

PART 67: ORDINANCE 5
USE OF FIREWORKS

AN ORDINANCE AMENDING PART 67, ORDINANCE 5, "SALE OR USE OF FIREWORKS," OF THE LENOX TOWNSHIP BOOK OF ORDINANCES IN ORDER TO SPECIFY THAT IGNITION AND DISCHARGE OF FIREWORKS IS NOT PERMITTED IN THE TOWNSHIP EXCEPT ON CERTAIN DAYS AND AT CERTAIN TIMES, IN ACCORDANCE WITH STATE LAW, AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF.

LENOX TOWNSHIP ORDAINS:

Ordinance 5, "Sale or Use of Fireworks," in Part 67, "Law Enforcement/Offenses," of the Lenox Township Book of Ordinances is hereby retitled "Use of Fireworks" and is amended to read as follows:

SECTION 1: Definitions.

As used in this Section, the following words and phrases have the meanings set forth herein:

Act means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 *et seq.*, as amended.

Articles pyrotechnic means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition 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.

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.

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.

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.

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.

National holiday means New Year's 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); Veterans Day (November 11); Thanksgiving Day (fourth Thursday in November); and Christmas Day (December 25).

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:

(i) 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.

(ii) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) 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 missile by the explosion.

(iii) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(iv) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 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.

SECTION 2: General prohibitions; exception.

No person shall ignite, discharge, or 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 between the hours of 8:00 a.m. and 12:00 midnight only on the day before, the day of, and the day after, a national holiday, except on New Year's Day when consumer fireworks may also be discharged between the hours of 12:00 midnight and 1:00 a.m.; and

(3) This Section shall not apply to low impact fireworks.

SECTION 3: Additional prohibitions.

(1) Consumer fireworks shall not be ignited, discharged, or used on public property, including public streets and rights-of-way, or on school property, church property, or the private property of another, without the express written permission from the person or entity legally in possession and control of that property to undertake such action.

(2) 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.

(3) 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.

SECTION 4: Novelties not regulated.

This Ordinance does not apply to novelties.

SECTION 5: Determination of Violation; seizure of fireworks; penalty.

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

(2) A violation of any of the provision of this Ordinance shall be deemed to be a municipal civil infraction that is subject to the civil fines as specified or referenced in Part 7, "Administration/Enforcement," Ordinance 1, "Municipal Civil Infractions," of the Lenox Township Book of Ordinances.

SECTION 6: Severability.

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated, and such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

SECTION 7: Repealer.

All ordinances, parts of ordinances, or sections of the Lenox Township Book of Ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 8: Savings.

