

Chapter 25 - FIREWORKS

Section 1. Definitions

The following words and terms in this Ordinance are defined as follows:

- (a) “Act 256” means the Michigan Fireworks Safety Act, Act 256 of 2011, as amended.
- (b) “Alcoholic liquor” means the term as defined in Section 1d of the Michigan Vehicle Code, Act 300 of 1994, as amended, MCL 257.1d.
- (c) “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.
- (d) “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 C.F.R. part 172.101.
- (e) “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 C.F.R. parts 1500 through 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.
- (f) “Controlled substance” means the term as defined in Section 8b of the Michigan Vehicle Code, Act 300 of 1949, as amended, MCL 257.8b.
- (g) “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 C.F.R. part 555.11, 49 C.F.R. part 172, and APA Standard 87-1, 4.1.
- (h) “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, as such terms are defined by Act 256.

- (i) “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.
- (j) “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:
 - 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 (j)(1) 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.
 - 4. 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
- (k) “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.
- (l) “Public Property” means the streets, sidewalks, easements, or any other land owned by the local, county, state or federal government and used by the general public.
- (m) “Township” shall mean the Charter Township of Eureka.

Section 2. Use of Consumer Fireworks

- (a) Subject to the provisions of this Ordinance and state and federal law, person shall not ignite, discharge, or use consumer fireworks within the Township, or allow the ignition, discharge, or use of consumer fireworks within the Township, except on the following days and times:
 - 1. 11:00 a.m. on December 31 until 1 a.m. on January 1.
 - 2. 11:00 a.m. through 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day.

3. 11:00 a.m. through 11:45 a.m. on June 29 to July 4.
 4. 11:00 a.m. through 11:45 a.m. on July 5, if that date is a Friday or Saturday.
 5. 11:00 a.m. through 11:45 a.m. on the Saturday and Sunday immediately preceding Labor Day, until 11:45 p.m. on each of those days.
- (b) Consumer fireworks shall not be used if a burn ban is in effect, as provided by the State Fire Prevention Code, Public Act 207 of 1941.
 - (c) 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 person or organization's express permission to use the consumer fireworks on those premises. No person shall ignite, discharge or use consumer fireworks on Township property.
 - (d) A person shall not use consumer fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of an alcoholic liquor and a controlled substance.
 - (e) Consumer fireworks shall only be used in accordance with all applicable local, state and federal laws.

Section 3. Permit to Use Display Fireworks; Application; Insurance

- (a) No person shall use display fireworks or articles pyrotechnic within the Township for public or private display without first obtaining a permit from the Township.
- (b) A person who desires such a permit shall complete an application on a form provided by the Michigan Department of Licensing and Regulatory Affairs and pay the Township a fee, as established from time by time by resolution by the Township Board.
- (c) A copy of the required state or federal permit for the fireworks display shall be submitted with the application.
- (d) The applicant shall furnish proof of financial responsibility by a bond or insurance policy in an amount, character, and form necessary to satisfy claims for damage to persons or property in connection with the use of display fireworks, as determined by the Township Board.
- (e) The Township Board, at its discretion, may approve an application for use of display fireworks or articles pyrotechnic if it finds that all of the following standards are satisfied:

1. The application and accompanying documentation is complete and conforms to the requirements of this Ordinance.
 2. The operator of the fireworks display is competent and qualified to conduct the fireworks display.
 3. The fireworks display will not have an adverse effect upon public safety.
 4. The time, duration and location of the fireworks display will not, due to noise and other factors, unreasonably disturb the peace of persons residing within the vicinity.
 5. The Township Board, in approving an application hereunder, shall have the authority to impose such conditions as it determines in its sole reasonable discretion are necessary to assure that the fireworks display will satisfy the above standards.
- (f) A permit issued under this section is not transferable and shall not be issued to a minor.

Section 4. Fireworks Safety

No person shall recklessly endanger any person or property by the ignition, discharge or use of fireworks within the Township.

Section 5. Novelties

The Township does not regulate the sale, storage, display for sale, transportation, use, or distribution of novelties.

Section 6. Penalties and Enforcement

- (a) In accordance with the mandatory penalties imposed by Section 7(3) of Act 256, any person who violates Section 2(a) of this Ordinance shall be responsible for a municipal civil infraction and subject to payment of a civil fine of \$1,000.00 for each violation, and no other fine or sanction. \$500.00 of each civil fine shall be remitted to the Township as the law enforcement agency responsible for enforcing the Ordinance.
- (b) Any who violates Section 2(c) of this Ordinance shall be responsible for a municipal civil infraction and subject to payment of a civil fine of not more than \$500.00 for each violation,

- (c) Any person who violates any term or provision of this Ordinance, except Section 2(a) and 2(c), shall be responsible for a municipal civil infraction and subject to payment of a civil fine as well as any other action by the Township to abate the violations. The minimum fine for a municipal civil infraction under this Ordinance shall not be less than \$500.00 and not more than \$1,000.00, in the discretion of the court, and in addition to all other costs, attorney fees and expenses incurred by the Township. For any violation, the Township may seek such other relief as may be provided by law.
- (d) The following persons may issue a municipal civil infraction citation for a violation of this Ordinance if they have reasonable cause to believe that an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed the violation. Other procedures with respect to issuance of citations and other matters pertaining to violations hereof shall be as provided by law.
 - 1. The Township Supervisor.
 - 2. Any Township ordinance enforcement official appointed by the Township Board.
 - 3. The Township Zoning Administrator.
 - 4. Any law enforcement officer of the Montcalm County Sheriff's Department or the Michigan State Police.
- (e) The issuance of a municipal civil infraction citation is not an exclusive remedy, except for a violation of Section 2, and may be undertaken in addition to, or in conjunction with, all other means of enforcement, including but not limited to injunctive and other relief.

Section 7. Severability

This Ordinance and the sections and subsections thereof are severable. If any portion of this Ordinance is adjudged invalid or unenforceable by a competent court having jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 8. Repeal

All ordinance or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 9. Publication and Effective Date

This Ordinance shall become effective the day following its publication or the day following publication of a summary of its provisions in a newspaper of general circulation in the Township.