

Township of Greenwood
Clare County, State of Michigan

ORDINANCE No. 92014

AMMENDED APRIL 4, 2016

FIREWORKS CONTROL ORDINANCE

An ordinance to secure the public health, safety and general welfare of the residents and property owners of Greenwood Township, Clare County, by regulating, and where necessary prohibiting Fireworks within said Township, and proscribing penalties for the violation, thereof.

**THE TOWNSHIP OF GREENWOOD OF CLARE COUNTY
STATE OF MICHIGAN ORDAINS:**

SECTION 1. Title. This ordinance shall be know and cited as the Greenwood Township Fireworks Control Ordinance, Number 92014.

(A) Purpose. Pursuant to its statutorily authorized power to enact ordinances for the purpose of preserving and protecting the general health, safety and welfare, the Township Board of Greenwood Township hereby enacts the following Fireworks Control Ordinance, the purpose of which is to prohibit excessive or unnecessary noise(s) and vibrations(s) from fireworks which are prolonged, unusual, and unnatural in their time, place and use, and which disturb the peace and comfort of the public, or, are a detriment to the public health, comfort, convenience, safety, welfare, peace and prosperity of the general public, and, to provide penalties for the violation of this Ordinance.

(B) Definitions. The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, except when content clearly indicates a different meaning:

Act means the Michigan Fireworks Safety Act, Act 256 of 2011, and any amendments to the Act which may, from time to time, be adopted.

APA standard 87-1 means 2001 APA standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American pyrotechnics association of Bethesda, Maryland.

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.

Consumer fireworks means 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 do not include low-impact fireworks.

Display fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and designated to produce visible or audible effects by combustion, deflagration or detonation, as provided in 27 CFR555.11, 49CFR172 and APA standard 87-1, 4.1.

Fireworks means any composition or device, except for a starting pistol, a flare gun or a flare designed for the purpose of providing 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 handled 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

Minor means an individual who is less than seventeen (17) years of age.

National Holiday means the following public holidays:

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

Novelties means that term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.3, 3.2.4, 3.2.5 and all 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 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 toys caps as described in subparagraph 1 are used, that are constructed so that the hand cannot come into contact with the cap

when in place for the explosion, and that are not designed to break apart or to 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 manufacture's name and the quantity in each box are printed on the box and toy smoke devices.

Person means any individual, agent, legal representative, association, charitable organization, church, non-profit organization, unincorporated organization, labor organization, partnership, limited liability company, corporation or any other entity or organization. An individual shall include a minor as defined in the article,

Public Property means property dedicated and appropriated to the public use.

Public Use when used with reference to land reserved for that purpose, means and related to uses for the general benefit of the public, such as schools, libraries, public institutions, government buildings, government parking lots, parks, boulevards, playgrounds, streets, roads, highways, alleys, sidewalks, bike paths, trail ways, easements and sewers, public lighting, water, gas or other similar utility installations, structures and grounds.

Sky Lantern A sky lantern, also known as Kongming lantern or Chinese lantern, is a small hot air balloon made of paper with an opening at the bottom where a small fire is suspended.

Special effects means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and 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.

Visibly intoxicated means exhibiting impairment due to the voluntary ingestion of alcoholic liquor or one's mental and/or physical faculties, which impairment is apparent to the reasonably observant person.

(C) Fireworks: Prohibitions

- (1) **Consumer fireworks.** A person shall not ignite, discharge or use consumer fireworks in Greenwood Township except on the day preceding, the day of or the day after a national holiday, and in accordance with the Michigan Fireworks Safety Act, Public act of 2011, as amended. Further a person shall

not ignite, discharge or use consumer fireworks between the hours of 1:00 am and 8:00 am on these days.

(2) *Low impact and Novelty Fireworks.* A person shall not use, ignite or discharge low impact or novelty fireworks between the hours of 12:00am and 7:00am.

(3) *Illegal Fireworks.* A person shall not use, possess or discharge fireworks in violation of the Act.

(4) *Unmanned Free-Floating Devices.* Any unmanned free-floating device (sky lantern) which requires fire underneath to propel it and is not moored to the ground while aloft, have an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk and are therefore prohibited.

(D) Minors

(1) A minor shall not possess, use, discharge or ignite any consumer fireworks at any time nor on any day including national holidays and the day before and day after a national holiday.

(2) A minor shall not use, discharge or ignite any low impact fireworks or novelty fireworks, unless the supervision of a parent or guardian and the use, discharge and/or ignition is within permitted hours and does not violate the provisions of this article and/or the Act.

(E) General Restrictions

(1) Unless specifically authorized, no person shall use, discharge or ignite fireworks, including consumer fireworks, on public property.

(2) No person shall use, discharge or ignite any fireworks within twenty(20) feet of an open flame, a burner, gasoline, ignited gas or electric grill or in any enclosed structure, garage, tent, or shed, or under any canopy, or overhanging cover of any nature.

(3) No person being visibly intoxicated due to the voluntary consumption of alcoholic liquor as that term is defined under the State of Michigan Motor Vehicle Code shall use, discharge or ignite fireworks, anything by this ordinance to the contrary notwithstanding.

(4) No person shall either individually or in concert with another person, cause damage to any private or public property by the use, discharge or ignition of any fireworks.

(5) No person shall use, discharge or ignite consumer fireworks within fifty(50) feet of a residential structure.

(6) No person shall create litter by using, igniting or discharging fireworks.

(F) Applicability of General Ordinances

Nothing in this article or in the Act shall preclude the enforcement of ordinances prohibiting conduct that is secondary or incidental to the use, discharge or ignition of fireworks.

(G) Seizure

All fireworks used, discharged and/or ignited in violation of the Act and/or this article are subject to seizure. Any costs incurred by Greenwood Township to seize and store the fireworks shall be paid by the responsible party.

(H) Enforcement

The Greenwood Township Board authorizes the following to enforce the provisions of this Ordinance: Clare County Sheriff's Department, Michigan State Police and the Law Enforcement Division of the Michigan Department of Natural Resources.

SECTION 2: VIOLATION

- (A)** A violation of this article is a civil infraction, punishable by a fine of up to \$500.00, plus the costs of prosecution.
- (B)** Following final disposition of a finding of responsibility for violating this article, the Township may dispose of or destroy any fireworks retained as evidence in that prosecution.
- (C)** In addition to any other property, a person that is found responsible for a violation of this article shall be required to reimburse the Township for the cost of storing, disposing of or destroying consumer fireworks that were confiscated by the Township in accordance with this article.

SECTION 3: SEVERABILITY

If any clause, sentence, section, paragraph or part of this Ordinance, or the application thereof to any person, firm, corporation, legal entity or circumstance, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this Ordinance. It is hereby declared to be the legislative intent of this body that the Ordinance is severable, and that the Ordinance would have been adopted had such invalid or unconstitutional provision not have been included in this Ordinance.

SECTION 4: REPEAL

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 5: ADOPTION AND EFFECTIVE DATE

1. This Ordinance shall become effective thirty (30) days after publication, as required by law.

2. This Ordinance was adopted by the Greenwood Township, Clare County, at a regular meeting held on October 6, 2014

Motion to adopt: Ordinance Number 92014; the Greenwood Township Fireworks Control Ordinance by: David Lawrence seconded by: James Korman

Roll call vote:	Yea	Nay	Abstain	Absent
Lester Vida	X			
David Lawrence	X			
Linda Bailow	X			
James Korman	X			
Barbara Ferrett	X			
Motion Carried:	<u> X </u>	_____	_____	_____

CERTIFICATION

I HEREBY CERTIFY the forgoing is a true copy of the Greenwood Township Ordinance No. 92014-Fireworks Control Ordinance, which was adopted by the Greenwood Township Board at a meeting of the board held on October 6, 2014 and published in the Clare County Cleaver the week of October 13, 2014.

Linda Bailow

Linda Bailow, Clerk