

## CHARTER TOWNSHIP OF OXFORD

### FIREWORKS ORDINANCE - ORDINANCE NO. 124

An ordinance to amend the Fireworks regulations in the Oxford Charter Township Code of Ordinances to conform with and exercise authority under the Michigan Fireworks Safety Act ("Act"), Public Act No. 256 of 2011, as amended.

THE CHARTER TOWNSHIP OF OXFORD ("Township") ORDAINS:

Section 26-12 of Chapter 26, Fire Prevention and Protection, of the Oxford Charter Township Code is hereby amended to read as follows:

#### **Sec. 26-12 Fireworks.**

- (a) *Definitions and adoption by reference.* As used in this section, the following words and phrases have the meanings indicated.
- (1) Act means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 et seq., as amended.
  - (2) 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.
  - (3) "Firework" or "fireworks" means 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.
  - (4) "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.
  - (5) National holiday means the following legal public holidays:

**New Years Day** (January 1),  
**Birthday of Martin Luther King, Jr.** (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),  
**Veteran's Day** (November 11),

**Thanksgiving Day** (fourth Thursday in November),  
**Christmas Day** (December 25).

- (6) "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.
- (b) Except as provided in this Ordinance, the use, storage, sale and possession of fireworks, explosives and pyrotechnics of any type and the use of consumer fireworks on the day proceeding the day of and the day after a national holiday within the Township shall be governed in accordance with state law found at MCL 28.451 et seq., as amended.
- (c) A permit from the Township is required for the ignition, discharge, and use of consumer fireworks within the Township (a "Permit").
- (d) An applicant for a Permit under subsection (c) shall pay to the Township a nonrefundable application fee to defray the Township's costs of reviewing the application, with the amount of such fee set by resolution of the Township board. Additionally, an applicant for a Permit under this section shall pay to the Township an amount of money, as determined by resolution of the Township board, to be placed in escrow, to defray the cost to the Township for outside reviews of the application, including but not necessarily limited to a review by the Township attorney. Any amount of money placed into the escrow that is not used to defray such review costs shall be returned to the applicant, and, if the initial amount of money placed into escrow is insufficient to cover the cost of the reviews, then the applicant shall be required to place such additional amount of money into escrow as needed to defray such costs. Permits will be considered by action of the Township Board as requested and with the approval of the Oxford Fire Department.
- (e) The Township shall notify, at the applicant's expense, by written notice to the address of record, the owners of all property located within one-quarter (1/4) mile of a fireworks display proposed under subsection (b), of the date and time of any Township board meeting at which the application for a Permit for such display will be considered by the Township board.
- (f) A condition of any Permit granted pursuant to subsection (c) shall be that any fireworks display conducted pursuant to such Permit shall be concluded prior to 11:00 p.m. eastern standard time.
- (g) Compliance with Applicable Ordinances and Codes.

Unless otherwise provided in this Ordinance, a retailer or wholesaler of fireworks located in the Township must comply with the requirements of the Township

Zoning Ordinance, NFPA standards, the International Fire Code, as well as all building codes and regulations, and nothing in this Ordinance or in Act 256 of 2011 shall preclude the enforcement of Ordinances prohibiting offensive conduct that is secondary or incidental to the use, discharge or ignition of fireworks, regardless of the day.

(h) Prohibited ignition, discharge, and use of consumer fireworks.

No person shall ignite, discharge, and use fireworks within the Township at any time, except that:

- (1) Fireworks may be discharged in strict compliance with any Permit issued by the Township in accordance with the Act.
- (2) Consumer fireworks may be discharged without a Permit on the day preceding, the day of, and the day after a National holiday.
- (3) Except as provided in subsection h(6) below, this subsection (h) shall not apply to low-impact fireworks.
- (4) Consumer fireworks shall not be ignited, discharged, or used on public, school, church, or private property of another person without the express written permission from the person or entity legally in possession and control of that property, to use those fireworks on that property.
- (5) Consumer fireworks shall not be ignited, discharged, or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both.
- (6) Low-impact fireworks shall not be ignited, discharged, or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both.
- (7) Unmanned free floating devices. Any unmanned free-floating device (sky Lanterns) which requires fire underneath to propel it and is not moored to the ground while aloft, have an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk and are therefore prohibited.

(i) Enforcement.

This section 26-12 may be enforced by the Township Supervisor or their designee, the Township Fire Chief or their designee(s), and any sworn law enforcement officer.

(j) Determination of Violation; seizure of fireworks

If an enforcing official determines that a violation of this Section has occurred, the official may seize the fireworks as evidence of such violation.

(k) Penalties

Any person or persons violating any of the provisions of this Ordinance shall be subject to a misdemeanor violation as set forth in Section 1-7 of the Charter Township of Oxford Code of Ordinances.

The Township may sue in any court of competent jurisdiction for damages to recover its fees, costs and expenses incurred from any person, firm, association or corporation who violates this Ordinance.

(l) Repealer

All Ordinances, Resolutions or parts thereof in conflict with the provisions of this Ordinance are hereby repealed.

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.

(m) Severability

The several provisions of this Ordinance are declared to be separate; if any court of law shall hold that any section or provision thereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this Ordinance and any other Ordinance per Section 1-8 of the Oxford Charter Township Code of Ordinances.

(n) Savings

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

(o) Effective Date

This Ordinance shall take effect immediately after its publication in a newspaper of general circulation in the Township. All previous ordinances or parts of ordinances in conflict herewith are hereby repealed.

## APPENDIX A

### CHARTER TOWNSHIP OF OXFORD COUNTY OF OAKLAND STATE OF MICHIGAN

#### RESOLUTION

**WHEREAS**, the Charter Township of Oxford ("Township") is authorized by Section 26-12(d) of Chapter 26, Fire Prevention and Protection, of the Oxford Charter Township Code of Ordinances to review applications for a fireworks permit within the Township; and

**WHEREAS**, Section 26-12(d) of Chapter 26, Fire Prevention and Protection, of the Oxford Charter Township Code of Ordinances requires the applicant to be responsible for all outside consultant reviews; and

**WHEREAS**, all fees shall be paid by the applicant upon the filing of an application for a fireworks permit; and

**WHEREAS**, Section 26-12(d) of Chapter 26, Fire Prevention and Protection, of the Oxford Charter Township Code of Ordinances provides that such fees shall be determined by resolution.

**NOW, THEREFORE, BE IT RESOLVED**, that the application fees for a fireworks permit shall be as follows:

1. **Base Fee.** An applicant shall pay a non-refundable fee of \$100.00 to defray the Township's internal administrative costs in reviewing the application for the proposed fireworks permit.
2. **Escrow**
  - 2.1 An applicant shall pay an additional \$500.00 into escrow, to defray the costs of the Township's consultant reviews of the application for the fireworks permit, including, but not limited to, the fees for attorneys, planners, engineer reviews, and to defray the costs to the Oakland County Sheriff's Department and the Oxford Fire department reviews.
  - 2.2 If the costs of reviews described in paragraph 2.1 above, exceed the amount placed in escrow, then the applicant shall pay the additional costs.
  - 2.3 Any funds remaining in such escrow after the Township has made a determination to approve or reject the fireworks application shall be returned to the applicant.
3. **Special Meeting.** If the applicant requests for a Special Meeting of the Township Board of Trustees, then the applicant shall pay an additional non-refundable fee of \$600.00 for the Special Meeting.

MOVED:

SECONDED:

Ayes:

Nays:

Absent:

Adopted at a regular meeting of the Charter Township of Oxford Board of Trustees held on the 12<sup>th</sup> day of September 2012.

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Curtis W. Wright, Clerk

STATE OF MICHIGAN     )  
                                      )ss  
COUNTY OF OAKLAND    )

I, Curtis W. Wright, duly elected Clerk of the Charter Township of Oxford do hereby certify that the foregoing is a true copy of a Resolution adopted by the Charter Township of Oxford at a regular meeting of the Board of Trustees held on the 12th day of September 2012.

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Curtis W. Wright, Clerk