

**CHARTER TOWNSHIP OF BROWNSTOWN
WAYNE COUNTY, MICHIGAN**

ORDINANCE NO. 255-01

AN ORDINANCE TO AMEND THE EXISTING FIREWORKS ORDINANCE NO. 255 PURSUANT TO THE MICHIGAN FIREWORKS SAFETY ACT, PUBLIC ACT 256 of 2011, AND CHANGES TO SAME AS FOUND IN THE 2018 LEGISLATIVE SESSION ENROLLED HOUSE BILL NUMBERS 5939, 5940, AND 5941, AND THE RELATED STATUTES THERETO, FOR ENFORCEMENT OF SAME BY TOWNSHIP OF BROWNSTOWN, AND TO REFLECT THE DESIRE TO INCREASE PUBLIC SAFETY BY SUCH ENFORCEMENT.

The Charter Township of Brownstown hereby ordains:

Section 1: Part 195, Section 195.002 is hereby amended by replacing then name of the Section, replacing Subsection A in its entirety, leaving Subsection B as unchanged, and adding Subsections C, D, and E as follows:

195.002 - Lawful, unlawful ignition, discharge, and use of fireworks; exemptions.

Sec. 2.

A. It shall be lawful for any person 18 years of age or older, or firm, company, partnership, or corporation, or their agents, or employees, to ignite, discharge, or use fireworks as otherwise defined and permitted by State Law or this Ordinance on the following days after 11:00 a.m.:

- (1) December 31 until 1 a.m. on January 1.
- (2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those 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.

It shall be unlawful for any person, firm, company, partnership, or corporation, or their agents, or employees, to ignite, discharge, or use fireworks at any other time or on any day other than those expressly stated as lawful above.

A violation of this section shall constitute a civil infraction for which a court appearance ticket may be issued and a fine of up to \$1,000.00 may be imposed by the 33rd District Court for each violation. Of this fine, one half (up to \$500.00) will be remitted to the local law enforcement agency responsible for enforcing same.

{Section 195.002.B. shall remain unchanged.}

C. Declaration of burn restrictions. 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 Fire Chief or his/her Township fire department designee 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 Fire Chief or his/her Township fire department designee enforcing the restriction shall ensure that adequate notice of the restriction is provided to the public.

Not more than 24 hours after the fire condition is downgraded from extreme or very high fire condition, the Fire Chief or his/her Township fire department designee that enforced a no burning restriction under this subsection 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. It shall be unlawful for a person, or firm, company, partnership, or corporation, or their agents, or employees, to ignite, discharge, or use consumer fireworks or low-impact fireworks:

(1) 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. A violation of this section shall constitute a civil infraction for which a court appearance ticket may be issued and a fine of up to \$500.00 may be imposed by the 33rd District Court for each violation.

(2) while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. A violation of this section shall constitute a civil infraction for which a court appearance ticket may be issued and a fine of up to \$1,000.00 may be imposed by the 33rd District Court for each violation. As used in this subsection:

(a) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

(b) "Controlled substance" means that term as defined in section 8b of the Michigan vehicle code, 1949 PA 300 MCL 257.8b.

(3) in a manner that shall recklessly endanger the property, life, health, safety, or well-being of any person by the ignition, discharge, or use of consumer fireworks or low-impact fireworks. A violation of this section shall constitute a civil infraction for which a court appearance ticket may be issued and a fine of up to \$1,000.00 may be imposed by the 33rd District Court for each violation.

(4) in a manner that is intended to harass, scare, or injure livestock. As used in this subsection, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MLC 287.705. A violation of this section shall constitute a civil infraction for which a court appearance ticket may be issued and a fine of up to \$500.00 may be imposed by the 33rd District Court for each violation.

E. It shall be unlawful to ignite, discharge, or use any unmanned free-floating device (known as but not limited to a "sky lantern") which requires fire underneath to propel it and is not moored to the ground while aloft and therefore has an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk. A violation of this section shall constitute a civil infraction for which a

court appearance ticket may be issued and a fine of up to \$1,000.00 may be imposed by the 33rd District Court for each violation.

Section 2: Part 195, Section 195.003 (Permits) is hereby amended such that each existing use of the words “Fire Marshall” shall be replaced with the words “Fire Chief or his/her Township fire department designee”.

Section 3: Part 195, Section 195.004 (Bond, legal representative, competency of applicant for permit) is hereby amended such that each existing use of the words “Fire Marshall” shall be replaced with the words “Fire Chief or his/her Township fire department designee”.

Section 4: Part 195, Section 195.005 (Storage) is hereby amended such that each existing use of the words “Fire Marshall” shall be replaced with the words “Fire Chief or his/her Township fire department designee”.

Section 5: Part 195, Section 195.006 is hereby renamed and replaced in its entirety to include the following language:

195.006 - Retail locations selling consumer fireworks; Posting Notice of Dates; Prohibited Sales to Minors

Sec. 6.

- A. A retailer shall provide with every purchase of consumer fireworks a notice listing the dates and times permitted under Section 195.002 (A) for the ignition, discharge, and use of consumer fireworks.

(1) The notice shall include the following statement:

“State law permits, under MCL 28.457, the ignition, discharge, and use of consumer fireworks at the following times after 11:00 a.m.:

- December 31 until 1 a.m. on January 1.
- The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
- June 29 to July 4 until 11:45 p.m. on each of those days.
- July 5, if that date is a Friday or Saturday, until 11:45 p.m.
- The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.”

(2) The retailer may provide the notice in a form and manner determined by the retailer, including, but not limited to, printing or stamping the notice on, or affixing the notice to, a receipt, bag, or the product being purchased, or a printed handout provided at the time of purchase.

(3) Posting the notice on a wall, window, display, or otherwise at the retail location does not satisfy the requirements of this Section 195.006.

(4) A retailer who fails to provide the notice required by this Section 195.006 shall be deemed in violation of this section and it shall constitute a civil infraction for which a court appearance ticket may be issued and a fine of up to \$100.00 may be imposed by the 33rd District Court for each day on which one or more violations occur.

- B. It shall be unlawful for a retailer to sell consumer fireworks to a minor. A person that violates this subsection shall be deemed in violation of this section and it shall constitute a civil infraction for which a court appearance ticket may be issued and a fine of up to \$1,000.00. The age of an individual purchasing consumer fireworks shall be verified by any of the following:
- (1) An operator's or chauffeur's license;
 - (2) An official state personal identification card;
 - (3) An enhanced driver license or enhanced official state personal identification card;
 - (4) A military identification card;
 - (5) A passport; or,
 - (6) Any other bona fide photograph identification that establishes the identity and age of the individual.

Section 6: Part 195, Section 195.007 is hereby renamed and replaced in its entirety to include the following language:

195.007 - Repeal clause.

Sec. 7. Any ordinance or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 7: Part 195, Section 195.008 is hereby renamed and replaced in its entirety to include the following language:

195.008 - Penalties

Sec. 8.

- A. Any person, or firm, company, partnership, or corporation, or their agents, or employees, who shall violate or assist in the violation of the Parts, Sections, or Subsections of 195.002.C (Declaration of burn restrictions), (195.003 (Permits), 195.004 (Bond, legal representative, competency of applicant for permit), and 195.005 (Storage) of this Ordinance shall be deemed guilty of a misdemeanor filed with and adjudicated in the 33rd District Court, and upon conviction thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500) and/or 90 days in jail, at the discretion of the court. Each day that a violation of this ordinance shall exist shall constitute a separate and distinct offense and shall be so punishable. All other violations of the remaining Parts, Sections, or Subsections of this Ordinance shall be considered civil infractions as stated at the end of each respective Part, Section, or Subsection, subject to enforcement at the 33rd District Court. To the extent that any enforcement is sought in the 33rd District Court, the court shall be empowered upon any conviction to issue an order of the court requiring such person's compliance with this Ordinance.
- B. A law enforcement officer and or/fire official may confiscate and impound all fireworks and fireworks paraphernalia involved in causing a violation of this article. If the impounded items are lawful to possess, they may be retained as evidence until any court proceedings or citations have been adjudicated and any probationary periods have been completed. If the impounded items are unlawful to possess the police department or fire department shall dispose of or destroy the items in accordance with evidence protocols that will still allow for effective prosecution of the charged offenses without

actual retention of the items. If any fireworks are retained by the Township, they shall be stored in compliance with the Act and rules promulgated under the Act. The person from whom the fireworks are seized under the Act or this article shall pay the actual costs of storage and/or disposal of the seized fireworks. The police department or fire department may dispose of the seized fireworks by providing them to a disposal organization approved by the Fire Chief or his/her designee, or by allowing them to be used by the Township police, fire and code enforcement agencies for training purposes.

Section 8: Part 195, Section 195.009 is hereby renamed and replaced in its entirety to include the following language:

195.009 - Severability.

Sec. 9. Should any section, clause or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 9: Part 195, Section 195.010 shall be added and include the following language:

195.010 - Effective Date.

Sec.10. The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety and welfare, and are hereby ordered to take immediate effect and to be in force from and after the earliest date allowed by law, and this Ordinance is hereby ordered to be published in the manner provided by law.

Publication. This Ordinance was approved and adopted by the Township Board of Brownstown Charter Township, Wayne County, Michigan, on December 16, 2019, after introduction and a first reading on November 18, 2019, and publication after first reading as required by Act 359 of the Michigan Public Acts of 1947, as amended. This Ordinance shall be effective immediately upon publication, in The News Herald, a newspaper having general circulation in the Township.

ANDREW LINKO, Supervisor

BRIAN PETERS, Clerk

I further certify that the foregoing was published in The News Herald, a newspaper of general circulation in the Charter Township of Brownstown, on the 22nd day of December, 2019.

BRIAN PETERS, Clerk