

**CHARTER TOWNSHIP OF BEDFORD
CALHOUN COUNTY, MICHIGAN**

ORDINANCE NUMBER 07/11/2019/35 OF 2019

**Adopted: July 11, 2019
Effective: July 18, 2019**

AN ORDINANCE ENACTED PURSUANT TO THE MICHIGAN FIREWORKS SAFETY ACT, 2011 PA 256, AS AMENDED (MCL 28.451, et seq.), TO REGULATE THE USE OF FIREWORKS WITHIN THE CHARTER TOWNSHIP OF BEDFORD; TO PROVIDE AN EFFECTIVE DATE OF SAID ORDINANCE AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

THE CHARTER TOWNSHIP OF BEDFORD ORDAINS:

FIREWORKS ORDINANCE

SECTION 1. *Purpose.* The purpose of this Ordinance is to establish a safe environment for the use and discharge of fireworks and to regulate the public health, safety, and general welfare of the persons and property in the Charter Township of Bedford and, in particular, to ensure protection of the viewing public and the property owners surrounding the discharge site of fireworks.

SECTION 2. *Definitions.*

- a. “*Act*” means the Michigan Fireworks Safety Act, 2011 PA 256, as amended (MCL 28.451, et seq.).
- b. “*Consumer fireworks*” means firework 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 American Pyrotechnics Association (“APA”) standard 87-1, 3.1.2, 3.3.3, or 3.5. Consumer fireworks do not include low-impact fireworks.
- c. “*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.
- d. “*Firework*” or “*fireworks*” means any composition or device, except for a starting pistol, a flare 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.
- e. “*Homemade fireworks*” means 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”** 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.

- g. **“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 subsection A. above 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 projectile or 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 twelve 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.

- h. **“Occupant”** means any person having immediate control of private or public premises and/or real property.

- i. **“Owner”** means any person holding legal or equitable title to a property or to real improvements upon a property.

- j. **“Premises”** means any dwelling, building or other structure designed or used wholly or in part for residential purposes, whether inhabited or vacant, and its curtilage or part thereof.

- k. **“Property”** means anything of value which is subject to ownership, including real property and fixtures.
 - l. **“Real property”** means land and whatever is erected upon, growing upon or affixed to it.

- m. **“Township”** means the Charter Township of Bedford, Calhoun County, Michigan.

SECTION 3. Prohibition on Use of Consumer Fireworks.

- a. No person shall ignite, discharge, or use fireworks within the Charter Township of Bedford at any time, except that fireworks may be discharged on the following days and times 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. Fireworks may be discharged in strict compliance with any permit issued by the Township in accordance with the Act and this ordinance.
 - c. The use of low-impact fireworks will be permitted year round.

SECTION 4. Owners and occupants. An owner or occupant shall not permit a person to ignite, discharge or use consumer fireworks on property owned or occupied by said owner or occupant within the Township except as allowed by Section 3 of this ordinance.

SECTION 5. Permit, Application, and Site Plan.

- a. Any person wishing to use consumer fireworks or display fireworks on any day, except the days and times listed in Section 3 shall, at least thirty (30) days prior to the event, pay a fee established by the Bedford Township Board and submit an application for a permit on a form created by the Michigan Department of Licensing and Regulatory Affairs and provided on the Department's website and shall secure permission from the Township Board prior to the event.
- b. A site plan of the area where the event is to be conducted shall be submitted with the application. The site plan shall set forth all structures in the area and the discharge site fallout area. The site plan shall furthermore set forth the distance separating the mortars used to launch the fireworks and the structures and also set forth the distance separating the mortars and the spectators viewing the display. All site plans must be approved by the Chief of the Bedford Charter Township Fire Department prior to the Township Board approval. The approval by the Fire Chief or Township Board may be subject to such conditions as the Chief or his/her designee may impose to properly safeguard the public, both as to persons and property; and subject to the provisions of the Michigan Fireworks Safety Act, 2011 PA 256.

SECTION 6. Enforcement. The Bedford Charter Township Fire Department Chief, his/her designees, and sworn law enforcement officers are authorized to enforce the provisions of this Ordinance.

SECTION 7. Requirements and Restrictions.

- a. Every person who ignites, discharges, or uses fireworks shall follow National Fire Protection Association (NFPA) Code 1123 for Fireworks Display and/or the Bedford Township requirements, whichever is more restrictive.
- b. Every person who is granted a permit to ignite, discharge, or use fireworks shall maintain personal liability insurance/property damage liability insurance in the amount of \$5,000,000 as a minimum during each event. Additional insurance may be required based upon conditions and/or the location of the display. The Township and its employees and/or officers shall be named as additional named insured on the insurance policy. The insurance policy must be submitted with the aforementioned application and shall be subject to the Risk Management Company's review. The insurance policy shall also include coverage for the cleanup after the event has ended (Michigan Fireworks Safety Act, 2011 PA 256, Section 16(2)).
- c. Any person using fireworks shall be responsible for all shells or devices being fired or burned. In the event any shell does not explode, the person shall secure the area until the unexploded shell is found and properly disposed of.
- d. Smoking in an area where fireworks are being used is prohibited under NFPA 1124, 7,3,11,1 and is regulated by the Michigan Fireworks Safety Act, 2011 PA 256, Section 12(4).
- e. Nothing herein limits the liability of any individual for injury to any person or property as a result of the use of fireworks, including any fire suppression costs incurred as a result of improper, careless or negligent use of fireworks.

SECTION 8. Violations, Penalties, and Seizure.

- a. Any person who violates Section 3 of this ordinance is responsible for a municipal civil infraction and punishable by a civil fine of one thousand dollars (\$1,000.00) for each violation and no other fine or sanction. Five hundred dollars (\$500.00) of the fine collected under this provision shall be remitted to the City of Battle Creek Police Department or other local law enforcement agency responsible for enforcing the ordinance as required by Section 7 of the Act (MCL 28.457).
- a. If an enforcing official determines that a violation of this Ordinance or the Michigan Fireworks Safety Act has occurred, the official may seize the fireworks as evidence of such violation.
- b. Following the final disposition of a finding of responsibility for violating this Ordinance, the Township may dispose or destroy any consumer or low impact fireworks retained as evidence in that prosecution.

SECTION 9. Repeal. Any and all ordinances and resolutions heretofore adopted in conflict herewith are hereby repealed to the extent that the provisions are inconsistent with this Ordinance.

SECTION 10. *Severability of Invalid Provisions.* If any provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provisions of this Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION 11. *Savings Clause.* A prosecution which is pending on the effective date of this Ordinance and which arose from a violation of an ordinance repealed by this Ordinance, or a prosecution which is started within one (1) year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance and which was committed prior to the effective date of this ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

SECTION 12. *Effective Date.* This Ordinance shall take effect immediately upon the date of publication pursuant to MCL 42.22, which publication shall take place within thirty (30) days from the date of adoption and shall be in a local newspaper of general circulation. Publication of a summary of this Ordinance, as part of the published proceedings of the Township Board, shall constitute publication of the Ordinance.

This Ordinance is hereby declared to have been passed and adopted by the Charter Township of Bedford, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this 11th day of July, 2019.

Rande Johnson, Supervisor

ATTEST:

Joyce Feraco, Clerk

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