

ALMONT TOWNSHIP  
LAPEER COUNTY, MICHIGAN  
FIREWORKS ORDINANCE  
ORDINANCE NO. 66

AN ORDINANCE to protect the health, safety and general welfare of Almont Township residents and property owners by regulating the firing, discharge and use of consumer fireworks and the discharge and use of display fireworks within the Township and repealing all ordinances and/or regulations in conflict therewith.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ALMONT, COUNTY OF LAPEER ORDAINS:

**Section 1. SHORT TITLE.**

This Ordinance shall be known and may be cited as the Almont Township Fireworks Ordinance. The purpose of this Ordinance is to preserve and protect public health, safety and welfare and to establish a safe environment for the discharge, ignition and use of fireworks within the Township. This Ordinance is also adopted in the interest of maintaining the comfort and quiet repose of Almont Township residents by regulating the discharge, ignition and use of fireworks in Almont Township.

**Section 2. DEFINITIONS.**

The following words, terms and phrases when used in this Ordinance shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

**Act** – means the Michigan Fireworks Safety Act, Act 256 of 2011 and any subsequent amendments to the Act.

**Agricultural or Wildlife Fireworks** – means fireworks/devices distributed to farmers, ranchers and growers through a wildlife management program administered by the United States Department of Interior of the Department of Natural Resources of Michigan.

**Alcoholic Liquor** – means that terms as defined in Section 1d of the Michigan Vehicle Code, 1949 PA 300, MCL 257.1d.

**APA Standard 87-1** – means the standard for construction and approval for the transportation of fireworks, novelties and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.

**Articles Pyrotechnic** – means pyrotechnic devices for professional use that are similar to consumer fireworks in the chemical composition and construction but are 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.

**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 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 or novelties.

**Controlled Substance** – means that term as defined in Section 8b of the Michigan Vehicle Code, 1949 PA 300, MCL 257.8b.

**Display Fireworks** – means 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, 49CFR 172 and APA standard 87-1, 4.1

**Firework or Fireworks** – means any composition or device, except for a starting pistol, 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. Novelties and low impact fireworks are excluded from this definition.

**Low Impact Firework** – means ground and handheld sparkling devices as that phrase is defined in APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5p.

**Minor** – means an individual who is less than 18 years of age.

**National Holiday** – as used in this Ordinance means those holidays listed in 5 U.S.C. 6103, as it may be amended; currently, those are the following:

- New Year's Day (January 1);
- 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)

**NFPA** – means the National Fire Protection Association.

**Novelties** – means the 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:

- (a) 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.
- (b) Toy pistols, toy cannons, toy canes, toy trick noisemakers and toy guns in which toy caps as described in the above paragraph, 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.
- (c) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- (d) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacture's name and the quantity contained in each box are printed on the box; and toy smoke devices.

**Person** – means any individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization or any other legal or commercial entity. An individual shall include a minor as defined in the Ordinance.

**Special Effects** – means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce audible, visual, mechanical or thermal effects as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

### **Section 3. FIREWORKS REQUIRING A TOWNSHIP BOARD ENDORSED PERMIT.**

#### **A. Application**

A person, firm, partnership or corporation wishing to stage a fireworks display utilizing display fireworks, articles pyrotechnics, agricultural or wildlife fireworks or special effects, as defined in this ordinance shall at least sixty (60) days prior to the display, submit an application on forms promulgated by the Michigan Department of Licensing and Regulatory Affairs. The applicant shall secure permission from the Township Board prior to the fireworks display per Act 256 of 2011 Section 28.466 Section 16. The Township Board shall base their decision to approve or deny the request on the following criteria:

1. The nature and extent of the proposed fireworks display;
2. The date and time in which the fireworks display is proposed;
3. The location of the proposed display and its proximity to residences;

4. The experience of the pyrotechnic operator in conducting such displays;
5. The recommendation of the Almont Township Fire Department.
6. Applicants must be eighteen (18) years or older.
7. Applicants must provide proof of \$1,000,000 coverage for personal liability insurance for each accident or occurrence. The insurance policy must name Almont Township as an additional insured.
8. The Township shall not approve or otherwise grant a permit for display of fireworks or pyrotechnic fireworks ignition to a non-resident person, firm or corporation until that person, firm or corporation has appointed, in writing, a resident member of the Township to be a legal representative upon whom all process, in an action or proceeding against the person, firm or corporation may be served.

The Township reserves the right to withdraw or delay a previously approved permit if conditions associated with a site where a fireworks display will occur change in a manner that would negatively impact the health, safety and welfare of the residents of Almont Township.

A site plan of the area where the fireworks display is to be conducted shall be submitted with the application. The site plan shall set forth the following information:

1. The location of all structures on neighboring properties and within the discharge site fallout area;
2. The location of all parking and spectator viewing areas;
3. The distance separating the mortars used to launch the fireworks and the structures;
4. The distance separating the mortars and the spectators viewing the display.

**B. Issuance of permit**

Once a permit is granted, the use of fireworks must strictly conform to the conditions of the permit. Permits are not transferable. Permits shall be conditioned upon the applicant cleaning up all debris caused or created by the fireworks display within twenty-four (24) hours of the display. A violation of the conditions of the permit is a violation of this Ordinance. There will be no fee for the permit unless it is determined that it will be necessary for on-site firefighters and equipment.

**Section 4. Consumer Fireworks Regulations and Prohibited Conduct**

- A. It shall be **unlawful** for any person to ignite, discharge or use consumer fireworks, as defined in this Ordinance, **except** on the day preceding, the day of or the day after the following national holidays:

1. New Years Day ( January 1)

2. Martin Luther King Jr. Day (Third Monday in January)
  3. Washington's Birthday (Third Monday in February)
  4. Memorial Day (Last Monday in May)
  5. Independence Day ( July 4)
  6. Labor Day (First Monday in September)
  7. Columbus Day (Second Monday in October)
  8. Veterans Day (November 11)
  9. Thanksgiving Day (Fourth Thursday in November)
  10. Christmas Day (December 25)
- B. Consumer fireworks shall not be ignited, discharged or used between the hours of 1 a.m. and 8 a.m. on the dates/national holidays listed in Section 4A.
- 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 organization's or person's express written permission to use those fireworks on those premises.
- D. Consumer fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or controlled substances or a combination of both.
- E. Low impact fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or controlled substances or a combination of both.
- F. This Ordinance shall not apply to low impact fireworks and novelties.
- G. A minor shall not possess, ignite, discharge or use consumer fireworks.
- H. All debris caused or created by the fireworks must be cleaned up within twenty-four (24) hours after ignition or discharge.

**Section 5. DROUGHT; FIRE RISK**

A person shall not use, ignite or discharge fireworks during a drought or on any day or during anytime that the Michigan DNR has identified the Fire Danger Rating as "high", "very high" and/or "extreme conditions exist." Such information may be obtained by viewing the Michigan DNR website.

**Section 6. PENALTY; VIOLATION.**

Any violation of this ordinance shall constitute a misdemeanor and be punishable by fines up to \$500.00 and/or ninety (90) days in jail at the discretion of the court.

**Section 7. REPEAL OF CONFLICTING PROVISIONS.**

All resolutions, Ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict, hereby repealed. Additionally, Ordinance No. 54 is hereby repealed in its entirety.

**Section 8. SEVERABILITY.**

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 9. PUBLICATION.**

This Ordinance or a summary thereof shall be published in The Tri City Times, a newspaper of general circulation in the Township of Almont, within thirty (30) days after its adoption.

**SECTION 10. EFFECTIVE DATE**

This Ordinance shall take effect thirty (30) days after the date of publication of a true copy, or a summary thereof, in a newspaper circulating within the Township of Almont, as provided in Section 9.

**CERTIFICATE OF TOWNSHIP CLERK**

I certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of the Township of Almont, Lapeer County, Michigan, at a meeting held on the 8<sup>th</sup> day of May A.D., 2017.

I further certify that the following Township Board Members were present at the meeting: Bowman, Hoffner, Streeter, Groesbeck, S. Stroup, C. Stroup and the following Township Board members were absent: Kudsin

I further certify that Member Streeter moved for the adoption of the Ordinance, and that motion was supported by Member Clay Stroup. I further certify that the following Township Board Members voted for the adoption of the Ordinance:

C. Stroup, S. Stroup, Streeter, Groesbeck, Hoffner, Bowman and that the following Township Board Members voted against adoption of the Ordinance: None

Carol Hoffner  
TOWNSHIP OF ALMONT CLERK

**CERTIFICATE OF PUBLICATION**

I, the undersigned Township Clerk of the Township of Almont, do hereby certify that on May 17, 2017 the foregoing Ordinance, or summary thereof, was duly published in the Tri City Times, a newspaper having general circulation within the Township of Almont.

Carol Hoffner  
TOWNSHIP OF ALMONT CLERK