

**TOWNSHIP OF ARMADA
MACOMB COUNTY, MICHIGAN**

ORDINANCE NO. R2018-21

ARMADA TOWNSHIP FIREWORKS ORDINANCE

TITLE

AN ORDINANCE regulating the discharge, ignition and use of fireworks within the Township of Armada, permitting certain fireworks displays, establishing penalties for the violation of this Ordinance and repealing any and all ordinances and/or regulations in conflict herewith.

**THE TOWNSHIP BOARD OF THE TOWNSHIP OF ARMADA, MACOMB
COUNTY, MICHIGAN ORDAINS:**

SECTION 1. Short Title.

This Ordinance shall be known as the Armada Township Fireworks Ordinance.

SECTION 2. Purpose

The purpose of this Ordinance to preserve and protect public health, safety and welfare and to establish a safe environment for the discharge, ignition and use of fireworks within the Township. The Ordinance is also adopted in the interest of maintaining the comfort and quiet repose of Armada Township residents by regulating the discharge, ignition and use of fireworks in Armada Township, and repealing all Ordinances and Resolutions in conflict therewith.

SECTION 3. Enabling Authority

This Ordinance is adopted pursuant to, and in accordance with Act 246, Public Acts of 1945 as amended, and pursuant to Public Act 256 of 2011, the Michigan Fireworks Safety Act (MCL 28.451 et seq), as amended, and Public Act 65 of 2013.

SECTION 4. Definitions.

A. The following words shall have the following meanings as used in this ordinance:

1. *Act* shall mean the Michigan Fireworks Safety Act, MCL 28.451 et seq., as amended.
2. *Agricultural or Wildlife Fireworks* shall mean fireworks devices distributed to farmers, ranchers, and growers through wildlife management program administered by the United States Department of Interior or the Department of Natural Resources of Michigan.
3. *Articles Pyrotechnic* shall mean pyrotechnic devices for professional uses 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.
4. *Consumer Fireworks* shall mean fireworks devices that are designed to produce visible 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 does not include low impact fireworks.
5. *Display Fireworks* shall mean 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.
6. *Firework or Fireworks* shall mean 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, articles pyrotechnic, display fireworks, and special effects.
7. *Low Impact Fireworks* shall mean ground and handled sparking devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1 to 3.1.1.8, and 3.5.
8. *Novelties* shall mean the same 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:
 - a. 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.
 - b. 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.

- c. Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
 - d. 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.
- 9. *Special Effects* shall mean a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce audible, visual, mechanical, or thermal effects as an integral part of a motion picture, radio, television, theatrical production of live entertainment.
 - 10. *Sky lantern* shall mean an unmanned, self-contained luminary device that uses a balloon to become airborne and that while airborne has an open flame or other heat source.
 - 11. *Alcoholic liquor* shall mean that term as defined in section 1d of the Michigan Vehicle Code, 1949 PA 300, MCL 2571d.
 - 12. *Controlled Substance* shall mean that term as defined in section 8b of the Michigan Vehicle Code, 1949 PA 300, MCL 257.8b.

SECTION 5. Consumer Fireworks Regulations and Prohibited Conduct

- A. It shall be unlawful for any person to ignite, discharge, or use consumer fireworks, as such term is defined in this Ordinance, except on the day preceding, the day of, or the day after the following national holidays:
 - 1. New Years Day (January 1)
 - 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 4)
 - 6. Labor Day (First Monday in September)

7. Columbus Day (Second Monday in October)
 8. Veterans Day (November 11)
 9. Thanksgiving Day (Fourth Thursday in November)
 10. Christmas Day (December 25)
- B. Consumer fireworks shall not be ignited, discharged or used between the hours of midnight and 8 a.m. on the dates/national holidays enumerated in Section 5A, except that on New Year's Day, consumer fireworks shall not be ignited, discharged or used between the hours of 1 a.m. and 8 a.m.
- C. A person shall not discharge, ignite or use fireworks other than in the manner described by the manufacturer's directions for use.
- D. A person shall not ignite, discharge or use consumer fireworks:
- on public property, school property, church property, or the property of another person without that organization's or person's express written permission to use those fireworks on those premises;
 - while within a building or enclosed space;
 - within 50 feet of a flame or flammable surface;
 - within 25 feet of a property line;
 - within any public roadway or public right-of-way;
 - within, upon or from a motor vehicle or at any person, vehicle or animal;
 - within 50 feet of a gasoline service station or
 - during weather conditions involving wind speeds in excess of 10 mph.
- E. Consumer fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or controlled substances or a combination of both.
- F. This Ordinance shall not apply to low impact fireworks and novelties.

- G. A minor shall not possess, ignite, discharge or use consumer fireworks.

SECTION 6. Articles Pyrotechnic; Display Fireworks and Sky Lanterns

- A. Pursuant to MCL 28.451 et seq., the Township may grant a permit, upon application in writing at least 30 days prior to event, on forms provided by the Department of Licensing and Regulatory Affairs, for the use of the following:
1. Agricultural or wildlife fireworks;
 2. Articles Pyrotechnics;
 3. Display fireworks;
 4. Special effects.
- B. Such permit granted by the Township shall be subject to payment of a fee to the Township, and shall be for either public or private displays within the Township by the Township, other municipalities, or other organization or individuals approved by the Township as long as the applicable conditions and requirements of the Act are complied with.
- C. Before a permit for display fireworks or articles pyrotechnic firework ignition is granted, a plot plan for review by the Fire Department shall be submitted. The plot plan shall be a scale drawing and set forth all structures, woodlands and property lines in the area and within the discharge site fallout area. The plan shall furthermore set forth the distance separating any fireworks and any spectator viewing areas.
- D. Before a permit for display fireworks or articles pyrotechnic firework ignition is granted, the person, firm or corporation applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount of not less than one million dollars, character and form deemed necessary by the Township to satisfy claims for damages to property or personal injuries arising out of an act or omission of the part of the person, firm or corporation or an agent or employee of the person, firm or corporation, and to the public.
- E. The Township shall not approve or otherwise grant a permit for display of fireworks or pyrotechnic fireworks ignition to a nonresident person, firm or corporation until the person, firm or corporation has appointed in writing a resident member of the Township to be the legal representative upon whom all process in an action or proceeding against the person, firm or corporation may be served.

- F. Pursuant to the Act, the Township shall rule on the competency and qualifications of articles of pyrotechnic and display fireworks operators as required under NFPA 1123, as the operation has furnished in his or her application form, and on the time, place and safety aspects of the display of articles pyrotechnic or display fireworks before granting permits.
- G. A person shall not release an ignited sky lantern.

SECTION 7. Storage of Consumer Fireworks.

- A. The storage of consumer fireworks at a retail or other similar location shall be regulated as follows:
 - 1. A valid Fireworks Consumer certificate that is prominently displayed;
 - 2. Retailer must display the appropriate 'NO SMOKING' signs;
 - 3. The retail location must meet association NFPA requirements to include a fire suppression system in compliance with NFPA 1124, and
 - 4. Any other requirements or conditions as required by the State or Township Fire Department, acting as the reviewing agency of the State.
- B. If the storage is for low impact fireworks, the requirements of the State Act shall be met.
- C. The Township shall have the right to collect fees for the inspections and review of site conducting storage of consumer fireworks or any other type of fireworks in which the Act requires an inspection or review.

SECTION 8. Fees.

The Armada Township Board shall, by resolution, establish a fee for the issuance of a permit for articles pyrotechnic and/or display fireworks and for inspections set forth in this Ordinance. This fee shall be set in an amount representing the cost involved in

the administration of this Ordinance, including but not limited to any amount determined by the Fire Chief as necessary for on-sight firefighters and/or equipment.

SECTION 9. Penalty.

Any person who violates Section 5 of this Ordinance may be issued a civil infraction citation and shall, upon being found responsible therefore, be subject to a penalty not to exceed \$500.00. Any person who violates the remaining provisions of the Ordinance shall upon conviction thereof be guilty of a misdemeanor and subject to a penalty not to exceed \$500.00 or imprisonment in the County Jail for a period not to exceed ninety (90) days, or both such fines and imprisonment.

SECTION 10. Repealing of Ordinance No. 152 and Other Conflicting Provisions.

Ordinance No. 152 adopted by the Armada Township Board of Trustees on March 10, 1999 is hereby repealed. All other resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 11. Severability.

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 12. Publication

This Ordinance or a summary thereof shall be published in full in a newspaper of general circulation in the Township of Armada, within thirty (30) days after its adoption.

SECTION 13. Effective Date

This Ordinance shall take effect thirty (30) days from and after publication of a true copy or summary thereof in a newspaper circulating within the Township of Armada.

CERTIFICATE OF TOWNSHIP CLERK

I certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of the Township of Armada, Macomb County, Michigan, at a meeting held on the 10TH day of October A.D., 2018.

I further certify that the following Township Board Members were present at the meeting: Bednar, Kanehl, Paterek, Finlay and Swiacki

and the following Township Board members were absent: None

I further certify that Member Swiacki moved for the adoption of the Ordinance, and that motion was supported by Member Kanehl. I further certify that the following Township Board Members voted for the adoption of the Ordinance:

Bednar, Paterek, Finlay, Kanehl and Swiacki


and that the following Township Board Members voted against adoption of the Ordinance: None



MARY K. SWIACKI, CMMC
Armada Township Clerk

CERTIFICATE OF PUBLICATION

I, the undersigned Township Clerk of the Township of Armada, do hereby certify that on October 31, 2018, the foregoing Ordinance, or Summary thereof, was published in The Record newspaper, duly posted in the Office of the Township Clerk and on the Armada Township website.



MARY K. SWIACKI, CMMC
Armada Township Clerk

SUMMARY OF ARMADA TOWNSHIP FIREWORKS ORDINANCE

On October 10, 2018, the Armada Township Board of Trustees adopted the Armada Township Fireworks Ordinance, being Ordinance No. R2018-21 of the Armada Township Ordinances, regulating the discharge, ignition and use of consumer fireworks, agricultural/wildlife fireworks, display fireworks and articles pyrotechnic within the Township of Armada; permitting certain firework displays; establishing a permitting process for articles pyrotechnic and display fireworks; regulating the storage of consumer fireworks; establishing penalties for the violation of the Ordinance, and repealing any and all Ordinances, including Ordinance No. 152, and/or Resolutions in conflict therewith.

The full text of the Ordinance has been posted in the office of the Armada Township Clerk and on the Armada Township website. The Township Clerk's office is located at 23121 Main Street, Armada, MI 48005. The Armada Township website can be accessed at www.aramdatwp.org. A copy of this Ordinance may be viewed or purchased at the office of the Armada Township Clerk during regular business hours.

The Ordinance shall become effective thirty (30) days after this publication.

Published: 10.31.18

Mary K. Swiacki, CMMC
Armada Township Clerk