

ALLENDALE CHARTER TOWNSHIP

Ordinance No. 2019-6

FIREWORKS POSSESSION, DISPLAYS, SHOWS, DEMONSTRATIONS, STORAGE
OR SALE ORDINANCE

AN ORDINANCE TO REGULATE FIREWORKS POSSESSION, DISPLAYS, SHOWS OR DEMONSTRATIONS IN ALLENDALE CHARTER TOWNSHIP, COUNTY OF OTTAWA, STATE OF MICHIGAN; TO PROVIDE FOR APPLICATIONS TO THE ALLENDALE CHARTER TOWNSHIP FOR PROFESSIONAL FIREWORKS POSSESSION, DISPLAYS, SHOWS, OR DEMONSTRATIONS; TO ESTABLISH PROCEDURES RELATED TO THE SAME; TO PROVIDE FOR PERMITS TO BE ISSUED BY THE TOWNSHIP; TO PROVIDE REGULATIONS FOR COMMERCIAL FIREWORKS AND TO PROVIDE FOR PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.

THE CHARTER TOWNSHIP OF ALLENDALE, COUNTY OF OTTAWA AND STATE OF MICHIGAN ORDAINS:

Section 1. Purpose and Intent.

The purpose of this Ordinance is to establish a safe environment for the storage and discharge of fireworks and to ensure protection for the viewing public and property owners.

Section 2. Consumer Fireworks.

A. Definitions.

The following words and phrases, when used in this section, shall have the meanings respectively ascribed to them:

- (1) *Alcoholic liquor* means that term as defined in section 1d of the Michigan Vehicle Code. 1949 PA 300, MCL 257.1d, as amended.
- (2) *APA standard 87-1* means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, as published by the American Pyrotechnics Association of Bethesda, Maryland.
- (3) *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, as amended, 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) *Controlled substance* means that term as defined in section 8b of the Michigan Vehicle Code. 1949 PA 100, MCL 257.8b, as amended.
- (5) *Fireworks* means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing visible or audible effect by combustion, deflagration, or detonation.
- (6) *Low-impact fireworks* 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 3.5.
- (7) *Minor* means an individual who is less than eighteen (18) years of age.

B. Possession of consumer fireworks by a minor.

A minor shall not possess, ignite, discharge or use consumer fireworks.

C. Prohibited Conduct.

1. 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 permission to use those fireworks on those premises.
2. A person shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination thereof.
3. A person shall not ignite, discharge, or use consumer fireworks if the environmental concerns based on the department of natural resources fire division criteria are elevated to extreme fire conditions or if the environmental concerns based on the department of natural resources, fire division criteria are elevated to very high for 72 consecutive hours and the commanding officer of the fire department, in consultation with the department of natural resources, enforces a no burning restriction that includes a ban on the ignition, discharge, and use of consumer fireworks. If a no burning restriction is instituted under this section, the commanding officer of the fire department enforcing the restriction shall ensure that adequate notice of the restriction is provided to the public.
4. A person shall not ignite, discharge or use consumer fireworks except on the following days after 11 am
 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 these 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.

D. Determination of violation; seizure.

If any police officer determines that a violation of this Article has occurred, the officer may seize the consumer fireworks as evidence of the violation.

E. Local, state and federal law requirements.

Nothing contained within this Article shall be construed to relieve a person of any duties and obligations imposed under any local, state or federal laws, rules, regulations, license of permit requirements.

Section 3. Professional Fireworks.

A. Application and Site Plan.

Any person wishing to stage or conduct a professional fireworks Display, Show or Demonstration (hereinafter, "Fireworks Display") shall, at least 60 days prior to the event, submit an application to the Township on a form furnished by the Bureau of Fire Services (or successor entity) and shall secure permission from the Township Board (by means of the issuance of a Township Permit) prior to the fireworks display occurring. The Township Board may waive such 60-day application deadline for good cause shown by the applicant, but in no event will the Township approve a fully complete application filed with the Township less than 14 days before the event.

1. A site plan of the area of fireworks Discharge Site and Display Site shall be submitted together with the application. The Site Plan shall set forth all structures and buildings in the area and the Discharge Site fallout area. The Site Plan shall set forth all distances separating the mortars used to launch the fireworks from all structures and buildings, and shall also set forth the distance separating the mortars from the spectators viewing the Fireworks Display, including off street parking of spectators vehicles. All Site Plans must be subject to the approval of the Allendale Charter Township Fire Department following NFPA 1123 Guidelines prior to Township Board approval.
2. A non-refundable application fee in an amount determined by Township Board resolution (payable to the Township) must accompany any such application.
3. The Township Board may attach reasonable conditions to the issuance of a permit hereunder, including, but not limited to, the following:
 - a. Requiring a bond, irrevocable letter of credit, or other monetary security to ensure full compliance with Michigan Law, this Ordinance, and any approval hereunder, as well as to provide security for any damages caused;
 - b. Imposing/requiring setback and isolation areas;

- c. Requiring reimbursement of police and firefighter cost and expenses;
- d. Requiring the applicant to sign an indemnification/hold harmless agreement benefiting the Township (as well as its employees, officers, officials, agents and personnel);
- e. Requiring the applicant to pay for any and all damages and cost related to, arising out of, or caused by the Fireworks Display (which shall be in addition to any other requirements imposed on the applicant, including insurance coverage requirements and the signing of any hold harmless/indemnification agreement).

B. Requirements and Restrictions.

1. The Federal Safe Explosives Act of 2002 shall be followed and proof of required License and Permit from the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives shall be submitted for verification.
2. All fireworks shall be stored in an approved magazine.
3. The Fireworks Company, Person, or Firm conducting the Fireworks Display shall follow National Fire Protection Association (NFPA) Code Sections 1123, 1124, and 1126 for the Fireworks Display and or the Township requirements, whichever is more restrictive.
4. The Fireworks Company, Person, or Firm shall maintain personal injury liability insurance/property damage liability insurance in the minimum amount of \$1,500.00 during each event. The Township shall be named as an additional insured on the insurance policy. The insurance policy shall also include coverage for the cleanup after the Fireworks Display has ended.
5. The Fireworks Company, Person, or Firm shall be responsible for all shells being fired. In the event one of the shells does not explode, the Fireworks Company, Person, or Firm shall secure the area until the unexploded shell is found and properly disposed of.
6. The consumption of alcohol or any drugs that could impair the user prior to and during a Fireworks Display by the Operator, Shooter, Spotter or any Person on site employed by the Fireworks Company is strictly prohibited.
7. The Fireworks Display shall have a time of ONE HOUR, starting with the first discharge to the completion of the event. At no event shall the discharge time be 1:00 am to 8:00 am. Exception: With board approval for New Year's Eve/Day.
8. All Fireworks Displays shall be conducted in a safe and lawful fashion.
9. All Fireworks Displays events shall obtain any and all required Federal, State and County permits (where applicable) and shall comply with all applicable State and County regulations, rules and laws.

C. Procedures.

Any Fireworks Company, Person, or Firm intending to sell, transport, possess, discharge or cause to discharge any CLASS 1.3 and or CLASS 1.4 fireworks as described by MCLA 750.243a must meet all requirements of Chapter 39 of Michigan PA 328 of 1931, as amended, and this Ordinance. The following is the minimum that a Fireworks Company, Person, or Firm must meet prior to the issuance of a permit by the Allendale Charter Township Board.

1. Complete the application for a permit as required by the Allendale Charter Township Board 60 days prior to event for all sub approvals to be completed.
2. Pay the permit application fee as established by the Township Board.
3. Submit to the Township copies of any State and Federal required permits and licenses.
4. Submit a scaled drawing of the Discharge Site and Display Site, including but not limited to surrounding buildings and parking areas (off street) as required per NFPA 1123.
5. Provide copies of letters of approval or disapproval of all property owners within a ¼ mile radius of the discharge site.
6. Provide proof of one of the following:
 - a. The Applicant is licensed as a Pyrotechnic Operator by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives.
 - b. The Applicant has contracted a Pyrotechnic Operator licensed by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives has been contracted to conduct the display.
 - c. That the Applicant is at least age (21), and has completed the required training, competency and qualifications as the Pyrotechnic Operator, as per MCL 750.243b (5) for approval, to be the operator of requested permit.
7. Demonstrate knowledge of the recommended safety requirements outlined in NFPA 1123, 1124, and 1126.
8. Provide proof of required liability insurance with the Allendale Charter Township listed as an additional insured on the policy. Such proof of insurance shall be subject to approval of the Township Insurance Carrier.
9. The Allendale Charter Township Fire Department's representative shall conduct a Discharge Site and Display Site review and make recommendations to the Township Board based on his/her observations.
10. When the Applicant has met all the above stated requirements, the Applicant shall contact the Township Clerk to schedule an appearance at a meeting of the Allendale Charter Township Board, at which time the Board will consider the permit application.

Section 4. Enforcement and Penalties.

- a. This Ordinance may be enforced by a police officer or other personnel of the Township authorized by the Township Board to enforce Township Ordinances.
- b. Violation of this Ordinance shall be a misdemeanor which shall be punishable upon conviction thereof by a civil fine not exceeding \$1,000. (one thousand dollars) for each violation or by imprisonment at the discretion of the court. Remittance of \$500.00 of the fine collected will be released to the local law enforcement agency responsible for enforcing this ordinance.

Section 5. Severability.

If any portion of this Ordinance is determined to be unenforceable or unconstitutional by a court of competent jurisdiction, then that part shall be deemed severable from the remainder of the Ordinance, and such severance shall not affect the remainder of the Ordinance, which shall remain in full force and effect.

Section 6. Effective Date.

This Ordinance was approved and adopted by the Township Board of the Charter Township of Allendale, Ottawa County, Michigan, on May 28, 2019, after introduction and a first reading on May 13, 2019, and publication after such first reading as required by Michigan Act 259 of 1947, as amended. This Ordinance shall be effective on June 15, 2019.

ALLENDALE CHARTER TOWNSHIP

Dated: May 28, 2019

By: _____
Adam Elenbaas
Its: Supervisor

By: _____
Laurie Richards
Its: Clerk

CERTIFICATE

We, Adam Elenbaas, and Laurie Richards, the Supervisor and the Clerk, respectively, for the Charter Township of Allendale, Ottawa County, Michigan, do hereby certify that the foregoing Allendale Charter Township Fireworks Possession, Display, Shows, Demonstrations, Storage or Sale Ordinance was adopted at a regular meeting of the Allendale Charter Township Board held on May 28, 2019. The following members of the Township Board were present at the meeting: Elenbaas, Richards, VanderWall, Kraker, Zeinstra, and Hoekstra. The following members of the Township Board were absent: VanderVeen. The Ordinance was adopted by the Township Board with member of the Board Elenbaas, Richards, VanderWall, Kraker, Zeinstra, and Hoekstra voting in favor and members of the Board _____ voting in opposition. The Ordinance was published in the Sunday Edition of the Grand Rapids Press on June 9, 2019.

Adam Elenbaas, Supervisor

Laurie Richards, Clerk