

Part 94

94.000 - FIREWORKS SAFETY Ord. No. 482 Adopted: Oct. 3, 2016

An ordinance to protect the health, safety and general welfare of the Charter Township of Comstock through the regulation of use of fireworks, as provided in the Michigan Fireworks Safety Act, PA 256 of 2011, as amended; to provide for civil sanctions and remedies for violation of this Ordinance; and to repeal all Ordinances or parts of Ordinances in conflict herewith.

THE CHARTER TOWNSHIP OF COMSTOCK, KALAMAZOO COUNTY, MICHIGAN,
ORDAINS:

94.001 - Name.

Sec. I. This Ordinance shall be known and cited as the Charter Township of Comstock Fireworks Ordinance.

94.002 - Definitions.

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

1. Act: The Michigan Fireworks Safety Act, PA 256 of 2011, as it may be amended from time to time.
2. APA: American Pyrotechnics Association
3. 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.
4. Department: Department of Licensing and Regulatory Affairs (LARA), State of Michigan.
5. Display fireworks: Large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effect by combustion, deflagration, or detonation as provided in 27 CFR 555.11, 49 CFR 162 and APA standard 87-1, 4.1.
6. Firework or fireworks: 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.
7. Low-impact fireworks means ground and handheld sparkling devices at that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5.
8. Minor: Individual who is less than 18 years old.
9. National holiday: A national holiday is defined in 5 USC 6103 and includes: New Year's Day (January); Martin Luther King Jr. Day (third Monday in January); Washington's Birthday (third Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Columbus Day (second Monday in October); Veterans Day (November 11); Thanksgiving Day (fourth Thursday in November); Christmas Day (December 25).

10. Sky lantern: A small, unmanned, untethered, balloon-like, free-floating, aerial luminary, also known as a Chinese lantern, sky candle or fire balloon. Sky lanterns rely on an open flame suspended within or underneath the balloon to heat the air inside to provide lift.

94.003 - Consumer fireworks and sky lanterns.

Sec. III.

1. A person shall not ignite, discharge or use consumer fireworks except on the day proceeding, the day of and the day after a national holiday.
2. No person shall ignite, discharge or use consumer fireworks between the hours of 1 a.m. and 8 a.m. on other days.
3. Use of consumer fireworks must be in compliance with the Comstock Township Anti-Noise Ordinance.
4. Consumer fireworks shall not be used if a burn ban is in effect.
5. 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.
6. A person shall not 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.
7. The purchase of consumer fireworks at any time by a minor, or the possession and use of consumer fireworks by a minor except while under direct parental supervision, is prohibited.
8. Consumer fireworks shall only be used in accordance with all applicable local, state and federal laws.
9. Sky lanterns shall not be ignited, launched, released, discharged or used within the Charter Township of Comstock.

94.004 - Display fireworks.

Sec. IV.

1. The Township Board may permit display fireworks in the Charter Township of Comstock pursuant to the provisions of MCL 28.451, et seq. and this Ordinance.
2. Any person wishing to conduct a display fireworks shall, at least 45 days prior to any display, submit an application on a form furnished by the Township, pay the required fee and shall secure permission from the Township Board prior to any such fireworks display.
3. The site plan of the area where the display fireworks display is to be conducted shall be submitted with the application. The site plan shall set forth all structures in the area and within the discharge site fallout area. The site plan shall furthermore set forth the distance separating any fireworks and any spectator viewing areas. All site plans shall be forwarded to the Fire Chief and/or his designated alternate for approval, including any recommended conditions, prior to coming before the Township Board for its approval.
4. A copy of any required state or federal permit for the fireworks display shall be submitted with the application.
5. Proof of insurance conforming to the requirements of this Ordinance and PA 256 of 211 shall be submitted with the application.
6. The application shall include information as to the competency and qualifications of the fireworks display operators, as required by NFPA 1123.

7. The Township Board shall approve an application for a display fireworks display if it finds that all of the following standards are satisfied:
 - a. The application and accompanying documentation is complete and conforms to the requirements of this Ordinance.
 - b. The operator of the fireworks display is competent and qualified to conduct the fireworks display, per NFPA 1123.
 - c. The Fire Chief or his/her designated alternate has approved the application and site plan.
 - d. The fireworks display will not have an adverse effect upon public safety.
 - e. The time, duration, location of the fireworks or special effects display will not, due to noise and other factors, unreasonably disturb the peace of persons residing within the vicinity or otherwise violate the Township's Nuisance Abatement Ordinance.
 - f. 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.
8. Requirements and Restrictions.
 - a. The person conducting the fireworks display shall follow NFPA 1123 for fireworks display and/or the Township requirements set forth herein, whichever are more restrictive.
 - b. A minimum safe area of 250 feet radius, plus an additional 70 feet radius for each inch by which the fireworks shell exceeds 3 inches in diameter shall be required. The Township Board shall have the authority to grant a variance from this requirement where it determines in its sole reasonable discretion that, given 1) the nature of the subject site, 2) the nature of the surrounding area and/or 3) the nature of the proposed fireworks display, that a variance will not have a material adverse impact on public safety. In no event, however, shall the applicant fail to comply with the minimum requirements of NFPA 1123.
 - c. The applicant shall maintain personal injury liability insurance/property damage liability insurance in the amount of \$1,000,000 for each event. The Township shall be named as an additional insured on the insurance policy.
 - d. The Township Board shall not issue a permit to a nonresident person until the person has appointed in writing a member of the state bar or a resident agent to be the person's legal representative upon whom all process in an action or proceeding against the person may be served.
 - e. The applicant shall be responsible for all shells being fired. In the event one or more of the shells does not explode, the applicant shall secure the area until the unexploded shell(s) is found and properly disposed of.
 - f. The consumption of alcohol immediately prior to and during the fireworks display by any person involved in conducting the display is prohibited.
 - g. A fireworks display conducted hereunder shall conform with all specifications set forth in the approved application and site plan, as well as with any conditions imposed by the Township Board in granting such approval.
 - h. The applicant shall cause the site of the fireworks display to be cleaned up within 24 hours after the fireworks display has ended.
 - i. A permit is not transferable and shall not be granted to a minor.

94.005 - Sanctions.

Sec. V. Any person that violates any provision of this Ordinance shall be deemed responsible for a municipal civil infraction and fined in accordance with the following schedule:

| | Minimum Fine | Maximum Fine |
|--|-----------------|-----------------|
| 1st offense within 3-year period* | \$75.00 | \$500.00 |
| 2nd offense within 3-year period* | \$150.00 | \$500.00 |
| 3rd offense within 3-year period* | \$325.00 | \$500.00 |
| 4th offense within 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 Milton Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. In addition, the Township 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 continues to exist shall constitute a separate violation of this Ordinance.

94.006 - Severability.

Sec. VI. Should any section, clause or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid.

94.007 - Repeal of conflicting ordinances.

Sec. VII. All Ordinances or parts of Ordinances in conflict herewith, including, but not limited to, Ordinance 1999-01, are hereby repealed.

94.008 - Effective date.

Sec. VIII. This Ordinance shall take effect 30 days after publication following its adoption.