

FIREWORKS ORDINANCE # 35

AN ORDINANCE REGULATING THE STORAGE, HANDLING, AND USE OF FLAMMABLE OR EXPLOSIVE SUBSTANCES FOR DISPLAY PURPOSES AND USE OR OCCUPANCY OF BUILDINGS OR PREMISES IN CONNECTION THEREWITH AND ADOPTING A FIRE PREVENTION CODE PRESCRIBING REGULATIONS GOVERNING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIREWORKS AND/OR EXPLOSIVES.

35.101 DEFINITION:

FIREWORKS: "Fireworks" shall be used to 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 includes Class B fireworks and Class C fireworks as defined by State Law.

35.200 GENERAL REGULATIONS:

- 35.201 It shall be unlawful for any person, firm, association, partnership or corporation to possess, store, offer for sale, expose for sale, sell at retail, or use or explode any fireworks proscribed by Public Act (1978) No. 258, as amended.
- 35.202 Every such officially sanctioned display shall be handled by a competent operator approved by the fire or police official of the jurisdiction, and shall be of such a character and so located, discharged, or fired, so in the opinion of the fire official, it shall not be hazardous to property or endanger any person.
- 35.203 The manufacture of fireworks within the Township is prohibited, unless licensed under Title 27, Article 181 of USC and complies with all Federal, State and Township regulations and ordinances, including building codes.
- 35.204 The Fire, or Police Department shall have the right to be present at the firing of any permitted public displays of fireworks, and shall have the right to cause the same to be stopped unless it is conducted in strict accordance with the qualifying statements made in the application and so as not to be hazardous to property or endanger any person.
- 35.205 No person conducting a public display shall ignite, explode, project, or otherwise make use of any fireworks in or on any street, alley, highway, or other public place or property within the Township without a permit therefore, nor shall any such person permit such fireworks to be projected over or onto the property

of another person without the consent of the person having control of such property, nor shall any person ignite, explode, project, or otherwise make use of any fireworks within Two Hundred (200) Feet of any dwelling or other structure wherein persons reside.

35.300 PERMIT REQUIRED:

A permit shall be obtained from the Township Board on forms supplied by the Department of State Police for the display and/or discharge of fireworks as allowed under this Ordinance.

35.301 PERMIT APPLICATION:

Application for permits for public displays of fireworks, pyrotechnics, or other explosives of like character, shall be made in writing at least fifteen (15) days in advance of the date of the display or discharge of fireworks. The possession, use and distribution of approved fireworks for such display shall be lawful under the terms and conditions approved with the permit and for that purpose only. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein. The storage of fireworks for use in a display will be limited to the amount required for the permitted display.

35.302 The permit application shall set forth:

- (a) The name of the individual or organization sponsoring the display, together with the name, age, experience, and physical characteristics of the person or persons actually in charge of firing the display.
- (b) The date and time of day at which the display will be held.
- (c) The exact location plan for the display.
- (d) The number and kinds of fireworks to be discharged.
- (e) The manner and place of storage of such fireworks prior to the display.
- (f) A diagram of the grounds on which the display is to be held, showing the point at which the fireworks are to be discharged, the location of all buildings, highways, and other lines of communication, the lines behind which the audience will be restrained, and the location of all trees, telegraph, telephone, or electrical wires in the nearby vicinity, or other overhead obstructions.

(g) The application for such permit shall be verified by affidavit. The Fire Official shall make or cause to be made an inspection of the place stated in the application as the location of the proposed public display of fireworks, to ascertain whether it is a safe and proper location for the display thereof. He shall also investigate the qualifications of the proposed operator of the display. He shall also ascertain whether the applicant is a bona fide fair association, amusement park, or other organization or group of individuals. He shall also examine into the kind and character of the fireworks proposed to be used in the display. If he shall ascertain that the proposed display is to be given in a proper place, by a competent operator so that it shall not be hazardous to property or endanger any person or persons, he shall endorse and approve the application and issue his recommendation to the Township Board for the issuance of the necessary permit.

35.303 BOND FOR PUBLIC DISPLAY:

A permittee for public display shall furnish a bond or display liability insurance in an amount of ONE MILLION (\$1,000,000.00) DOLLARS for the payment of damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, his agents, employees, or subcontractors.

35.400 DIPOSAL OF UNFIRED FIREWORKS:

Unfired fireworks, and trash that remains after the display is concluded, shall be immediately disposed of in a safe manner approved by the Fire Official.

35.500 SEIZURE OF ILLEGAL FIREWORKS:

35.501 An authorized fire or police official shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored, or held, that are, in fact, in violation of the Ordinance, or state law.

35.502 Any items so confiscated by a police or fire official may be disposed of in a manner approved by the State Police upon ten (10) days written notice to the owner.

35.503 SALE OF FIREWORKS:

(A) A license for the sale of only those items permitted by Public Act (1978), No. 258 shall be issued upon the following conditions:

(1) Application shall be made on a form prepared by the Township Clerk to apply to one (1) location per application.

- (2) No fireworks shall be sold by or to minors under eighteen (18) years of age.
- (3) No fireworks shall be sold by or to a person who is intoxicated.
- (4) No fireworks shall be sold before 9:00 A.M. or after 9:00 P.M.
- (5) A Certificate of Insurance shall be publicly displayed in the amount of \$100,000/\$250,000 for premises and products liability at the location of all sales.
- (6) A permit for the sale of fireworks shall be issued from a permanent building, or one designed for the sole purpose of selling fireworks. In either case, before approval, the applicant must demonstrate to the Police and Fire Officials that:
- (a) The licensee has established the existence of acceptable overnight storage in the building, or non-permanent stand.
  - (b) The building, or non-permanent stand, shall comply with all applicable fire standards and regulations.
  - (c) The building, or non-permanent stand shall be maintained in a safe location and in a theft resistant condition;
  - (d) The building, or non-permanent stand shall be maintained at least Five Hundred (500) Feet from any gasoline station or location where there is storage of flammable liquids or gases, and also at least Five Hundred (500) Feet from any school or church.
  - (e) All fireworks licenses issued under this Ordinance shall be non-transferable, except upon approval of the Township Board.
  - (f) Under no circumstance shall fireworks be sold from a residence or a motorized or mobile vehicle.
- (B) All locations shall display no smoking signs, and shall be equipped with Two (2), Ten (10) Pound-ABC Type fire extinguishers.
- (C) The licensee shall pay a One Hundred (\$100.00) Dollar non-refundable inspection fee. If approved, the licensee shall pay a One Hundred Fifty (\$150.00) Dollar license fee. In the case of a non-permanent stand, a Five Hundred (\$500.00) Dollar cash deposit shall be submitted with the license fee to be returned only in the event of compliance with Section 35.505.
- (D) A fireworks license shall be approved by the Township Clerk based upon compliance with the foregoing, and may be revoked for misrepresentation in the application or violation

of this Ordinance. Any applicant who has been convicted of a violation of this Ordinance shall have his application submitted to the Township Board to set whatever additional conditions as may be necessary and applicable to assure future compliance.

(E) Every licensed dealer shall at the site approved for sale, display, at all times during business hours, his/her Township Fireworks License, Michigan Tax License, and Certificate of Insurance.

(F) All merchandise on display shall be in enclosed show cases unless out of the reach of customers.

35.504 STORAGE OF FIREWORKS:

Storage of fireworks shall be approved by the local governing authority or Township Board.

35.505 NON-PERMANENT STANDS:

Non-permanent stands shall be permitted only between May 27th and July 6th. A Five Hundred (\$500.00) Dollar cash deposit shall be required upon approval of all non-permanent stands. That deposit shall be held to assure compliance with this Section, and shall be forfeited in the event that the licensee has commenced to sell from a non-permanent stand prior to May 27th, or after July 6th of any year, or in the event that the licensee has failed to remove the non-permanent stand by July 6th of the year for which approval has been granted.

35.506 REVOCAATION:

A fireworks license may be revoked only after a hearing before a three (3) member independent panel appointed by the Township Board, at which hearing, the licensee shall be accorded all due process rights, including, but not limited to, a full, fair hearing, right to be represented by counsel, right to confront and cross-examine all witnesses, right to due notice (at least three (3) day written notice), time to prepare, including reasonable continuances, upon showing of good cause, and a right to present evidence, either in person or in writing.

35.600 PENALTY:


Any person, firm association, partnership, or corporation violating any of the terms of this Ordinance shall be subject to a fine of not more than Five Hundred (\$500.00) Dollars, or to imprisonment for a period not to exceed Ninety (90) Days, or to both such fine and imprisonment in the discretion of the court. Each day the violation exists shall constitute a separate offense.

35.700 SEVERABILITY:

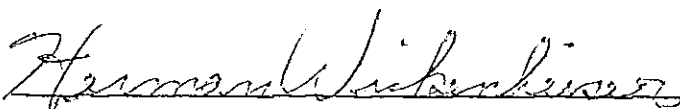
The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause, is adjudged unconstitutional, or invalid, by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. All other Ordinances inconsistent with the provisions of this Ordinance, are, to the extent of such inconsistencies, hereby repealed.

35.800 Due to the seasonal nature of the activity regulated, and the urgency to commence timely licensing hereunder, this Ordinance is declared to be an emergency action and shall take effect immediately.

This Ordinance No 35 was made and passed by the Exeter Township Board at a meeting held by said Board on December 1, 1983, at the Exeter Township Hall with 4 members of said Board being present and 4 voting in favor thereof and 0 voting against.


  
Dorothy A. Evanski  
Exeter Township Clerk

Attested:



Herman Wickenheiser  
Exeter Township Supervisor

I, Dorothy A. Evanski, Clerk of the Township of Exeter, do hereby certify that the above Ordinance was approved and adopted by the Exeter Township Board at a meeting thereof held on the 1st day of December, 1983.

  
Dorothy A. Evanski  
Exeter Township Clerk