

**ORONOKO CHARTER TOWNSHIP
COUNTY OF BERRIEN
STATE OF MICHIGAN**

ORDINANCE NO. 75

An Ordinance to regulate the ignition, discharge and use of consumer fireworks within Oronoko Charter Township; to set forth definitions as used within this Ordinance; to prohibit possession by minors and sale to minors of consumer fireworks; and to provide for penalties, including fines and costs for violation of these provisions.

CHARTER TOWNSHIP OF ORONOKO, BERRIEN COUNTY, MICHIGAN ORDAINS:

SECTION 1 TITLE

This Ordinance shall be known and cited as the Oronoko Charter Township Fireworks Ordinance

SECTION 2 PURPOSE

The purpose of this Ordinance shall be to provide for and protect the public health, safety and welfare of persons within Oronoko Charter Township by establishing regulations pertaining to the ignition, discharge and use of consumer fireworks within Oronoko Charter Township.

SECTION 3 DEFINITIONS

As used in this Ordinance, the following terms shall be defined as follows:

1. *APA* as used herein means the American Pyrotechnics Association.

2. *Consumer fireworks* means fireworks devices that are designed to produce visible efforts 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 do not include low-impact fireworks.

3. *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.
4. *Firework or fireworks* means any composition or device, except for a starting pistol, a flame gun or a flare, designated 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.
5. *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.
6. *Minor* is an individual who is less than eighteen (18) years old.
7. *National holiday* means the following legal public holidays:
 - (i) New Year's Day, January 1.
 - (ii) Birthday of Martin Luther King, Jr., the third Monday in January.
 - (iii) Washington's Birthday, the third Monday in February.
 - (iv) Memorial Day, the last Monday in May.
 - (v) Independence Day, July 4.
 - (vi) Labor Day, the first Monday in September.
 - (vii) Columbus Day, the second Monday in September.
 - (viii) Veteran's Day, November 1.
 - (ix) Thanksgiving Day, the fourth Thursday in November.
 - (x) Christmas Day, December 25.

8. *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 cup, in packages labeled to indicate the maximum explosive content per cup.
 - (ii) Toy, pistols, toy cannons, toy canes, toy trick noise makers 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.
9. *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.

SECTION 4 PROHIBITION

No person shall ignite, discharge or use consumer fireworks within Oronoko Charter Township, except this prohibition shall not preclude any person from the ignition, discharge or use of consumer fireworks on the day preceding, the day of or the day after a national holiday; provided further, however, that no person shall ignite, discharge or use consumer fireworks on said days, between the hours of 1:00 A.M. and 8:00 A.M. consistent with section 7 (2) of Public act 65 of 2013.

SECTION 5 MISCELLANEOUS REQUIREMENTS / PROHIBITIONS

1. This Ordinance does not apply to and does not regulate the use of Novelties in Oronoko Charter Township.

2. A minor shall not possess consumer fireworks.
3. Consumer fireworks shall not be sold to a minor.
4. No person shall 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 these fireworks on those premises.
5. A person shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, controlled substances or a combination of alcoholic liquor and a controlled substance (as defined by MCL 257.1d and MCL 257.86)
6. Consumer fireworks shall not be used if a burn ban is in effect.
7. Consumer fireworks shall only be used in accordance with all applicable local, state and federal law.

SECTION 6 PENALTY

A person who violates a provision of this Ordinance shall, upon determination of the violation or admission by the person, be responsible for a civil infraction and shall pay a fine and costs, of not more than five hundred dollars (\$500.) for each violation plus costs; payment of all costs incurred by the Berrien Springs / Oronoko Township Police Department under the Michigan Fireworks Safety Act, MCL 28.451 et seq. as amended ("Act"), in securing, seizing, storing and disposing of the fireworks that are in violation of the Act, or this Ordinance shall be the responsibility of all persons found guilty, responsible or liable for the violation. In recognition that the police department's actual costs for any seizure will include having the personnel, equipment and facilities necessary to store fireworks in compliance with the Act, costs to be paid shall be determined in accordance with rates and methods established by resolution of the Township Board.

SECTION 7 SEVERABILITY

The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is

unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

SECTION 8 REPEAL

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 9 PUBLICATION

The Oronoko Charter Township Clerk is hereby ordered and directed to cause this Ordinance to be published as required by statute.

SECTION 10 EFFECTIVE DATE

This Ordinance and the regulations, provisions and requirements adopted hereby shall take effect and be in full force and effect upon publication of its enactment as required by statute.

MOTION TO ADOPT ORDINANCE

Proposed by Board member – Treasurer Lawrence Schalk

Supported by Board member – Trustee Robert Krause

Roll Call:

Ayes: Trustee Richard Albers, Trustee Marc Kerlikowske, Trustee Robert Krause, Treasurer Lawrence Schalk, Trustee Don Damron, Clerk Suzanne Renton, Supervisor Mike Hildebrand.

Nays: None.

Abstain: None.

Absent: None.

ORDINANCE DECLARED ENACTED

The foregoing Ordinance was enacted by the Oronoko Charter Township Board of Trustees, Berrien County, State of Michigan on the 10th day of September, 2013, and approved by its Supervisor and Clerk on said date.

ORONOKO CHARTER TOWNSHIP

By: _____
Michael Hildebrand, Supervisor

and

By: _____
Suzanne Renton, Clerk

First Reading: August 13, 2013

Second Reading: September 10, 2013

Publication of Notice: September 18, 2013