

# **Charter Township of Orion**

**Ordinance No. 143**

## **FIREWORKS SAFETY STANDARDS**

Adopted August 20, 2012

*08/23/12*

**AN ORDINANCE TO PROTECT THE HEALTH AND WELFARE OF THE PEOPLE OF THE CHARTER TOWNSHIP OF ORION THROUGH THE ADOPTION OF LOCAL FIREWORKS SAFETY STANDARDS.****Section 1 – Preamble**

The Michigan Fireworks Safety Act, Act 256 of 2011, effective January 1, 2012, legalized the sale of consumer fireworks in Michigan, and delegated to local communities limited control over the use and discharge of the fireworks. Orion Township recognizes that fireworks endanger property, can cause physical injury, and disrupt the peace and quality of neighborhoods and commercial districts. Orion Township endeavors to reconcile the rights that this Act confers upon sellers and consumers, with the rights of the citizens, and families to reside in a safe, harmonious community. The following ordinance is adopted to impose conditions on the time, place and manner of use, discharge and ignition of fireworks deemed to be within the purview of local regulation, in consideration of health, safety and welfare of the public.

**Section 2 – Definitions**

As used in this ordinance:

*Act* means the Michigan Fireworks Safety Act, Act 256 of 2011, and any amendments to the Act which may be from time to time be adopted.

*APA standard 87-1* means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American pyrotechnics association of Bethesda, Maryland.

*Articles pyrotechnic* means the 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 C.F.R. 172.101.

*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 the APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low impact fireworks.

*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. Fireworks consist of consumer fireworks, low impact fireworks, articles pyrotechnic, display fireworks and special effects. Non-profit entities, home-owners associations, as well as profit entities may apply for a permit for display fireworks.

*Firework or Fireworks* means any composition or device, except for a starting pistol, a flare gun, or a flare, of *non-toxic or non-explosive emissions*, of 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, and special effects.

*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 3.1.18, and 3.5.

*Minor* means an individual who is less than 18 years of age.

*National Holiday* as used in this article shall mean:

New Year's Day, January 1;  
Birthday of Martin Luther King, Jr., the third Monday in January;  
George Washington's Birthday, the third Monday in February;  
Memorial Day, the last Monday in May;  
Independence Day, July 4;  
Labor Day, the first Monday in September;  
Columbus Day, the second Monday in October;  
Veteran's Day, November 11; and

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Thanksgiving Day, the fourth Tuesday in November,  
Christmas Day, December 25,  
and any holidays as may be from time to time added, removed or changed under 5 USC Section 6103, or any replacement or amended legislation.

*Novelties* means the term 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 are 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 quantity contained in each box are printed on the box; and toy smoke devices.

*Person* means any individual, agent, legal representative, association, charitable organization, church, non-profit organization, unincorporated organization, labor organization, partnership, limited liability company, corporation, or any legal entity or commercial organization. An individual shall include a Minor as defined in this article.

### **Section 3 – Prohibited Fireworks**

#### **A. Consumer Fireworks.**

A Person shall not use, ignite, or discharge Consumer Fireworks within the geographical boundaries of Orion Township, except on National Holidays, and the day before and the day after a National Holiday, provided that a Person shall not discharge consumer fireworks in violation of the Act and this article.

#### **B. Low Impact and Novelty Fireworks.**

The use, ignition or discharge of low impact and novelty fireworks may not be discharged during the hours of 10:30 p.m. to 11:00 a.m., except on the day before, the day after and the day of a National Holiday. On the day before, the day after and the day of a National Holiday, the use, ignition, or discharge of low impact fireworks and novelty fireworks is not restricted by this article, unless the use, ignition or discharge is otherwise in violation of the Act or this article.

#### **C. Illegal Fireworks.**

Any use, possession or discharge of fireworks that are illegal and not approved by the State of Michigan or the State Fire Marshall is prohibited, regardless of how it is labeled.

### **Section 4 – Minors**

A. A Minor shall not use, discharge or ignite any Consumer Fireworks, at any time, nor on any day, including National Holidays, and the day before and day after a National Holiday.

B. A Minor shall not use, discharge, or ignite any low impact fireworks or novelty fireworks, unless under supervision of a parent or guardian, and the use, discharge and ignition is within permitted hours, and does not violate the provisions of this article and the Act.

### **Section 5 – Public Property**

A. On any day, the use, discharge or ignition of any fireworks, including Consumer Fireworks, is prohibited in public parks, and a person that violates this section is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

- B. On any day, the use, discharge, or ignition of Consumer Fireworks, Low Impact Fireworks or Novelty Fireworks is prohibited on any other public property, including streets, sidewalks, easements and rights-of-way. A person violating this provision may be subject to a state civil infraction as provided under the Act.
- C. No Fireworks of any nature are permitted on the property of a school or church.

### **Section 6 – General Restrictions Including Holidays**

On any day, including the day of, the day preceding and the day after a National Holiday.

- A. Fireworks, including Consumer Fireworks, shall not be ignited within 20 feet of an open flame, a burner, gasoline, ignited gas or electric grill, or in any enclosed structure, garage, tent, or shed, or under any canopy or overhanging cover, of any nature.
- B. Excessive use of Consumer Fireworks that results in the disruption to residents is prohibited, notwithstanding anything to the contrary in the Act. Excessive use is defined as conduct that includes the continuous or intermittent ignition of fireworks continuing for more than 20 minutes during the hours of 10:30 p.m. and 11:00 a.m.
- C. No Person shall either individually or in concert with another Person, cause damage to any private or public property by the use, discharge or ignition of any Fireworks. Any violation of this provision is a misdemeanor, in addition to any penalty imposed under the Act.
- D. No Consumer Fireworks may be ignited, launched, discharged within 30 feet of a residential building, or vehicle.

### **Section 7 – Applicability of General Ordinances**

Nothing in this article or in the Act shall preclude the enforcement of ordinances prohibiting offensive conduct that is secondary or incidental or to the use, discharge or ignition of fireworks, regardless of the day.

**Section 8** – Any person selling, distributing or transporting Fireworks shall otherwise comply with the Act, and is required to obtain the approvals that are necessary under the applicable provisions of the Zoning Ordinance of Orion Township. Failure to secure applicable zoning approvals is subject to penalty as provided in the Zoning Ordinance of Orion Township.

**Section 9** – Any Fireworks that are sold, distributed or displayed in violation of the Act or the Zoning Ordinances of Orion Township are subject to seizure by the police department or the Fire Marshall, and the costs of such seizure, “destruction” and storage shall be reimbursed by the responsible person.

**Section 10** – Notwithstanding the Act, any use, discharge or ignition of Fireworks that is presenting an imminent danger or threat to the public health, safety or welfare, as deemed by the Fire Marshall, shall be prohibited, and the Fireworks may be immediately seized, and violations of this act may be subject to penalties provided by law.

### **Section 11 – Penalties**

- A. Except as provided a violation of this article is a misdemeanor, and a Person responsible may be ordered to pay a fine up to \$500, and/or subject to up to 90 days in jail.
- B. For violation of this article that is a civil infraction, a Person responsible may be ordered to pay a civil fine of up to \$500 for each violation.
- C. Any penalty for a violation of the Act shall be subject to the penalty imposed under the Act.

### **Section 12 – Seizure and Cost Recovery**

- A. All Fireworks used, discharged and ignited and possessed in violation of the Act and this article are subject to seizure. Any costs incurred by the Township to seize, destroy and store the Fireworks shall be paid by the Responsible Party.

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- B. Any costs Orion Township incurs to respond and remediate any damage to private or public property or injury to another Person shall be paid by the Responsible Party. The Township may pursue any legal remedies to collect such costs.

### **Section 13 – Display Fireworks**

No Display Fireworks shall be ignited, used or displayed unless approved by the Township Board, upon application made to the Township Clerk on a form provided by the Michigan Department of Licensing and Regulation, and proof is provided to the Township that the display and applicant are adequately insured and bonded, the applicant has submitted a security plan, safety compliance plans, insurance and bond that meet with the satisfaction of the Township Attorney, and an application fee is submitted in the minimum amount of \$750, plus any additional costs incurred by the Township to administer the permit. A permit for display fireworks is supplemental to any other requirement for such display under the ordinances, including zoning approval under the Zoning Ordinance of Orion Township but the Township Board may waive any of the requirements of this Ordinance as part of its issuance of a permit under this section. In addition to other penalties for zoning violations, a violation of this act is a misdemeanor punishable by up to 90 days in jail and/or a fine up to \$500.

### **Section 14 - Severability**

The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

### **Section 15 - Effective Date**

This Ordinance shall be published in full in a newspaper of general circulation in the Charter Township of Orion, qualified under State law to publish legal notices, and shall become effective upon publication, as provided by law.

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