

**CHARTER TOWNSHIP OF SHELBY
MACOMB COUNTY, MICHIGAN**

ORDINANCE NO. 286

AN ORDINANCE TO AMEND CHAPTER 26, ARTICLE V, SECTIONS 26-155, 26-156 AND 26-163 OF THE CODE OF ORDINANCES REGARDING THE REGULATION OF FIREWORKS WITHIN THE TOWNSHIP, PROVIDING FOR REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE.

THE CHARTER TOWNSHIP OF SHELBY ORDAINS:

Section 1. Chapter 26 Article V, Section 26-155 of the Code of Ordinances of the Charter Township of Shelby shall be amended to amend and add the following definitions in alphabetical order:

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, **homemade fireworks** and special effects.

Homemade fireworks means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507.

NATIONAL HOLIDAY as used in this article means

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)
And any holidays as may be from time to time added, removed or changes pursuant to 5 USC Section 6103, or any replacement or amended legislation.

Section 2. Chapter 26, Article V, Section 26-156 of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

Section 26-156. PROHIBITED FIREWORKS

CONSUMER FIREWORKS.

A Person shall not ignite, discharge or use Consumer fireworks within the geographical boundaries of the Township, except **on the following days:** ~~day of, the day preceding or the day after a National Holiday. On the day of, the day preceding or the day after a National Holiday a person shall not ignite, discharge or use Consumer fireworks within the geographical boundaries of the Township between the hours of 12 midnight and 8 a.m. or between the hours of 1 a.m. and 8 a.m. on New Year's day.~~

1. **11:00 a.m. on December 31 – 1:00 a.m. on January 1**
2. **11:00 a.m. - 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day**
3. **11:00 a.m. - 11:45 p.m. on June 29 and 30 and July 1, 2, 3, and 4**
4. **11:00 a.m. - 11:45 p.m. on July 5, if that date is a Friday or Saturday**
5. **11:00 a.m. - 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day**

When using any fireworks within the Township, a Person shall not use them in a manner inconsistent with or contrary to the manufacturer's direction for use, or in a manner which would reasonably be foreseen to cause, or which actually causes, harm to another or to property, or which causes, creates, or perpetuates a violation of any provision of the Township's Code of Ordinances, including but not limited to:

1. Disturbing the public peace
2. Violating the Townships nuisance ordinance, or
3. Creating or depositing litter in violation of the Township's litter ordinance

Section 3. Chapter 26, Article V, Section 26-163 of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

26-163 PENALTIES

Any person that violates any provision of this Ordinance shall be deemed responsible for a ~~municipal~~-civil infraction **of \$1,000.00 for each violation of this ordinance. The remittance of \$500.00 of the fine collected shall be allocated to the Shelby Township Police Department as the enforcing agency of this ordinance.** ~~and fined in accordance with the following schedule:~~

	Minimum	Maximum
	Fine	Fine
1st offense within 3 year period*	\$ 75.00	500.00
2nd offense within 3 year period*	\$ 150.00	500.00
3rd offense within 3 year period*	\$ 325.00	500.00
4th offense within 3 year period*	\$ 500.00	500.00

*Determined on the basis of the date of commission of the offense(s).

~~Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Harrison Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of neither less than \$9.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.~~

Section 4. Severability.

If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the ordinance, it being the intent of the Township that this ordinance shall be fully severable.

Section 5. Effective Date.

This ordinance shall become effective 30 days following publication after adoption.

CERTIFICATION

I STANLEY GROT, Clerk for the Charter Township of Shelby, County of Macomb, State of Michigan, certify that this is a true copy of an Ordinance adopted by the Board of Trustees of the Charter Township of Shelby at its regular meeting on the _____ day of _____ 2019.

Stanley Grot, Township Clerk

INTRODUCTION: February 19, 2019
FIRST PUBLICATION February 27, 2019
ADOPTION: March 5, 2019
SECOND PUBLICATION: March 13, 2019