

**CHARTER TOWNSHIP OF AUSABLE**

**IOSCO COUNTY, MICHIGAN**

**FIREWORKS ORDINANCE # 110**

**AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CHARTER TOWNSHIP OF AUSABLE THROUGH REGULATION OF THE POSSESSION AND USE OF FIREWORKS PURSUANT TO MCLA 41.181 AND THE MICHIGAN FIREWORKS SAFETY ACT, ACT 256 OF 2011.**

**THE CHARTER TOWNSHIP OF AUSABLE ORDAINS:**

**Section 1. Purpose of Ordinance.** The purpose of this ordinance is to establish a safe environment for the use or discharge of fireworks and to regulate the public health, safety, and general welfare of persons and property; in particular, to ensure protection of the viewing public and the property owners surrounding the discharge site of fireworks.

**Section 2. Definitions.** As used in this ordinance, the following words and phrases have the meanings set forth herein:

- A. **“Articles Pyrotechnic”** means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but are not intended for consumer use, which meet the weight limits for consumer fireworks but are not labeled as such, and which are classified as UN0431 or UN0432 under 49 CFR 172.101.
- B. **“Consumer Fireworks”** means fireworks devices that are designed to produce visible effects by combustion, which 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 which are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Examples include, but are not limited to, aerials, roman candles, bottle rockets, firecrackers, helicopter/aerial spinners, reloadable shell devices, missile-type devices, single tube devices with report, and other items that leave the ground. Consumer fireworks does not include low-impact fireworks.
- C. **“Display Fireworks”** means 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.
- D. **“Firework”** or **“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. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.
- E. **“Holidays”** include those which are recognized as “national,” which upon adoption of this ordinance include:

- New Year’s Day (January 1)
  - Birthday of Martin Luther King, Jr. (third Monday in January)
  - Washington’s Birthday (third Monday in February)
  - Memorial Day (last Monday in May)
  - Independence Day (July 4)
  - Labor Day (first Monday in September)
  - Columbus Day (second Monday in October)
  - Veterans Day (November 11)
  - Thanksgiving (fourth Thursday in November)
  - Christmas Day (December 25)
- F. **“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.
- G. **“Novelty Fireworks”** means that term 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:
- 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.
  - Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in the preceding paragraph are used, which are constructed so 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.
  - Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
  - 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.
- H. **“Person”** means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, and any other legal or commercial entity.
- I. **“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.
- J. **“Use of fireworks”** means the ignition, discharge, or use of fireworks.

**Section 3. General Prohibition on Ignition, Discharge, or Use of Consumer Fireworks.** Except as provided in Section 3.A. and Section 3.B. of this ordinance, no person shall ignite, discharge, or use consumer fireworks within the Charter Township of AuSable at any time, except for the holidays as set forth in Section 2.E. of this ordinance. As it concerns the holidays as set forth in Section 2.E. of this

ordinance, inclusive of the day before and the day after each holiday, the period of time allowed for the ignition, discharge, and use of consumer fireworks shall be only between the hours of 8:00 a.m. and 1:00 a.m. In addition:

- A. Consumer fireworks may be discharged in strict compliance with a permit issued by the Township in accordance with Section 5 of this ordinance and MCL 28.451 et seq.
- B. The use of low-impact fireworks is allowed on any day of the year.
- C. No fireworks of any type shall be ignited, discharged, or used upon Township-owned property.

#### **Section 4. Additional Prohibitions.**

- A. Consumer fireworks shall not be ignited, discharged, or used from any of the following locations without the owner's or the legal representative's express written permission:
  - On public property, including streets and rights-of-way.
  - On school property.
  - On church property.
  - From the property of another person.
- B. Consumer fireworks shall not be ignited, discharged, or used by a person under the influence of alcohol or a controlled substance.
- C. Low-impact fireworks shall not be ignited, discharged, or used by a person under the influence of alcohol or a controlled substance.
- D. Any person who uses fireworks shall be in compliance with all other applicable laws, rules, regulations, and ordinances.

#### **Section 5. Permit, Application, and Site Plan.**

- A. Any person wishing to use consumer fireworks on any day except the day before, the day of, or the day after a holiday as set forth in Sections 2.E. and 3 of this ordinance, or any person wishing to use articles pyrotechnic, display fireworks, or special effects on any day of the year, shall, at least 30 days prior to the event, pay a fee established by the Township Board of Trustees, submit an application for a permit on a form created by the Michigan Department of Licensing and Regulatory Affairs furnished by the Township, and secure permission from the Township Board of Trustees prior to the event as provided under MCL 28.451 et seq.
- B. A site plan of the area where the event is to be conducted shall be submitted with the application. The site plan shall set forth all structures in the area and the discharge site fallout area. The site plan shall also include the distance separating the mortars used to launch the fireworks and the structures, and also include the distance separating the mortars and the spectators viewing the display. All site plans must be approved by the Township Fire

Department Chief, and must then be approved by the Township Board of Trustees. The approval of the Township Fire Department Chief and the Township Board of Trustees may be subject to such conditions as the Fire Chief or his or her designee may impose to properly safeguard the public, both as to persons and property, and subject to the provisions of the Michigan Fireworks Safety Act, Act 256 of 2011.

**Section 6. Requirements and Restrictions.**

- A. Every person who ignites, discharges, or uses fireworks shall follow National Fire Protection Association (NFPA) Code 1123 for fireworks display and/or the Township requirements, whichever is more restrictive.
- B. Every person who is granted a permit to ignite, discharge, or use fireworks shall maintain personal liability insurance/property damage liability insurance in an amount, 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, and to protect the public.
- C. Any person using fireworks shall be responsible for all shells and devices being fired or burned. In the event that a shell or device does not explode, the person shall secure the area until the unexploded shell or device is found and properly disposed of.
- D. Nothing herein limits the liability of any person for injury to any person or property as a result of the use of fireworks, including but not limited to any fire suppression costs incurred as a result of improper, careless, or negligent use of fireworks.

**Section 7. Enforcement.** Any person who violates any provision of this ordinance shall be deemed responsible for a municipal civil infraction and fined up to \$500.00. In addition, the violator shall pay costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. In addition to ordering the violator to pay a civil fine and costs, the court may issue and enforce any judgment, writ, or order necessary to enforce this ordinance. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this ordinance. Each day that a violation of this ordinance continues to exist shall constitute a separate violation of this ordinance.

**Section 8. Severability.** The various parts, sections, and clauses of this ordinance are hereby declared to be severable. If any part, section, or clause is adjudged to be invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected by such ruling.

**Section 9. Effective Date; Publication; Recording.** This ordinance shall take effect immediately upon its publication. This ordinance shall be published once, in full, in a newspaper of general circulation within the boundaries of the Charter Township of AuSable, and qualified under state law to publish legal notices. The Township Clerk shall immediately record this ordinance in the Township Ordinance Book,

and the Township Supervisor and the Township Clerk shall authenticate the record by their official signatures on the record.

**CERTIFICATION**

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the Charter Township of AuSable Board of Trustees at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

I further certify that the following Board members were present at the meeting: \_\_\_\_\_, and that the following Board members were absent: \_\_\_\_\_.

I further certify that the Board member \_\_\_\_\_ moved for adoption of the ordinance, and the motion was supported by the Board member \_\_\_\_\_.

I further certify that the following Board members voted upon roll call vote for the adoption of the ordinance: \_\_\_\_\_, and the following Board members voted against the adoption of the ordinance: \_\_\_\_\_.

Adopted and approved this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the Charter Township of AuSable Board of Trustees.

The Township Supervisor declared this ordinance adopted.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jan Baldwin  
Charter Township of AuSable Supervisor

Dated: \_\_\_\_\_

\_\_\_\_\_  
Kelly Graham  
Charter Township of AuSable Clerk