

*The following Amendment to the Township Code Of Ordinances was Adopted at the Holland Charter Township Board meeting on August 15, 2019*

**ORDINANCE NO. 597**

**FIREWORKS RESTATEMENT ORDINANCE**

**AN ORDINANCE TO AMEND THE HOLLAND CHARTER TOWNSHIP CODE OF ORDINANCES BY RESTATING IN ITS ENTIRETY SECTION 18-69 OF CHAPTER 18, ARTICLE III, REGARDING FIREWORKS.**

**THE CHARTER TOWNSHIP OF HOLLAND, COUNTY OF OTTAWA, STATE OF MICHIGAN, ORDAINS:**

**Section 1.** Section 18-69, Chapter 18, Article III. Section 18-69 of Chapter 18, Article III of the Holland Charter Township Code of Ordinances is restated in its entirety to read as follows.

**(a) Definitions.**

The following words and phrases, when used in this section, shall have the meanings respectively ascribed to them, except where the context clearly indicates a different meaning.

*ACT* – The Michigan Fireworks Safety Act, being Public Act No. 256 of 2011 (MCL 28.451, et. seq.).

*ALCOHOLIC LIQUOR* – That term as defined in section 1d of the Michigan Vehicle Code, being Public Act No. 300 of 1949 (MCL 257.1, et seq.).

*APA STANDARD 87-1* – 2001 APA Standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, as published by the American Pyrotechnics Association of Bethesda, Maryland.

*CONSUMER FIREWORKS* – Fireworks 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, as amended, 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.

*CONTROLLED SUBSTANCE* – That term as defined in section 8b of the Michigan Vehicle Code, being Public Act No. 300 of 1949 (MCL 257.1, et seq.).

*FIREWORKS* – Any composition or device, except a starting pistol, a flare gun, or a flare, designed for the purpose of producing visible or audible effect by combustion, deflagration, or detonation, including consumer fireworks, low-impact fireworks, articles pyrotechnic as defined in the act, special effects as defined in the act, and display fireworks as defined in the act.

*LOW-IMPACT FIREWORKS* – Ground and handheld sparkling devices as that phrase is defined in APA standard 87-1: 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

*MINOR* – An individual who is less than 18 years of age.

*RETAILER* – Any person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

*WHOLESALE* – Any person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person who sells only display fireworks or special effects.

**(b) Ignition, discharge, and use of consumer fireworks.**

- (1) A person shall not ignite, discharge, or use consumer fireworks except on the following days after 11 a.m.:
  - (i) December 31 until 1 a.m. on January 1;
  - (ii) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days;
  - (iii) June 29 to July 4 until 11:45 p.m. on each of those days;
  - (iv) July 5, if that date is a Friday or Saturday, until 11:45 p.m.; and
  - (v) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- (2) A person shall not ignite, discharge, or use consumer fireworks if the environmental concerns based on the department of natural resources fire division criteria are elevated to extreme fire conditions or if the

environmental concerns based on the department of natural resources, fire division criteria are elevated to very high for 72 consecutive hours and the commanding officer of the fire department, in consultation with the department of natural resources, enforces a no burning restriction that includes a ban on the ignition, discharge, and use of consumer fireworks. If a no burning restriction is instituted under this section, the commanding officer of the fire department enforcing the restriction shall ensure that adequate notice of the restriction is provided to the public.

**(c) Possession of consumer fireworks by a minor; sale of same to a minor.**

A minor shall not possess, ignite, discharge, or use consumer fireworks. Consumer fireworks shall not be sold to a minor.

**(d) Prohibited conduct.**

(1) A person shall not ignite, discharge, or use consumer fireworks on or within 15 feet of public property, school property, church property, or the property of any another person without that organization's or person's express permission to use those consumer fireworks on those premises.

(2) A person shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination thereof.

**(e) Sale of fireworks.**

A retailer or other person may not sell consumer fireworks unless such person has obtained, and has in effect, a valid consumer fireworks certificate as required by the act. A retailer or other person may not sell low-impact fireworks unless that person is actively registered on the low impact fireworks retail registry as required by the act.

**(f) Rubbish resulting from fireworks.**

Rubbish resulting from the ignition, discharge, and use of fireworks shall be contained on the property from which the fireworks are ignited, discharged, or used and shall be properly disposed. If rubbish resulting from the ignition, discharge, and use of fireworks is deposited onto neighboring properties, road right-of-way, or other areas, it shall be promptly removed and properly disposed.

**(g) Retailers and wholesalers.**

Retailers and wholesalers must comply with all applicable local, state, and federal legal requirements.

**(h) Determination of violation; seizure.**

If a law enforcement officer determines that a violation of this article has occurred, the officer may seize the consumer fireworks as evidence of the violation.

**(i) Local, state, and federal requirements.**

Nothing contained within this section shall be construed to relieve a person of any duties and obligations imposed under any local, state, or federal laws, rules, regulations, licenses, or permit requirements.

**(j) Penalty.**

Any person violating the provisions of this section shall be responsible for a municipal civil infraction with a civil fine of \$1,000.00 for each violation of the section or such other amount as is required by the act. Of the fine collected under this section, \$500.00 shall be remitted to the local law enforcement agency responsible for enforcing this section.

**Section 2. Effective Date.** This Ordinance was approved and adopted by the Township Board of the Charter Township of Holland, Ottawa County, Michigan, on August 15, 2019, following a first reading on August 1, 2019. The Ordinance was posted and a notice was published after the first reading and after the adoption. The Ordinance shall take effect on August 30, 2019.

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Terry Nienhuis, Supervisor

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Michael Dalman, Clerk

**CERTIFICATE**

We, Terry Nienhuis and Michael Dalman, the Supervisor and Clerk, respectively, for the Charter Township of Holland, Ottawa County, Michigan, certify that the foregoing Fireworks Restatement Ordinance was adopted at a regular meeting of the Township Board held on August 15, 2019. The following members of the Township Board were present at the meeting: Nienhuis, Dalman, Bush, Becker and Nykamp. The following members of the Township Board were absent: Church and TeSlaa. The Ordinance was adopted by the Township Board with 5 voting in favor and 0 members of the Board voting in opposition. The Notice of Adoption of the Ordinance was published in the *Holland Sentinel* on August 21, 2019.

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Terry Nienhuis, Township Supervisor

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Michael Dalman, Township Clerk