

**CHARTER TOWNSHIP OF SPRINGFIELD
ADOPTION OF ORDINANCE NO. 2013(5)**

**THE CHARTER TOWNSHIP OF SPRINGFIELD, OAKLAND COUNTY, MICHIGAN,
ORDAINS:**

**CHARTER TOWNSHIP OF SPRINGFIELD
ORDINANCE 2013(5), AN ORDINANCE TO AMEND
THE SPRINGFIELD TOWNSHIP CODE OF ORDINANCES,
CHAPTER 16—FIRE PREVENTION AND PROTECTION
BY ADDING A NEW ARTICLE: ARTICLE IV. FIREWORKS**

Springfield Township Code of Ordinances, Chapter 16— Fire Prevention and Protection is hereby amended as follows:

SECTION ONE – PURPOSE

The purpose of this Ordinance is to amend Chapter 16 of the Code of Ordinances, Charter Township of Springfield, Oakland County, Michigan, to regulate the use and discharge of certain fireworks consistent with the Michigan Fireworks Safety Act, Act 256 of 2011, as amended.

SECTION TWO – AMENDMENTS

A new Article IV. is hereby added to Chapter 16 of the Code of Ordinances, Charter Township of Springfield, Oakland County, Michigan, to read in its entirety as follows:

Article IV. Fireworks

Sec. 16-94. Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this section:

Act means the Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451 – 28.471, as amended.

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 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: A national holiday is defined in 5 USC 6103 and includes the following:

- (1) New Year's Day (January 1st).
- (2) Martin Luther King Jr. Day (third Monday in January)
- (3) Washington's Birthday (third Monday in February)
- (4) Memorial Day (last Monday in May)
- (5) Independence Day (July 4th)
- (6) Labor Day (first Monday in September)
- (7) Columbus Day (second Monday in October)
- (8) Veterans Day (November 11th)
- (9) Thanksgiving Day (fourth Thursday in November)
- (10) Christmas Day (December 25th)

NFPA means National Fire Protection Association.

Novelty fireworks 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:

- (1) 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.
- (2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (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.

- (3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- (4) 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.

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. 16-95. Prohibitions.

- (a) Fireworks shall not be ignited, discharged or used by: 1) a minor; 2) a person under the influence of alcohol or controlled substances; or 3) on public property, school property, church property, or property of another person, without that organization's or person's written authorization to do so.
- (b) No person shall ignite, discharge or use consumer fireworks in the Township; except: 1) on the day preceding, the day of, or the day after a national holiday, or 2) seven days preceding, the day of, or seven days after Independence Day; and in accordance with the Michigan Fireworks Safety Act, Public Act 256 of 2011, as amended.
- (c) Commercial Fireworks shall not be discharged in the Township without a permit.
- (d) The display of low impact or novelty fireworks are regulated by state law and is not regulated by this Article.

Sec. 16-96. Permits.

A permit is required for the discharge of commercial fireworks.

- (1) Permit Application. A person seeking a permit to discharge commercial fireworks shall complete an application for a permit, which shall be submitted to the Township Clerk's Office at least 45 days in advance of the proposed discharge date and shall include the following:
 - a. Proof that the applicant is over 18 years in age;
 - b. A license or permit to operate commercial fireworks from the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives;
 - c. 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;
 - d. Proof of insurance as set forth in this Article;
 - e. Information as to the competency and qualifications of the fireworks display operators as required by NFPA 1123;
 - f. A completed Application for Fireworks Display Permit from the State of Michigan;
 - g. A description of the display, including the type and number of fireworks to be discharged;

- h. Proof to the Township Fire Chief or his or her designee, that the applicant is knowledgeable of the recommended safety requirements outlined in NFPA 1123;
- i. An out-of-state 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; and
- j. Payment of a fee as set forth in the Township Fee Schedule.

(2) Permit Approval Process.

- a. The Township Clerk or his or her designee shall review the application for completeness.
- b. The Township Fire Chief or his or her designee shall review the application and make a written recommendation to the Township Board.
- c. 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 Ordinance.
 - 2. The proposed discharge of fireworks shall not have an adverse effect upon public safety.
 - 3. The time, duration and location of the fireworks will not unreasonably disturb the peace of neighboring property owners.

(3) 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 Ordinance.
- 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).

(4) Transfers. Permits cannot be transferred or assigned without prior review and approval of the Township.

(5) Revocation. Permits shall be revoked and inventory seized if at any time during the term of the permit the terms and conditions of this Ordinance are violated.

Sec. 16-97. Cost Recovery.

The payment of all costs incurred by the Township, including, but not limited to the time expended by police or fire personnel and equipment in enforcing this Ordinance or responding to an emergency resulting from a violation of this Ordinance, and any storage costs for fireworks seized under the Act, shall be the responsibility of the person or persons responsible or liable for the violation. Any failure by the person liable or responsible for the expenses to pay said bill within thirty (30) days of mailing or service of the bill shall constitute a default on said bill. The

failure to pay may further be considered a violation of probation if the payment was ordered by the court at the time of sentencing. The Township shall also have the right to bring action in a court of competent jurisdiction to collect said costs if the Township deems such action to be necessary.

Sec. 16-98. 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, if applicable, and (b) occurrence based Commercial General and Auto Liability coverage covering liability arising out of the operations of, and transportation by, the applicant, with an endorsement applying the policy's general aggregate limit of at least \$1,000,000. 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.

Sec. 16-99. Penalty

A violation of this Ordinance shall be deemed a municipal civil infraction.

SECTION THREE—Balance of Ordinance Remains in Effect

The balance of the Springfield Township Code of Ordinances shall remain in full force and effect, except as specifically modified herein.

SECTION FOUR—Repealer

All ordinances and portions of ordinances inconsistent with this Ordinance are hereby repealed.

SECTION FIVE—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 any act or ordinance hereby repealed as cited in Section Three of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION SIX—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 SEVEN—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.

CHARTER TOWNSHIP OF SPRINGFIELD

First Reading:	March 14, 2013
2 nd Reading:	April 11, 2013
Adoption:	April 11, 2013
Adoption Publication:	April 25, 2013
Effective:	April 25, 2013

By: _____
Collin W. Walls, Supervisor

By: _____
Laura Moreau, Clerk