

STATE OF MICHIGAN
COUNTY OF WAYNE
CHARTER TOWNSHIP OF PLYMOUTH

FIREWORKS ORDINANCE #1016

AMENDMENT #24

AN ORDINANCE OF THE CODE OF ORDINANCES OF THE CHARTER TOWNSHIP OF PLYMOUTH REGULATING FIREWORKS; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR PERMIT OR REGISTRATION; PROVIDING FOR DISCHARGE OF NOVELTIES; PROVIDING FOR PYROTECHNIC DISPLAYS; PROVIDING FOR PERMIT FOR DISCHARGE OF CONSUMER FIREWORKS; PROVIDING FOR TRANSPORTATION AND STORAGE; PROVIDING FOR TEMPORARY STRUCTURES; PROVIDING FOR PENALTY; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

THE CHARTER TOWNSHIP OF PLYMOUTH ORDAINS:

Ordinance No. #1016, Amendment 24, the Fireworks Ordinance is hereby adopted to read as follows:

SECTION I. TITLE.

This Ordinance shall be known and may be cited as the “Fireworks Ordinance.”

SECTION II. ORDINANCE.

Sec. A. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act 256 shall mean Act 256 of the Public Acts of 2011, being MCL 28.451.

Articles pyrotechnic shall mean pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction, but are 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.

Consumer fireworks shall mean firework devices that are designed to provide 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 are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.

Consumer fireworks certificate or *certificate* shall mean a certificate issued under Section 28.467a of Act 256.

Department shall mean the Michigan Department of Licensing and Regulatory Affairs.

Display fireworks shall mean 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.

Fireworks shall mean 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, and special effects.

Low-impact fireworks shall mean 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.

Novelties shall mean 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:

- (1) 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.
- (2) 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.
- (3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

Person shall include an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated association, or any other legal or commercial entity.

Special effects shall mean 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.

Temporary structure shall mean a movable structure that is used in the sale, display, storage, transportation, or distribution of consumer fireworks, including, but not limited to, a tent or a stand.

Sec. B. Exemptions.

A permit is not required under this division for the possession, ignition or discharge of novelties or low-impact fireworks. A permit for the discharge of consumer fireworks may be required under section F.

Sec. C. Permit or registration required.

(1) No person shall sell consumer fireworks in the township without having obtained a consumer fireworks certificate from the department as required by, and complied with all the requirements of Act 256, as amended. The consumer fireworks certificate shall be prominently displayed at the retail location for which the certificate was issued.

(2) No person shall sell low-impact fireworks without having registered with the low impact fireworks retail registry maintained by the department.

Sec. D. Discharge or novelties, low-impact fireworks and consumer fireworks.

(1) Except in the case of a consumer permit issued by the township under section F, consumer fireworks shall not be ignited, discharged, or used by any person at any time, except 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.

(2) When permitted, consumer fireworks and low-impact fireworks shall not be ignited or discharged on public property, school property, church property, or property of another person without that organization's or person's written permission to use consumer fireworks and low-impact fireworks on the premises.

(3) Low-impact fireworks shall not be ignited, discharged or used between the hours of 10:00 p.m. and 8:00 a.m.

(4) No fireworks shall be ignited or discharged within 70 feet of any building, or on any public street.

(5) Minors shall be prohibited from possessing, using, igniting or discharging consumer fireworks.

(6) No person shall use consumer fireworks while under the influence of alcoholic liquor or a controlled substance or both.

Sec. E. Permit for pyrotechnic displays or other use.

(1) The township board, upon application in writing, on forms provided by the department may grant a permit for the use of fireworks otherwise prohibited by section D, within the township, manufactured for outdoor pest control or agricultural purposes, or for public display by municipalities, fair associations, amusement parks, or other organizations or groups of individuals approved by the township board, if the applicable provisions of this division and the Act are complied with. After a permit has been granted, the possession or transportation of fireworks for the purposes described in the permit only may be made. A permit granted under this subsection shall not be transferable, nor shall a permit be issued to a person under the age of 18 years.

(2) Before a permit for articles pyrotechnic or display fireworks is issued, the person making application therefor shall furnish proof of financial responsibility by a bond or insurance in an amount deemed necessary by the township board, to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, or any agent or employee thereof, in the amount, character and form the township board determines necessary for the protection of the public.

(3) No permit shall be issued under this section to a nonresident person for conduct of articles pyrotechnic or display fireworks until such person has appointed in writing a resident member of the bar of this state or a resident agent to be his legal representative upon whom all process in an action or proceeding against him may be served.

(4) The township board shall rule on the competency and qualifications of operators of articles pyrotechnic or display fireworks as the operator has furnished in his application form, and on the time, place and safety aspects of the displays, before granting permits.

Sec. F. Permit for discharge of consumer fireworks.

(1) Persons wishing to discharge consumer fireworks on a day other than the day preceding, day of, or day after a national holiday shall do so only after paying a fee and obtaining a permit from the township.

(2) Application for a permit to discharge consumer fireworks under this section shall be made on forms available from the township clerk.

(3) Approval of a permit to discharge consumer fireworks shall be subject to the following minimum conditions:

(i) A minimum radial setback of 70 foot per one inch of the largest aerial device proposed to be discharged from the proposed launch site to the nearest occupied structure.

(ii) Satisfactory inspection by the fire prevention division of the township fire department upon delivery of the consumer fireworks to the proposed launch site.

(iii) Written permission of the property owner, if different than the applicant, shall be provided.

(iv) Additional reasonable conditions the fire prevention division deems necessary to protect the public health, safety and welfare.

(4) A permit under this section shall not be issued to a minor.

(5) A permit shall not be issued for any public property, including roads, road rights-of-way, or sidewalks.

(6) The required inspection shall be requested by the applicant not later than 24 hours prior to the proposed discharge. For a proposed discharge on a Saturday or Sunday, the request shall be made not later than 8:30 a.m. of the Thursday preceding the proposed day of discharge.

Sec. G. Transportation and storage.

Transportation and storage of fireworks through and in the township shall be in accordance with the requirements set forth in Act 256.

Sec. H. Temporary Structures.

No person shall maintain a temporary structure without first having obtained a permit from the Building Department. The Township Board may by resolution restrict the number of permits for a temporary structure, and set forth the terms under which a permit may be granted. This section shall not be construed to prohibit the temporary storage, transportation, or distribution of fireworks by a consumer fireworks certificate holder at a retail location that is a permanent building or structure.

SECTION III. VIOLATION AND PENALTY.

Any person who violates or fails to comply with Section II.D(1) shall be responsible for a civil infraction punishable by a civil fine of \$1,000.00. Any person who shall violate or fail to comply with any other provisions of this ordinance is responsible for a civil infraction punishable by a civil fine not to exceed \$500.00.

SECTION IV. REPEAL.

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance, except as herein provided, are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION V. SEVERABILITY.

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION VI. SAVINGS CLAUSE.

The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this Ordinance.

SECTION VII. PUBLICATION.

The Clerk for the Charter Township of Plymouth shall cause this Ordinance to be published in the manner required by law.

SECTION VIII. EFFECTIVE DATE.

Except for Section II.H, this Ordinance shall take full force and effect upon publication. Section II.H shall take effect on August 1, 2019.

CERTIFICATION

The foregoing Ordinance will have its first reading by the Township Board of Trustees of the Charter Township of Plymouth at its regular meeting called and held on the 23rd day of April, 2019, and was ordered to be given publication in the manner required by law.

Jerry Vorva
Clerk, Charter Township of Plymouth

Introduced: April 23, 2019
Published: May 9, 2019
Adopted: May 7, 2019
Effective upon Publication