

SANDS TOWNSHIP  
MARQUETTE COUNTY, MICHIGAN  
ORDINANCE NUMBER 58  
FIREWORKS ORDINANCE

An ordinance to protect the health, safety, and general welfare of the Township of Sands through the regulation of use of fireworks, as provided in the Michigan Fireworks Safety Act, PA 256 Of 2011, as amended; to provide for civil sanctions and remedies for violation of this Ordinance; and to repeal all Ordinances or parts of Ordinances in conflict herewith.

**SECTION I: TITLE:** This ordinance shall be known and cited as the Sands Township Fireworks Ordinance.

**SECTION II: DEFINITIONS:** For the purposes of this Ordinance, the following definitions shall apply:

1. Act: The Michigan Fireworks Safety Act, PA 256 of 2011, as it may be amended from time to time.
2. APA: American Pyrotechnics Association
3. Consumer fireworks: 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.
4. Department: Department of Licensing and Regulatory Affairs (LARA), State of Michigan.
5. Display Fireworks: Large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effect by combustion, deflagration, or detonation in 27 CFR 555.11, 49 CFR 162 and APA standard 87-1, 4.1.
6. Firework or Fireworks: 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.
7. Low-impact Fireworks: Ground and handheld sparkling devices as defined under APA standard 87-1, 3.1.1.1 to 3.1.1.8 and 3.5.
8. Minor: Individual who is less than 18 years of age.
9. National Holiday: A national holiday as defined in 5 USC 6103 and includes: New Year's Day; Martin Luther King Jr. Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day; and Christmas Day.
10. Novelties: As defined under APA standard 87-1, 3.2, 3.2.1, 3.22, 3.23, 3.24 and 3.25 and all of the following:

- a. Toy plastic or paper caps for toy pistols in sheets, strips, rolls or individual caps containing not more than .25 of grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
  - b. Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in the above paragraph are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
  - c. Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
11. Sky Lantern: A small, unmanned, untethered, balloon-like, free-floating, aerial luminary, also known as a Chinese lantern, sky candle or fire balloon. Sky lanterns rely on an open flame suspended within or underneath the balloon to heat the air inside to provide lift.

**SECTION III: FIREWORKS AND SKY LANTERNS:**

- 1. A person shall not ignite, discharge or use fireworks except on the day proceeding, the day of and the day after a national holiday.
- 2. No person shall ignite, discharge or use fireworks between the hours of 1 a.m. and 8 a.m.
- 3. Use of consumer fireworks must be in compliance with the Sands Township Noise Ordinance.
- 4. Consumer fireworks shall not be used if a burn ban is in effect.
- 5. A person shall not ignite, discharge or use fireworks on public property, school property, church property or the property of another person, without that person or organization's express written permission to use fireworks on those premises.
- 6. A person shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance or a combination of alcoholic liquor and a controlled substance.
- 7. The purchase of fireworks at any time by a minor, or the possession and use of fireworks by a minor except while under direct parental supervision, is prohibited.
- 8. Fireworks shall only be used in accordance with all applicable local, State, and Federal laws.
- 9. Sky lanterns shall not be ignited, launched, released, discharged or used within the Township of Sands.

**SECTION IV: NOVELTIES:** This Ordinance does not apply to and does not regulate the use of Novelties in the Township of Sands.

**SECTION V: DISPLAY FIREWORKS:**

- 1. The Township may permit display fireworks in the Township of Sands pursuant to the provisions of MCL 28.451, et seq and this Ordinance.
- 2. Any person wishing to conduct a display of fireworks shall, at least 45 days prior to any display, submit an application on a form provided by the Township, pay

- the required fee and shall secure approval from the Township Zoning Department prior to any fireworks display.
3. A site plan of the area where the fireworks display is to be conducted shall be submitted for review, with the application. The site plan shall set forth all structures in the area and within the discharge site fallout area. The site plan shall furthermore set forth the distance separating any fireworks and any spectator viewing areas. The Zoning Administrator shall review all site plans with the Township's Fire Chief or his/her representative.
  4. A copy of any required state and/or federal permits for the fireworks display shall be submitted with the application.
  5. Proof of insurance conforming to the requirements of this Ordinance and PA 256 of 2011 shall be submitted with the application.
    - a. The applicant shall maintain personal injury liability insurance/property damage liability insurance in the amount of \$1,000,000.00 for each event. The Township shall be named as an additional insured on the insurance policy.
  6. The application shall include information as to the competency and qualifications of the fireworks display operators, as required by NFPA 1123.
  7. The Zoning Administrator shall approve an application for display fireworks if he/she finds that all of the following standards are satisfied:
    - a. Application and accompanying documentation is complete and conforms to the requirements of this Ordinance.
    - b. The operator of the fireworks display is competent and qualified to conduct the fireworks display, per NFPA 1123.
    - c. Fire Chief or his/her alternate has approved the site plan.
    - d. Fireworks display will not have any adverse effect upon public safety.
    - e. The time, duration, and location of the fireworks or special effects display will not, due to noise and other factors, unreasonably disturb the peace of persons residing within the vicinity or otherwise violate the Township's Nuisance Ordinance.
    - f. The Township, in approving an application hereunder, shall have the authority to impose such conditions, as determined in its sole reasonable discretion, as necessary to assure that the fireworks display will satisfy the above standards.

#### **SECTION VI: REQUIREMENTS AND RESTRICTIONS:**

1. Person/s conducting the fireworks display shall follow NFPA 1123 for fireworks display and/or the Township's requirements set forth, whichever are more restrictive.
2. Minimum safe area of 250 feet radius, plus an additional 70 feet radius for each inch by which the fireworks shall exceeds 3 inches in diameter shall be required. In no event, shall the applicant fail to comply with the minimum requirements of NFPA 1123.
3. The Township shall not issue a permit to a nonresident person until the person has appointed, in writing, a member of the state bar or a resident agent to be the

- person's legal representative upon whom all process in an action or proceeding against the person may be served.
4. Applicant shall be responsible for all shells being fired. In the event one or more of the shells does not explode, the applicant shall secure the area until the unexploded shell/s is found and properly disposed of.
  5. The consumption of alcohol, a controlled substance or a combination of alcoholic liquor and a controlled substance, immediately prior to and during the fireworks display by any person involved in conducting the display is prohibited.
  6. A fireworks display conducted hereunder shall conform with all specifications set forth in the approved application and site plan, as well as with any other conditions imposed by the Township in granting such approval.
  7. The applicant shall cause the site of the fireworks display to be cleaned up within 24 hours after the fireworks display has ended.
  8. A permit is not transferable and shall not be granted to a minor.

**SECTION VII: VIOLATIONS, ENFORCEMENT, AND PENALTIES:**

Any person that violates any provision of this Ordinance shall be deemed responsible for a municipal civil infraction citation and fined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1 <sup>st</sup> offense within a 3 year period	\$75	\$500
2 <sup>nd</sup> offense within a 3 year period	\$150	\$500
3 <sup>rd</sup> offense within a 3 year period	\$325	\$500
4 <sup>th</sup> offense within a 3 year period	\$500	\$500

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which the Township of Sands has been put in connection with the municipal civil infraction citation/s. In no case, however, shall costs of less than \$9.00, nor more than \$500.00, be ordered. 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.

This Ordinance shall be enforced by the Sands Township Ordinance Enforcement Officer, Supervisor, Local law enforcement, and/or any other such person the Sands Township Board may designate.

Whenever the Ordinance Enforcement Officer determines that a violation of this ordinance exists, said Ordinance Enforcement Officer shall utilize all legal means to correct said violation, including the issuing of civil infraction citation/s.

**SECTION VIII: SEVERABILITY:**

Should any section, clause or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof, other than the parts so declared to be invalid.

**SECTION IX: APPEALS:**

An appeal shall stay all proceedings in furtherance of the action appealed.

An appeal fee shall accompany the request for appeal prior to any further action.

Appeal concerning application of the provisions of this Ordinance shall be first presented to the Zoning Administrator, who shall present the required documentation to the Sands Township Clerk.

Such questions/appeal shall be presented to the Sands Township Board of Trustees only on the appeal from the decision of the Zoning Administrator. Recourse from decisions of the Sands Township Board of Trustees shall be to the Circuit Court of Marquette County, as provided by law.

**SECTION X: REPEAL OF CONFLICTING ORDINANCES:**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**SECTION XI: EFFECTIVE ADOPTION AND DATE:**

The undersigned Supervisor and Clerk of the Township of Sands hereby certify that this Ordinance was adopted by the Township of Sands Board of Trustees on the 11<sup>th</sup> day of December, 2018, and was published in The Mining Journal on the 20<sup>th</sup> day of December, 2018.

This Ordinance shall become effective thirty (30) days after its adoption and publication.