

TOWNSHIP OF ONEKAMA

ORDINANCE NO. 2019-02 (police power)

FIREWORKS ORDINANCE

An Ordinance to regulate the ignition, discharge, and use of consumer fireworks to conform to amendments of the Michigan Fireworks Safety Act, MCL Section 28.451, *et. seq.*, as has been amended by Public Acts 634,635, and 636 of 2018.

Definitions. As used in this section, the following terms shall be defined as follows:

(A) *APA standard 87-1* means 2001 APA standards 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties and Theatrical Pyrotechnics, published by the American Pyrotechnics Association of Bethesda, MD.

(B) *Consumer fireworks* means fireworks devices that are designed to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Protection 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.

(C) *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.

(D) *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.

(E) *Minor* means an individual who is less than 18 years of age.

Section. 1 - Ignition, Discharge or Use of Consumer Fireworks.

A. Except as provided in this Section, a person shall not ignite, discharge, or use consumer fireworks at any time.

B. A person may ignite, discharge, or use consumer fireworks on the following days during the following hours:

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

6. Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Labor Day.
7. Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Labor Day.

C. A minor shall not possess consumer fireworks.

D. A violation of this Section is a civil infraction, punishable by a fine of not more than \$1,000.

Section 2 – Special Permits

Upon application in writing by any association or group of individuals, the Township Board of Trustees may grant permission for the public display of Consumer Fireworks on days other than those specified in Section 1 of this Ordinance, subject to such conditions as deemed necessary to safeguard the welfare of the public and property. Such applications for Special Permits must be filed with the Township clerk at least thirty (30) days before the proposed display event.

Section 3 – Ignition, Discharge, or Use of Consumer Fireworks While Under the Influence.

- A. A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.
- B. As used in this Section, “alcoholic liquor” means that term as defined in Section 1d of the Michigan Vehicle Code, MCL 257.1d, as may be amended, and “controlled substance” means that term as defined in Section 8b of the Michigan Vehicle Code, MCL 257.8b, as may be amended.
- C. A violation of this Section is a civil infraction, punishable by a fine of not more than \$1,000.

Section 4 - Ignition, Discharge or Use of Consumer Fireworks on Public Property, School Property, Church Property or the Property of Another Person

1. A person shall not ignite, discharge and/or use Consumer Fireworks on public property, school property, church property, or the property of owned by another person or entity without that organization’s or person’s express permission.
2. A person shall not discharge Consumer Fireworks in such a manner so as remnants from consumer fireworks land on public property or the property of another, including, but not limited to, residential dwellings, hotel and motel property, apartment property, and condominium property, without that person or organization’s express permission.

3. An individual who owns property and/or is in charge of property that knowingly allows a violation of Section 4 (1-3) to occur on his/her property shall be liable for a municipal civil infraction and subject to a civil fine of at least \$100 and no more than \$500 for each violation of this Ordinance.

Section 5 - Determination of Violation; Seizure; Destruction; Storage Costs.

1. If a police officer determines that a violation of this Article has occurred, the Department may seize the firework as evidence of the violation. The Department shall store, or cause to be stored, the evidence seized under this Section pending disposition of any proceedings arising from the violation.

2. Following a final disposition of an appeal of a finding of responsibility under this Article that affirms the finding, the Department may dispose of or destroy any fireworks retained as evidence in that proceeding.

3. A person from whom fireworks are seized under this Article shall pay the actual costs of storage and disposal of the seized fireworks if found responsible for a violation of this Article.

SECTION 6 - Enforcement

The Fire Chief, his / her designees, and sworn law enforcement officers are authorized to enforce the provisions of this ordinance.

SECTION 7 - Severability

This Ordinance and each of the various parts, sections, subsections, sentences, phrases, and clauses hereof are declared to be severable. If any part, section, subsection, sentence, phrase, or clause is determined to be invalid or unenforceable by a court of competent jurisdiction, it is hereby provided that the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION 8 – Effective date

This Ordinance shall take effect immediately upon publication.

Motion by Bob Blackmore, Second by James Wisniski for approval of Ordinance 2019-02 as presented by Planning Commission. Roll Call Vote: Wisniski – Yes, Blackmore – Yes, Beebe – Yes, Johnson – Yes, Meister – Absent. M/C

CERTIFICATION

I certify that this Fireworks Ordinance Amendment was adopted by the Board of Trustees of Onekama Township, Michigan at a regular meeting held on June 4, 2019.

TOWNSHIP OF ONEKAMA - SHELLI JOHNSON, clerk

_____ (date) _____