

TOWNSHIP OF ARMADA
MACOMB COUNTY, MICHIGAN

ORDINANCE NO: 152

ARMADA TOWNSHIP FIREWORKS ORDINANCE

TITLE

An Ordinance securing the public health, safety and general welfare of the residents and property owners of Armada Township, by regulating the use of certain fireworks in public displays which are frequently unsafe thereby causing a possibility of harm to persons and property in Armada Township; repealing Ordinances in conflict therewith; and providing a penalty for the violation thereof.

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

SECTION 1. SHORT TITLE

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

SECTION 2. PURPOSE

The purpose of this Ordinance is to preserve the health, safety and general welfare of persons and property within the Township of Armada by regulating the use of certain fireworks in public displays which are frequently unsafe and impair the health, safety and general welfare of the public and their property. This Ordinance provides standards by which the Township can assist in insuring the safety of its residents and protection of property within the Township.

SECTION 3. ENABLING AUTHORITY

This Ordinance is adopted in accordance with and pursuant to Act 246, Public Acts of 1945, as amended, Act 358, Public Acts of 1968, as amended and Act 328, Public Acts of 1931, as amended.

SECTION 4. DEFINITIONS

For the purpose of construction and application of this Ordinance, the following definitions shall apply:

- A. "Fireworks" shall mean a device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration or detonation. Fireworks include Class B fireworks and Class C fireworks.
- B. "Class B fireworks" shall mean toy torpedoes, railway torpedoes, firecrackers or salutes that do not qualify as "Class C" fireworks, exhibition display pieces, airplane flares, illuminating projectiles, incendiary projectiles, incendiary grenades, smoke projectiles or bombs containing expelling charges, but without bursting, flash powders in inner units not exceeding two (2) ounces each, flash sheets in interior packages, flash powder or spreader cartridges containing not more than seventy-two (72) grains of flash powder each, and other similar devices.
- C. "Class C fireworks" shall mean toy smoke devices, toy caps containing not more than .25 grains of explosive mixture, toy propellant devices, cigarette loads, trick matches, trick noise makers, smoke candles, smoke pots, smoke grenades, smoke signals, hand signal devices, Very signal cartridges, sparklers, and explosive auto alarms and other similar devices.
- D. "Fireworks display" or "public display of fireworks" shall mean the public exhibition, demonstration, show or display of any fireworks. Such exhibition, demonstration, show or display shall include, but is not limited to, the use of fireworks by any person: 1) for the purpose of amusement or entertainment of the general public, including friends, family and relatives of the operator; 2) in a place of public entertainment, including, but not limited, to theaters, dance halls, amusement parks, beaches and sports facilities; and 3) in areas within which the public, including the operator, friends, family and relatives, could foreseeably be injured as a direct result of the use of such fireworks.
- E. "Person" shall mean a person, corporation, association, partnership, municipality, fair association, or any other such entity.

SECTION 5. PERMIT REQUIRED

A person shall not conduct a fireworks display or public display of fireworks without first obtaining a written permit from the Township. The permit shall be issued or denied by the Armada Township Board of Trustees.

A. Qualifications of Applicants.

1. Completion and submission of a written application on a form provided by the Director of the Michigan State Police. Such forms are available at the Armada Township Hall during regular business hours.

- The application must be filed with the Township Supervisor at least forty-five (45) days prior to the date requested for the display.
2. Applicants must be eighteen (18) years or older.
 3. Applicants must be a resident of the State of Michigan or appoint, in writing, a resident member of the Michigan State Bar Association or a resident agent to be their legal representative upon whom all process in an action or proceeding against them may be served.
 4. Applicants must provide proof of financial responsibility in the following form: personal liability insurance coverage in an amount no less than Three Million (\$3,000,000.00) Dollars for each accident or occurrence, and property insurance coverage in an amount not less than Five Hundred Thousand (\$500,000.00) Dollars. These insurance policies shall identify Armada Township as an additional insured.
 5. Applicants must submit payment of appropriate fees as set forth in this Ordinance.

B. Review by Township Board.

The Township Board shall grant or deny a fireworks permit on the basis of the information set forth in the written application, including but not limited to the following factors:

1. Age of the applicant.
2. Proof of financial responsibility.
3. Safety of the persons attending the display.
4. Protection of property adjacent to the display.
5. Type of fireworks to be used in relation to the site of the display.

Within thirty (30) days of receipt of the application, the Township Supervisor shall notify the applicant of the Township Board's decision. If the request for permit is denied, the Township Supervisor, or any person appointed by the Township Supervisor, shall notify the applicant as to the reasons for such denial.

C. Issuance of Permit.

Once a permit is granted, the use of fireworks must strictly conform to the conditions of the permit. Permits are not transferable. Permits shall be conditioned upon the applicant cleaning up all debris caused or created by the fireworks display within twenty-four (24) hours of the display. A violation of the conditions of the permit is a violation of this Ordinance.

D. Fireworks for Which a Permit Is Not Required.

A permit is not required for a public display of the following types of fireworks:

1. Flat paper caps containing not more than .25 of an explosive content per cap in packages labeled to indicate the maximum explosive content per cap.
2. Toy pistols, toy cannons, toy canes and toy guns of type approved by the Director of the Department of State Police in which paper caps, as described in Section 6(A), are used, and which are so constructed that the hand cannot come in contact with the cap when in place for the explosion, and which are not designed to break apart or be separated so as to form a missile by the explosion.
3. Sparklers containing not more than .0125 pounds of burning portion per sparkler.
4. Filter sparklers and paper tubes not exceeding one-eighth (1/8) inch in diameter, cone fountains and cylinder fountains.
5. Toy snakes not containing mercury (if packed in cardboard boxes with not more than twelve (12) pieces per box for retail sale, and if the manufacturer's name and the quantity contained in each box are printed thereon) and toy smoke devices.
6. Signal flares of a type approved by the Director of the Department of State Police, blank cartridges or blank cartridge pistols specifically for a show or theater, for training or exhibiting of dogs, for signal purposes in athletic events, for the use by military organizations, and those items used by railroads, trucks or vehicles for emergency signal purposes.

SECTION 6. FEES.

The Armada Township Board shall, by resolution, establish a fee for the issuance of a fireworks permit. This fee shall be set in an amount representing the cost involved in the administration of this Ordinance, including, but not limited to, that amount determined by the Fire Chief necessary for on-sight firefighters and equipment.

SECTION 7. PROHIBITED CONDUCT.

It shall be unlawful for any person to conduct a fireworks display or public display of fireworks within the Township of Armada, without first obtaining a permit from the Armada Township Board.

SECTION 8. PENALTY FOR VIOLATION.

A person who violates any of the provisions of this Ordinance, shall, upon conviction thereof, be subject to a fine of not more Five Hundred (\$500.00) Dollars or imprisonment in the County jail for a period not to exceed ninety (90) days, or both such fines and imprisonment.

SECTION 9. REPEAL OF CONFLICTING PROVISIONS.

All Resolutions, Ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict repealed.

SECTION 10. 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 effect any of the remaining provisions of this Ordinance.

SECTION 11. PUBLICATION

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

SECTION 12. EFFECTIVE DATE

This Ordinance shall take effect Thirty (30) days from and after the date of publication of a true copy in the Armada Times, as provided by Section 11.

CERTIFICATE OF TOWNSHIP CLERK

I hereby 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 regular meeting held on the 10th day of March, A.D., 1999.

I hereby further certify that the following Board Members were present at said meeting:

Joan Parnagian, Margaret Ruthenberg, Monica Job, Dennis LeMieux and Del Wrybel

and the following Board Members were absent;

None

I further certify that Member Joan Parnagian moved for the adoption of said Ordinance, and that motion was supported by Member Margaret Ruthenberg.

I further certify that the following Armada Township Board Members voted for the adoption of said Ordinance:

Joan Parnagian, Margaret Ruthenberg, Monica Job, Dennis LeMieux and Del Wrybel

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


MARGARET RUTHENBERG
Armada Township Clerk

CERTIFICATE OF PUBLICATION

I, the undersigned Township Clerk of the Township of Armada, do hereby certify that on March 17, 1999, the foregoing Ordinance or Summary thereof was duly published in the Armada Times, a newspaper having general circulation within the Township.



MARGARÉT RUTHENBERG
Armada Township Clerk

**MUNICIPAL REGULATORY AUTHORITY EXPANDED
BY AMENDMENT TO MICHIGAN FIREWORKS LAW**

On June 19, 2013, Governor Snyder signed House Bill No. 4743 (the "Amendment") amending the Michigan Fireworks Safety Act, MCL 28.451, et seq (the "Act"). The Amendment allows municipalities with a population of more than 50,000 residents or those located in a county of more than 750,000 residents (Macomb) to restrict usage of fireworks from 12:00 a.m. to 8:00 a.m. on the day before, the day of and the day after national holidays, except for New Year's Day during which time usage may be restricted between 1:00 a.m. and 8:00 a.m. on January 1 in order to allow for midnight celebrations on New Year's Day. Municipalities with a population of less than 50,000 residents, or those that are located in a county with fewer than 750,000 residents (St. Clair and Lapeer) may now restrict usage of fireworks from 1:00 a.m. to 8:00 a.m. on the day before, the day of and the day after all national holidays. The Amendment was ordered to take immediate effect.

Previously, under the Act, municipalities could not regulate the ignition, discharge and use of consumer fireworks the day before, the day of or the day after a national holiday. The Amendment allows municipalities that wish to do so, the ability to prevent the ignition and discharge during those hours in further effort to relieve noise complaints.

The Amendment also removed a sunset provision on required vendor application fees. These fees, under the Act, were set to expire on January 1, 2014. That is no longer the case and a \$1,000 fireworks certificate application fee for a retail location in a permanent structure, and a \$600 application for a "non-permanent" retail location will remain in place. Moreover, the State must now pay 70% of that fee to a municipality *if the municipality conducts the relevant inspections required by the Act* on the retail location.

Therefore, any municipality that works with the Department of Licensing and Regulatory Affairs to establish a program and conducts the necessary inspections of retail establishments, will receive 70% of the application fees paid by a retailer to the State.

Many municipalities have been regulating noise complaints by the issuance of disturbing the peace citations and/or noise ordinance violations. Although municipalities may continue to do so, the Amendment provides one more tool for municipalities to fight individuals who fail to use common sense when igniting and discharging fireworks. We recommend municipalities that wish to address fireworks noise complaints amend their ordinances to conform to the Amendment of the Act. Prosecutions for disturbing the peace violations require a civilian complaining witness to appear in court to testify, whereas prosecution for violation of a fireworks ordinance would only require the appearance of a police officer.

Unfortunately, the Amendment occurred too late for either general law or charter townships to adopt an ordinance to be effective for the 2013 4th of July holiday. For the upcoming holiday, noise complaints should be handled without reference to the Amendment.

Under the Act licensed vendors can sell high powered, airborne fireworks that previously were illegal in Michigan but available for purchase in several border states. Vendors are required to pay application fees to the State and collect sales tax and a safety fee from consumers. As a result of the recent Amendment, municipalities will share in the application fees if they conduct the required inspections on behalf of the State, and now may adopt ordinances with respect to the hours of discharge applicable on the day before, the day of and the day after a national holiday. The legislation also tightens restrictions on

vendors who do not pay sales tax and fire safety fees to the State and further requires that 100% of the money received from fireworks safety fees will be used for the training of fire fighters under the direction and approval of the Fire Fighters Training Council.