collection within the Department.

The bill would delete a provisions requiring the Department to investigate any fees reported, but not paid, by a retailer no later than September 30 of each year.

Under the bill, a person that failed to pay a fireworks safety fee would be responsible for a civil fine as follows:

- For a first violation, not more than \$10,000.
- For a second violation, not more than \$20,000.
- For a third or subsequent violation, not more than \$40,000.

Prohibitions

Sale to Minor. The Act prohibits a person from selling consumer fireworks to a minor. A person that violates this provision must pay a civil fine of not more than \$500, or, for a second or subsequent violation, \$1,000. Under the bill, the civil fine for a first violation would be \$1,000, and, for a second or subsequent violation, \$2,500.

Under the Influence. Under the Act, an individual may not discharge, ignite, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. The bill specifies that a person who violated this provision would be responsible for a civil infraction and could be ordered to pay a fine of not more than \$1,000.

Smoking. The Act specifies that an individual who violates the smoking prohibition described in NFPA 1124 is guilty of a misdemeanor punishable by up to one years' imprisonment or a civil fine of not more than \$1,000, or both. Under the bill, a person who violated the smoking prohibition, regardless of the type or quantity of consumer or low-impact fireworks present would be responsible for a civil fine of \$1,000.

Investigation

The Act requires a governmental or law enforcement agency that identifies a firework that is in violation of the Act to secure the firework and immediately notify LARA. The Department

or law enforcement agency must investigate the alleged violation for compliance with the Act within a reasonable time. The bill would delete the requirement that the Department or law enforcement agency investigate within a reasonable time.

The Act specifies that a person from whom fireworks are seized must pay the actual costs of storage and disposal of the seized firework. Under the bill, this provision would apply if the person were found guilty, responsible, or liable for a violation of the Act.

Following a final disposition of appeal of a conviction under the Act that affirms the conviction, LARA may dispose of or destroy any fireworks that were seized. The Department and the Michigan State Police may use the fireworks for training purposes. Under the bill, only the Department could use the fireworks for training purposes.

Under the Act, if, as a result of an inspection or investigation, the State Fire Marshal, or his or her designee, believes that a person has violated the Act, he or she must site the person not more than 90 days after the completion of the physical inspection or investigation.

The bill would require the State Fire Marshal, or his or her designee, to issue a citation to the holder of the consumer fireworks certificate for, or to a person conducting or directing the sale of consumer fireworks, without a certificate at, the retail location that was the subject of the inspection or investigation. A hold of a certificate, or a person conducting the sale of consumer fireworks without a certificate, would be responsible for the acts or omissions of an individual under that person's employ or control.

Applicability

Under the bill, except as otherwise provided, the Act would not prohibit a person from parking a motor vehicle, or trailer, that was not being used for the storage of consumer fireworks, within 10 feet of a permanent building or structure used in the retail sale of consumer fireworks.

Criminal History Check

Under the Act, the Department may not issue, and an individual is ineligible to be issued, a consumer fireworks certificate if the person was sentenced for a felony conviction within the preceding five years; or has ever been convicted of a felony involving theft, fraud, or arson.

Instead, under the bill, the Department could not issue, and an individual would be ineligible to be issued, a consumer fireworks certificate if the person had ever been convicted of a felony involving theft, fraud, or arson.

Homemade Fireworks

The bill would define "homemade fireworks" as any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission.

House Bill 5940 (H-3)

Except as provided in the Michigan Fireworks Safety Act, a local unit of government may not enact or enforce an ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under the Act.

A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks, including an ordinance prescribing the hours of the day or night during which a person may ignite, discharge, or use consumer fireworks.

If a local unit enacts an ordinance, it could not regulate the ignition, discharge, or use of consumer fireworks on the day preceding, the day of, or the day after a national holiday except as follows:

- A local unit with a population of 50,000 or more or a local unit located in a county with a population of 750,000 or more may regulate the ignition, discharge, or use of 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.
- A local unit with a population of less than 50,000 located in a county of less than 750,000 may regulate, discharge, or use fireworks between the hours of 1 a.m. and 8 a.m.

Instead, under the bill, an ordinance could not regulate the ignition, discharge, or use of consumer fireworks on the following days after 11 a.m.:

- December 31 until 1 a.m. on January 1.
- The Saturday and Sunday immediately preceding Memorial Day until 11:30 p.m. on each of those days.
- June 29 to July 4 until 11:30 p.m. on each of those days.
- July 5, if that date was a Friday or Saturday, until 11:30 p.m.
- The Saturday and Sunday immediately preceding Labor Day until 11:30 p.m. on each of those days.

The Act requires an ordinance regulating the ignition, discharge, and use of consumer fireworks to impose only a civil fine of not more than \$500 for each violation of the ordinance and no other fine or sanction. Under the bill, the ordinance would have to impose a fine of \$1,000 for each violation of the ordinance.

The bill would require an ordinance to provide for the payment of \$500 of the fine collected under the ordinance to the local law enforcement agency responsible for enforcing it.

Beginning August 1, 2019, a local unit of government with a population of 100,000 or more, or a local unit located in a county with a population of 750,000 or more, could enact or enforce an ordinance that regulated the use of a temporary structure. The ordinance could include a restriction on the number of permits issued for a temporary structure, regulation of the distance required between two or more temporary structure, or a zoning ordinance that regulated the use of a temporary structure. An ordinance established to regulate the use of a temporary structure could not prohibit the temporary storage, transportation, or distribution of fireworks by a consumer fireworks certificate holder at a retail location that was a permanent building or structure.

"Temporary structure" would mean a movable structure that is used in the sale, display, storage, transportation, or distribution of fireworks, including a tent or stand.

House Bill 5941 (H-3)

Under the bill, if the environment concerns based on the DNR Fire Division criteria were elevated to extreme fire conditions, or if the environmental concerns were elevated to "very high" for 72 consecutive hours, the commanding officer of the fire department of a city, village, township, or county, in consultation with the DNR, would have the authority to enforce a no-burning restriction that would include a ban on the ignition, discharge, and use of

consumer fireworks within a city, village, township, or county. If a no burning restriction were instituted, the commanding officer of the fire department enforcing the restriction would have to ensure that adequate notice of the restriction was provided to the public.

The Governor, DNR, or State Fire Marshal could enforce a statewide no-burning restriction, including a ban on the ignition, discharge, and use of fireworks.

Not more than 24 hours after the fire condition was downgraded from extreme or very high condition, the commanding officer of the fire department of a city, village, township, or county that enforced a no-burning would have to lift the ban and inform the public that the restriction had been lifted in the same manner that the restriction was announced or made known to the public.

"Consumer fireworks" would mean that term as defined in Section 2 of the Michigan Fireworks Safety Act: fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling requirements promulgated by the U.S. Consumer Product Safety Commission, and that are listed in APA Standard 87-11, 3.1.2, 3.1.3, or 3.5. Under the Act, the term does not include low-impact fireworks.

MCL 28.452 et al. (H.B. 5939)
MCL 28.457 (H.B. 5940)
MCL 29.7a (H.B. 5591)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

House Bill 5939 (H-2)

The bill would have a positive fiscal impact on the Department of Licensing and Regulatory Affairs (LARA).

The bill contains several fee increases for Consumer Fireworks Certificates:

<u>Fee Type</u>	<u>Current Law</u>	<u>HB 5939</u>
Certificate (permanent structure)	\$1,000.00	\$1,250.00
Certificate (non-permanent structure)	\$600.00	\$1,000.00
Certificate (10+ non-permanent structures) [†]	\$600.00	\$700.00
Transfer	\$25.00	\$250.00

[†] fee per structure

The magnitude of the increase in fee revenue would depend on the number of Consumer Fireworks Certificate applications received. This fee revenue is used to administer the Act and to pay the cost of delegating inspections to local units of government. As of August 2018, there were 665 active temporary certificates and 260 active permanent certificates. If the same number of certificates were issued under the new fee structure, the Department would see a fee revenue increase of \$350,000.

The bill also would add a registry application fee of \$100 for each retail location selling low-impact fireworks, with a maximum fee of \$1,000 per person. The magnitude of this impact would depend on the number of persons registering a low-impact retail location. As of August

2018, there were 558 active low-impact temporary registrations and 1,227 active low-impact permanent registrations.

Under the bill, a person who failed to register would be subject to a civil fine of not more than \$1,000. The bill also would increase the civil fine for failure to properly display a consumer fireworks certificate from \$100 to \$200. A person who failed to remit a Fireworks Safety Fee as required under the Act would be responsible for a civil fine of up to \$10,000 for a first violation, up to \$20,000 for a second violation, and up to \$40,000 for a third or subsequent violation. Revenue from each of these civil fines would be deposited into the Fireworks Safety Fund within LARA. The Department estimates that these increase would result in an additional \$14,000 annually, depending on the number and type of violations.

In addition, the bill would revise the percentage of the certificate fees paid to local governments that agree to carry out inspection duties under the Act. Under the bill, the Department would retain 50% of the fee rather than the 30% retained under current law.

Overall, the Department expects the bill to result in an additional \$1.2 million in annual revenue.

Otherwise, the bill would have no fiscal impact on the State and likely would increase revenue to local law enforcement agencies by an indeterminate amount. Aside from those civil fines discussed above, the bill would mandate a \$100 per day civil fine on retailers who failed to provide notice of the permitted dates and times for the use of fireworks. Fines collected for this violation would be remitted to the local law enforcement agency responsible for enforcing the notice requirement. The amount of increased fine revenue would depend on the number of violations.

The bill also would removes misdemeanor offenses for violations surrounding the sale and use of consumer fireworks. To the extent that changes in the bill led to decreased misdemeanor arrests and prosecutions, it could reduce resource demands on law enforcement, court systems, and jails. Any related decrease in penal fine revenue would reduce funding to public libraries.

House Bill 5940 (H-3)

The bill would have no fiscal impact on the State and likely would increase revenue to local law enforcement agencies by an indeterminate amount. It would increase the civil fine for violations of local ordinances regulating the ignition, discharge, and use of consumer fireworks. The Act currently allows for a civil fine of up to \$500, while the bill would mandate a fine of \$1,000, with \$500 to be remitted to the local law enforcement agency responsible for enforcing the ordinance. The amount of increased fine revenue would depend on the number of violations.

House Bill 5941 (H-3)

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan
Abbey Frazier
Elizabeth Raczkowski
Josh Sefton

SAS\S1718\s5939sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

From: Tammie Arend <hobokrisko@yahoo.com>

Sent: Wednesday, May 8, 2019 12:22 AM

To: sentbarrett@senate.michigan.gov; senrbayer@senate.michigan.gov; senjbizon@senate.michigan.gov; senwbrinks@senate.michigan.gov; senmbullock@senate.michigan.gov; senjbumstead@senate.michigan.gov; senschang@senate.michigan.gov; senkdaley@senate.michigan.gov; senegeiss@senate.michigan.gov; senchertel@senate.michigan.gov; senahollier@senate.michigan.gov; senkhorn@senate.michigan.gov; senjirwin@senate.michigan.gov; senrjohnson@senate.michigan.gov; senklasata@senate.michigan.gov; sendlauwers@senate.michigan.gov; senplucido@senate.michigan.gov; senmmacdonald@senate.michigan.gov; senpmacgregor@senate.michigan.gov; senemcbroom@senate.michigan.gov; sensmccann@senate.michigan.gov; senmmcmorrow@senate.michigan.gov; senjmoss@senate.michigan.gov; senanesbitt@senate.michigan.gov; senroutman@senate.michigan.gov; sendpolehanki@senate.michigan.gov; senjrune stad@senate.michigan.gov; senssantana@senate.michigan.gov; senwschmidt@senate.michigan.gov; senmshirkey@senate.michigan.gov; senistamas@senate.michigan.gov; senltheis@senate.michigan.gov; sencvanderwall@senate.michigan.gov; senrvictory@senate.michigan.gov; senpwojno@senate.michigan.gov; sendzorn@senate.michigan.gov; Wood, Carol <Carol.Wood@lansingmi.gov>; Hussain, Adam <Adam.Hussain@lansingmi.gov>; Spadafore, Peter <Peter.Spadafore@lansingmi.gov>; Lansing Mayor <Lansing.Mayor@lansingmi.gov>; Gretchen Whitmer <info@gretchenwhitmer.com>

Subject: [EXTERNAL] Hardship put upon the People of Michigan over fireworks

Dear Mayor Schor, Senators and all Council Members

After speaking with several others we would like to know why we're not being notified when there will be fireworks displayed within the city of Lansing.

You may not realize that when they're being displayed Downtown Lansing for any events the sound travels to the East Side of town and can be disturbing not only to the people but their animals as well. There has been many incidents where people will be out walking their dogs and all of a sudden the loud booms will go off and these dogs will panic and become disorientated, this could be prevented if people were informed ahead of time of these events. Please do not say that people can search the internet for any events that may be planning on displaying fireworks because this is not always as easy as it may seem to you, people should not have to get search everyday to see what may be happening, and many people get home from work and take their dogs out for a walk immediately to relieve themselves.

This evening 5/5/19 I took my fur child out into our own yard and all of a sudden they starting going off and it caused him to fall over in panic, he is 13 yrs old and has been traumatized by fireworks shortly after moving to Lansing when at 3 a.m. while sitting on our back deck some neighbor thought it would be funny to shoot them into our yard and before we could react one landed right beside his head and went off burning all of his fur from below the ear and down the neck, it also caused some hearing loss from this happening. We need a city that will listen to people and care enough when it comes to fireworks and the damages that can happen to domesticated and non domesticated animals.

Many people have to leave their homes because of the issues associated with these being set off in residential areas which causes them financial hardships when it's not

even within 10-20 feet of their homes and being set off for extended amounts of time such as when it's allowed for the 4th of July.

This could be resolved if the city officials would take the time to listen to the people when it becomes bothersome and not to mention costly. The ordinances could be changed as other cities have done to where they can not be set off within 30-50 feet of a house, garage, grill, or any other structures including wooden fences, this would not stop someone from lighting them off they would just have to find a more suitable area to ignite them.

Research has shown the disregard to wild life, domesticated animal as well as humans who have sensory issues and PTSD. It also has been documented during the holidays that allow days on to set off these fireworks are the worst time of year for pets and non domestic animals due to the loud noises and explosions which can terrify them, leading to injury or even death.

Fireworks are not animal-friendly Therefore, the explosion of a firework which can emit sounds of up to 190 decibels a full 110 to 115 decibels higher than the 75- to 80-decibel range, where damage to the human ear begins not only is proportionately more disturbing to an animal, it can also affect an animal's acute sense of hearing and balance and can be permanent damage.

Fireworks generate a noise level higher than the noise from gunshots (140 decibels) and low-level flying jets (100 decibels). Irreversible ear damage, such as tinnitus and loss of hearing in humans starts at the 80-decibel range.

There is no safe place not even in our homes, turning up TV's and stereo's can also cause hearing damages to humans and animals.

Fireworks can create joy and excitement, but restrictions must be put into place. These safety tips should be followed to protect animals from fireworks:

2019 The fireworks can now be set off for 7 days in a row from 11 a.m. to 11:45 p.m. this ends up being almost 13 hours a day for 7 days of non stop fireworks " 91 hours"

Where are we to get relief since our homes do not offer protection from the window & floor shaking booms? Maybe our city should provide a safe place for people to go instead of the ones who leave their homes and live in the back of their vehicles for days on end way out in the country just to get away when they can not afford to stay in hotels.

Personally for 3 yrs I had stayed in a hotel to get away for the 4 days and it caused such financial hardships that I would face having my gas, lights and water being turned off. I would not eat these days in order to save money which can cause more medical issues not just for me but for others who have had to do this. At the time I was only getting 700.00 a month once you take away the cost of 125.00 a day which equals \$500.00 there was not enough left to pay for food, bills, and necessities. Then there were other times I stayed in the back of my own vehicle with no air in the very hot days just to get away from the non stop booms which was very difficult to do but I had no choice.

Now with the new dates upon us this will mean the end of the month do we ignore our bills for the entire month and the next month just to be able to try and get away and have peace of mind for ourselves and our pets? We pay to keep our homes and should be able to live in them year around and if we can not who will compensate us for this? Who will pick up the cost of when we have shut offs and no food for these

months? Sure there are food banks but you do not get enough to get you through for extended amounts of time and this would end up being 2 months.

Why does every event and holiday in the city of Lansing have to consist of fireworks? When you do this you discriminate against the families who have sensory issues, PTSD, Misophonia, ASD , HYPERSENSITIVE HEARING, ADHD, and anxiety disorders and much more.

Then we have to think about the veterans who before had places to go such as a camp ground for 3 days in order to get away from the loud noises that could cause them emotional harm or much worse and now they have to try to find places to go for 7 days straight. Or do we no longer care about their well being, what are they suppose to do now? Did anyone ever think of them when we decided to change the laws? Or was it more about MONEY knowing these days would bring in more for the state of Michigan? When did a small profit come before the people of this state?

The people or even the animals need to know our city officials care and are willing to address these issues and help to find a solution.

We deserve to know when fireworks are going to be used so we can prepare for families which includes our pets, is that too much to ask for?

Is it too much to ask for consideration about changing ordinances that still work with Michigan Laws.

INTRODUCTION OF ORDINANCE

Council Member Washington introduced:

An ordinance of the City of Lansing, Michigan, to amend the Lansing codified Ordinances by Amending Chapter 1615, sections 1615.02 and 1615.06 to provide for the regulation of the days and times permitting the unlicensed ignition, discharge and use of consumer fireworks and the penalties for violation of the regulations; and to conform the regulations and penalties to the requirements of Michigan 2018 P.A. 635 regarding local government ordinances.

The Ordinance is referred to the Committee on General Services

RESOLUTION SETTING PUBLIC HEARING BY CITY COUNCIL

Resolved by the City Council of the City of Lansing that a public hearing be set for Monday, June 24, 2019 at 7 p.m. in City Council Chambers, Tenth Floor, Lansing City Hall, 124 West Michigan Avenue, Lansing, Michigan, for the purpose of Amending Chapter 1615, sections 1615.02 and 1615.06 to provide for the regulation of the days and times permitting the unlicensed ignition, discharge and use of consumer fireworks and the penalties for violation of the regulations; and to conform the regulations and penalties to the requirements of Michigan 2018 P.A. 635 regarding local government ordinances.

Interested Persons are invited to attend this Public Hearing

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO AMEND THE
LANSING CODIFIED ORDINANCES BY AMENDING CHAPTER 1615, SECTION S
1615.02 AND 1615.06 TO PROVIDE FOR THE REGULATION OF THE DAYS AND
TIMES PERMITTING THE UNLICENSED IGNITION, DISCHARGE AND USE OF
CONSUMER FIREWORKS AND THE PENALTIES FOR VIOLATION OF THE
REGULATIONS; AND TO CONFORM THE REGULATIONS AND PENALTIES TO THE
REQUIREMENTS OF MICHIGAN 2018 P.A. 635 REGARDING LOCAL GOVERNMENT
ORDINANCES.

THE CITY OF LANSING ORDAINS:

Section 1. That Chapter 1615, Sections s 1615.02 and 1615.06, of the Codified Ordinances
of the City of Lansing, Michigan, be and is hereby amended to read as follows:

~~1615.02.~~

1615.02. - Prohibitions

(a) Fireworks shall not be manufactured in the City.

(b) ~~Consumer fireworks shall not be used in the City without a license~~ NO PERSON
SHALL IGNITE, DISCHARGE, OR USE CONSUMER FIREWORKS IN THE CITY
WITHOUT A LICENSE, EXCEPT: AFTER 11:00 A.M. ON THE FOLLOWING DAYS AND
IN COMPLIANCE WITH 2018 PUBLIC ACT 635, BEING MCL 28.4~~5775~~:

(1) ~~On any day except the day preceding, day of, or day after a national holiday~~
DECEMBER 31 UNTIL 1 A.M. ON JANUARY 1.

(2) Between the hours of 12:00 midnight and 8:00 a.m. on the day preceeding, day of, or day after a national holiday, or between the hours of 1:00 a.m. and 8:00 a.m. on New Year's Day THE SATURDAY AND SUNDAY IMMEDIATELY PRECEDING MEMORIAL DAY UNTIL 11:45 P.M. ON EACH OF THOSE DAYS.

(3) JUNE 29 TO JULY 4 UNTIL 11:45 P.M. ON EACH OF THOSE DAYS.

(4) JULY 5, IF THAT DATE IS A FRIDAY OR SATURDAY, UNTIL 11:45 P.M.

(5) THE SATURDAY AND SUNDAY IMMEDIATELY PRECEDING LABOR DAY UNTIL 11:45 P.M. ON EACH OF THOSE DAYS.

1615.06. – Penalty

Unless otherwise provided by law, any person who violates any provision of this Chapter or a provision of any license issued under this Chapter is responsible for a municipal civil infraction and subject to a fine not exceeding \$500.00, plus costs of prosecution for each violation, EXCEPT ANY PERSON WHO VIOLATES SUBSECTION 1615.02(B) SHALL BE SUBJECT TO A FINE OF \$1,000, FOR EACH VIOLATION, AND FROM THE FINE COLLECTED, \$500.00 SHALL BE REMITTED TO THE LANSING POLICE DEPARTMENT BUDGET FOR ENFORCING THE ORDINANCE.

Section 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions are repealed.

Section 3. Should any section, clause or phrase of this ordinance be declared to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

Section 4. This ordinance shall take effect on the 30th day after enactment, unless given
immediate effect by City Council and shall expire May 21, 2029.

Approved as to form:

City Attorney

Dated: _____