

**CHARTER TOWNSHIP OF KALAMAZOO
KALAMAZOO COUNTY, MICHIGAN**

ORDINANCE NO. 625

ADOPTED: _____

**EFFECTIVE: IMMEDIATELY UPON
PUBLICATION AFTER ADOPTION**

An Ordinance to protect the health, safety and general welfare of the citizens of the Charter Township of Kalamazoo through the regulation of use of consumer fireworks as provided in the Michigan Fireworks Safety Act, Public Act 256 of 2011 as amended; and to provide for civil sanctions and civil remedies for violation of this Ordinance.

**THE CHARTER TOWNSHIP OF KALAMAZOO
KALAMAZOO COUNTY, MICHIGAN**

ORDAINS:

**SECTION I
TITLE**

This Ordinance shall be known and may be cited as the “Charter Township of Kalamazoo Fireworks Ordinance”.

**SECTION II
DEFINITIONS**

For purposes of this Ordinance, the following definitions shall apply:

- A. Act: The Michigan Fireworks Safety Act, Public Act 256 of 2011, as it may from time to time be amended.
- B. APA: American Pyrotechnics Association.
- C. ARTICLES PYROTECHNIC: Pyrotechnic devices for professional use that are similar to consumer fireworks in chemical compositions 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. Consumer fireworks: 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.

- D. Display fireworks: 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.
- E. Homemade fireworks: 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.
- F. Low-impact fireworks: Ground and hand held 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.
- G. MINOR: An individual who is less than 18 years of age.
- H. NFPA 1123: The Code for Fireworks Display, 2010 Edition, developed by the National Fire Protection Association.

SECTION III
CONSUMER FIREWORKS PROHIBITION

A. A person shall not ignite, discharge or use consumer or homemade fireworks except on the following days after 11:00 a.m.

- (1) December 31 until 1:00 a.m. on January 1.
- (2) 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.

B. No person shall ignite, discharge or use consumer fireworks or homemade fireworks on public property, school property, church property or the property of another person without that organization's or the property owner's express written permission to use consumer fireworks or homemade fireworks on those premises.

C. Consumer fireworks shall not be sold to a minor. This age requirement shall be verified by any of the following:

- (1) An operator's or chauffeur's license issued under the Michigan Vehicle Code, 1949 PA 300, MCLA §§ 257.1 to 257.923.
- (2) An official state personal identification card issued under 1972 PA 222, MCLA §§ 28.291 to 28.300.
- (3) 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, MCLA § 28.301 to 28.308.
- (4) A military identification card.
- (5) A passport.
- (6) Any other bona fide photograph identification that establishes the identity and age of the individual.

D. 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. As used in this subsection:

- (1) "Alcoholic liquor" means that term as defined in Section 1d of the Michigan Vehicle Code, 1949 PA 300, MCLA § 257.1d.
- (2) "Controlled substance" means that term as defined in Section 8b of the Michigan Vehicle Code, 1949 PA 300, MCLA § 257.8b.

E. Environmental concerns prohibition on use of fireworks.

- (1). Notwithstanding the days and times permitting the ignition, discharge or use of consumer fireworks under § 15-30A, if the environmental concerns based on the Michigan Department of Natural Resources Fire Division criteria are elevated to extreme fire conditions or if the environmental concerns based on the Fire Division criteria are elevated to very high for 72 consecutive hours, the Fire Chief or the Fire Marshal, acting under the direction of the Fire Chief, in consultation with the Michigan Department of Natural Resources, has the authority to enforce a no-burning restriction that includes a ban on the ignition, discharge, and use of consumer fireworks, homemade fireworks and display fireworks within the Township.
- (2). If a no-burning restriction is instituted under this section, the Fire Chief or the Fire Marshal acting under the direction of the Fire Chief enforcing the restriction shall ensure that adequate notice of the restriction is provided to the public.
- (3). Not more than 24 hours after the fire condition is downgraded from extreme or very high fire condition, the Fire Chief or the Fire Marshal acting under the direction of the Fire Chief enforcing the no-burning restriction that banned the ignition, discharge, and use of fireworks shall inform the public that the restriction has been lifted in the same manner that the restriction was announced or otherwise made known to the public.

SECTION IV
DISPLAY FIREWORKS PERMIT

- A. Upon application in writing on forms provided by the State Bureau of Fire Services or its successor agency on the department's website and payment of a fee of \$150 the Township Board may grant a permit for the use of a public or private fireworks display.
- (1) Before the Township Board will issue a display fireworks permit, the person applying for the permit shall furnish proof of financial responsibility by a bond or insurance in the amount of \$5,000,000 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.
 - (2) Before granting a display fireworks permit, the Township Board determine 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.
- B. No display fireworks permit shall be granted to a minor.
- C. The Township shall retain the application fee and a copy of the proof of financial responsibility for all display fireworks.

SECTION V
CONTINUING EFFECT OF OTHER ORDINANCES

All other Charter Township of Kalamazoo ordinances not adopted pursuant to the Act shall continue in effect and may be enforced at any time of the year including, but not limited to, the day before, during or the day after a national holiday. The Township recognizes that its Noise Ordinance is pre-empted during the permissive times specified in Section III.A. of this Ordinance.

SECTION VI
REPEAL OF OBSOLETE ORDINANCES

Ordinance No. 570 "Fireworks" is hereby repealed. Ordinance No. 572 amending Ordinance 570 is hereby repealed.

SECTION VII
SEVERABILITY

Should any part of this Ordinance be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, such portion thereof shall not be deemed to affect the validity of any other part or portion of this Ordinance.

SECTION VIII
ENFORCEMENT AND SANCTIONS

A. Enforcement. This ordinance may be enforced by any law enforcement officer and the Township Fire Marshal.

B. Sanctions.

1. A violation of Section III. A. of this ordinance by any person, firm, association, partnership, or corporation is deemed to be a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine of :

- \$1,000.00 for each violation of the Ordinance; and
- \$500 of such fine shall be paid to the Charter Township of Kalamazoo Police Department in accordance with MCL 28.457.

2. Any person, firm, association, partnership, corporation, or governmental entity who violates the provisions of Section III. B, C, or D of this Ordinance shall be deemed to be responsible for a municipal civil infraction, as defined by Michigan Statute which shall be punishable by civil fine determined in accordance with the following schedule:

	<u>Minimum</u> <u>Fine</u>	<u>Maximum</u> <u>Fine</u>
1st Offense within 3-year period*	\$ 150.00	\$500.00
2nd Offense within 3-year period*	\$ 250.00	\$500.00
3rd Offense within 3-year period*	\$ 350.00	\$500.00
4th or More Offense within a 3-year period*	\$ 500.00	\$500.00

* Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which the Charter Township of Kalamazoo has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10.00 nor more than \$500.00 be ordered. In addition, the Charter Township of Kalamazoo shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance exists shall constitute a separate violation of this Ordinance.

SECTION VII
EFFECTIVE DATE

This Ordinance shall take effect the day after publication, after adoption.

KALAMAZOO CHARTER TOWNSHIP

Mark E. Miller, Township Clerk

1720 Riverview Drive

Kalamazoo, MI 49004

269-381-8080