

# CHARTER TOWNSHIP OF WEST BLOOMFIELD

## ORDINANCE NO. C-778-B

### FIREWORKS

AN ORDINANCE TO AMEND CHAPTER 11, FIRE PREVENTION AND PROTECTION, ARTICLE III, FIRE PREVENTION CODE, SECTION 11-38 OF THE CODE OF ORDINANCES TITLED FIREWORKS.

#### CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

##### Section 1 of Ordinance

Chapter 11, Section 11-38(a) (8), (b)(2), (c) and (h) of the West Bloomfield Charter Township Code of Ordinances is hereby amended to read as follows:

Sec. 11-38. - 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 to 28.471, as amended, which is hereby adopted by reference as a part of this Code Section 11-38.
  - (2) *Articles pyrotechnic* as defined in the Act means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction.
  - (3) *Consumer fireworks* as defined in the Act 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 and that are in compliance with the construction, chemical composition, labeling, and other requirements in the Act. Novelties and low-impact fireworks as defined in the Act are not consumer fireworks.
  - (4) *Display fireworks* as defined in the Act 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.
  - (5) *Fireworks* as defined in the Act 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 and consisting of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

- (6) *Low-impact fireworks* as defined in the Act means ground and handheld sparkling devices.
  - (7) *Minor* is an individual who is less than eighteen (18) years of age.
  - (8) *National holiday* under the Act, means New Year's Day (January 1), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September),.
  - (9) *Novelties* as defined in the Act means all of the following:
    - (a) Toy plastic or paper caps for toy pistols in sheets, strips, roll, 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 canons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in paragraph 9(a) 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.
    - (c) Flitter sparklers in paper tubes not exceeding one-eighth inch (1/8") in diameter.
    - (d) Toy snakes not containing mercury, if packed in cardboard boxes with not more than twelve (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.
  - (10) *Special effects* as defined in the Act 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 an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.
- (b) *Prohibited ignition, discharge, and use.* Except in the following situations, fireworks shall not be ignited, discharged or used in the Township:
- (1) In compliance with a permit granted by the Township Board as provided in Section 16 of the Act.
  - (2) Consumer fireworks may be ignited, discharged or used in the Township on the following days after 11 a.m.:
    - (a) December 31 until 1 a.m. on January 1;
    - (b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days;
    - (c) June 29 to July 4 until 11:45 p.m. on each of those days;
    - (d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.;

- (e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
  - (3) Low-impact fireworks by a person that is not under the influence of alcoholic liquor or a controlled substance.
- (c) *Consumer fireworks prohibitions.*
- (1) 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.
  - (2) Consumer fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or a controlled substance.
  - (3) A minor shall not possess, use, discharge or ignite any consumer fireworks at any time.
  - (4) Notwithstanding the Act, no person shall use, discharge or ignite consumer fireworks thereby creating or causing an imminent danger or threat to public health, safety, or welfare, and in such case, the fireworks being used, ignited or discharged may be immediately seized.
  - (5) Subject to section 5a-c, if the state fire marshal or the commanding officer of the fire department of the Township, or a fire fighter in uniform acting under the orders and directions of the commanding officer determines a dangerous condition exists, the state fire marshal, the commanding officer of the fire department of the Township or the fire fighter in uniform acting under the orders and direction of the commanding officer upon finding an emergency condition dangerous to persons or property, may take all necessary steps and prescribe all necessary restrictions and requirements to protect persons and property until the dangerous condition is abated, and may restrict the ignition, discharge and use of fireworks pursuant to state law and this Ordinance as follows:
    - (a) 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, the commanding officer of the fire department of the Township, in consultation with the department of natural resources, has the authority to enforce a no burning restriction that includes a ban on the ignition, discharge, and use of consumer fireworks within the Township. If a no burning restriction is instituted under this subsection, the commanding officer of the fire department enforcing the restriction shall ensure that adequate notice of the restriction is provided to the public.

- (b) The governor, department of natural resources, or state fire marshal may enforce a statewide no burning restriction, including a ban on the ignition, discharge, and use of fireworks as provided under subsection (5) above.
- (c) Not more than 24 hours after the fire condition is downgraded from extreme or very high fire condition, the commanding officer of the fire department of the Township that enforced a no burning restriction under subsection (5) that included a ban on the ignition, discharge, and use of consumer fireworks shall lift the restriction and inform the public that the restriction has been lifted in the same manner that the restriction was announced or made known to the public.
- (d) Reserved.
- (e) *Novelties; inapplicability of ordinance.* This section does not apply to novelties. Nothing in this section regulates, the sale, storage, display for sale, transportation, use, or distribution of novelties.
- (f) *Compliance with zoning ordinance.* Any person selling, distributing or storing fireworks in compliance with the Act, is also required to comply with the applicable zoning ordinances of the Township, including obtaining necessary approvals thereunder. Failure to obtain necessary zoning approvals is subject to penalty as provided in the zoning ordinance.
- (g) *Seizure.* All consumer fireworks possessed, used, discharged, and/or ignited in violation of the Act and/or this section, are subject to seizure. Any costs incurred by the Township to seize and store the fireworks shall be paid by the responsible party.
- (h) *Penalty.* A violation of any provision of this section is a municipal civil infraction, punishable by a civil fine of not more than one thousand dollars (\$1,000.00), for each violation of the ordinance and no other fine or sanction. Upon a Respondent either pleading responsible or being found responsible for a violation of this ordinance, \$500 of the above fine collected under this ordinance shall be remitted to the local law enforcement agency responsible for enforcing the ordinance.

## **Section 2 of Ordinance**

Should any section, subdivision, sentence, clause, or phrase of this Ordinance be declared by the Courts to be invalid, it shall not affect the validity of the remainder of the Ordinance or any part other than the part invalidated. It is further declared that such provisions would have been adopted independently of the provision found to be invalid. Should any procedural aspect of this article be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this article.

**Section 3 of Ordinance**

This Ordinance shall take effect immediately upon publication.

**CERTIFICATION**

STATE OF MICHIGAN     )  
  ) SS.  
COUNTY OF OAKLAND    )

I, Deborah Binder, the duly elected Clerk for the Charter Township of West Bloomfield, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of the Ordinance adopted by the Township Board for the Charter Township of West Bloomfield at a meeting held on the 15th day of April, 2019, the original of which is on file in the Office of the Township Clerk.

I affix my official signature/seal this 15th day of April, 2019.

By:   
Deborah Binder, Township Clerk

INTRODUCED:     04-01-2019  
ADOPTED:        04-15-2019  
EFFECTIVE:      04-24-2019  
PUBLISHED:     04-24-2019

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