

## **CHARTER TOWNSHIP OF COMMERCE**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CHARTER TOWNSHIP OF COMMERCE, OAKLAND COUNTY, MICHIGAN TO BE KNOWN AS CODE AMENDMENT ORDINANCE NO. 1.020.

**The Charter Township of Commerce ordains:**

### **SECTION 1 –PURPOSE**

The purpose of this Ordinance is to amend Chapter 20, Article IV of the Code of Ordinances, Charter Township of Commerce, Oakland County, Michigan, to regulate the public display of commercial fireworks consistent with the Michigan Fireworks Safety Act, Act 256 of 2011.

### **SECTION 2 – AMENDMENT**

Chapter 20, Article IV of the Code of Ordinances, Charter Township of Commerce, Oakland County, Michigan, is hereby amended in its entirety to read as follows:

#### **DIVISION 1.**

#### **GENERALLY**

##### **Sec. 20-85. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agricultural and wildlife fireworks* means firework devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of Interior or the Michigan Department of Natural Resources.

*APA* means American Pyrotechnics Association.

*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.

*Commercial fireworks* includes display fireworks, articles pyrotechnic, special effects and agricultural and wildlife fireworks.

*Consumer fireworks* means fireworks devices that are designed to produce visible or audible 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 do 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 16 CFR 1500 and 1507, 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 an 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:* A national holiday is defined in 5 USC 6103 and includes the following:

- (a) New Year's Day (January 1<sup>st</sup>).
- (b) Martin Luther King Jr. Day (third Monday in January)
- (c) Washington's Birthday (third Monday in February)
- (d) Memorial Day (last Monday in May)
- (e) Independence Day (July 4<sup>th</sup>)
- (f) Labor Day (first Monday in September)
- (g) Columbus Day (second Monday in October)
- (h) Veterans Day (November 11<sup>th</sup>)
- (i) Thanksgiving Day (fourth Thursday in November)
- (j) Christmas Day (December 25<sup>th</sup>)

*NFPA* means National Fire Protection Association.

*Special effects* means a combination of chemical elements or chemical compounds 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.

*State fire marshal* means the Michigan state fire marshal appointed under section 1b of the Michigan Fire Prevention Code, 1941 PA 207, MCL 29.1b.

## **Sec. 20-86. Consumer Fireworks.**

No person shall ignite, discharge or use consumer fireworks in the township; except this prohibition shall not preclude a person from igniting, discharging or using consumer fireworks

within the township on the day preceding, the day of, or the day after a national holiday, consistent with the Michigan Fireworks Safety Act, Public Act 256 of 2011.

**Sec. 20-87. Commercial Fireworks.**

Commercial Fireworks shall not be discharged in the township without a permit.

**Sec. 20-88. Low Impact Fireworks.**

The display of low impact fireworks is regulated by state law and is not regulated by this ordinance.

(Ord. No. 84-3-51-0, § II, 5-29-1984)

**Secs. 20-89--20-115. Reserved.**

**DIVISION 2.**

**PERMITS**

**Subdivision I.**

**In General**

**Sec. 20-116. Permit Required.**

A permit is required for the discharge of commercial fireworks.

**Sec. 20-117. Permit Application.**

(a) A person seeking a permit to discharge commercial fireworks shall complete an application for a permit. The application shall include:

- (1) Proof that the this applicant is over 18 years in age;
- (2) A license or permit to operate commercial fireworks from the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives;
- (3) A scale drawing of the site, including but not limited to surrounding buildings, the display site as described by NFPA 1123, the spectator viewing area and the parking areas;
- (4) Proof of insurance as set forth in this article;

- (5) Information as to the competency and qualifications of the fireworks display operators as required by NFPA 1123;
- (6) A completed Application for Fireworks Display Permit from the State of Michigan;
- (7) A description of the display, including the type and number of fireworks to be discharged; and
- (8) Payment of a fee as set forth in the township fee ordinance.

(b) A person seeking a permit to discharge commercial fireworks shall demonstrate to the township fire marshal or his designee, knowledge of the recommended safety requirements outlined in NFPA 1123.

(c) A nonresident applicant shall appoint in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.

(d) A permit application shall be submitted to the township clerk's department at least 45 days in advance of the proposed discharge date.

#### **Sec. 20-118. Permit Approval Process.**

(a) The township fire marshal or his designee shall review a permit application and make a recommendation to the township board.

(b) The township board shall review the application and issue a permit if it finds that the following standards have been satisfied:

- (1) The permit application is complete and conforms with the requirements of this article.
- (2) The township fire marshal has recommended the application be approved.
- (3) The proposed discharge of fireworks shall not have an adverse effect upon public safety.
- (4) The time, duration and location of the fireworks will not unreasonably disturb the peace of neighboring property owners.

#### **Sec. 20-119. Requirements of Permit Holders.**

(a) A permit holder shall be responsible for the discharge of fireworks which shall conform with the approved permit and this article.

(b) A permit holder shall be responsible for all shells being fired. In the event one or more shells do not explode, the permit holder shall take appropriate measures to locate and properly dispose of the unexploded shell(s).

**Sec. 20-120. Fee.**

The township clerk shall collect the sum as set out in the township fee ordinance for each permit applied for pursuant to this article.

**Sec. 20-121. Transfer**

Permits cannot be transferred or assigned without prior review and approval of the township as set forth in this article.

**Sec. 20-122. Revocation.**

Permits shall be revoked and inventory seized if at any time during the term of the permit the terms and conditions of this article are violated.

**Sec. 20-123. Insurance.**

To protect the public, the applicant shall provide proof of financial responsibility by insurance to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant. At a minimum, the applicant shall maintain (a) Worker's Compensation and Employers Liability coverage covering the statutory requirements of the State of Michigan and insuring the applicant with an Employer's Liability limit of at least \$500,000 and (b) occurrence based Commercial General Liability coverage covering liability arising out of the operations of the applicant, with an endorsement applying the policy's aggregate limits by location or project, and having minimum liability limits of \$1,000,000 combined single limit per occurrence, and a general aggregate limit of at least \$2,000,000. The policy shall be issued by an insurer with an A.M. Best rating of "A" or better. The township shall be named as an additional insured if the applicant utilizes township owned property during the display.

**Secs. 20-124--20-170. Reserved**

**SECTION 3 – SEVERABILITY**

Should any provision or part of this ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this ordinance, which shall remain in full force and effect.

#### **SECTION 4 – REPEALER**

All other provisions of the Code of Ordinances, or ordinances or parts of ordinances, in conflict with this ordinance are hereby repealed only to the extent necessary to give this ordinance full force and effect.

#### **SECTION 5 - SAVINGS CLAUSE**

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court or any rights acquired or any liability incurred, or any cause or causes of action acquired or existing, under the Code of Ordinances, or any act or ordinance hereby repealed as cited in Section 4 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

#### **SECTION 6 - EFFECTIVE DATE**

This ordinance shall take effect following publication in the manner prescribed by law. This ordinance shall be published in the manner provided by law.

#### **SECTION 7 – ADOPTION**

This ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of Commerce at a meeting duly called and held on the 9<sup>th</sup> day of October, 2012, and ordered to be given publication in the manner prescribed by law.

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Daniel Munro, Clerk

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Thomas K. Zoner, Supervisor

Introduction:	September 11, 2012
Introduction Publication:	September 26, 2012
Adopted:	October 9, 2012
Adoption Publication:	October 17, 2012
Effective:	October 17, 2012