

FIREWORKS ORDINANCE ORDINANCE NO. 1.79

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Board minutes

Ordinance No. 1.79

An Ordinance to secure the public health, safety and general welfare of the citizens of Charlevoix Township, Charlevoix County, Michigan, by regulating the use of Consumer Fireworks in Charlevoix Township as provided in Public Act 256 of 2011, as amended (MCL 28.451 et seq.).

Charlevoix Township ORDAINS:

Section 1. Purpose

Public Act 246 of 1945 (MCL 41.181, et seq.) authorizes the Charlevoix Township to enact ordinances that regulate the public health, safety and general welfare of persons and property. Public Act 256 of 2011, as amended (MCL 28.451, et seq.) authorizes Charlevoix Township to enact an ordinance regulating the ignition, discharge, and use of Consumer Fireworks, to the extent allowed by Public Act 256 of 2011, as amended in the interest of public health, safety and general welfare of the citizens of Charlevoix Township.

Section 2. Title

This Ordinance shall be known as the Charlevoix Township Consumer Fireworks Ordinance.

Section 3. Interpretation

This Ordinance shall be interpreted in accordance with the definitions included in Public Act 256 of 2011, as amended and as interpreted by the Michigan Court of Appeals.

Section 4. Prohibited Acts

The ignition, discharge, and use of Consumer Fireworks in Charlevoix Township is prohibited at all times except for the day preceding, the day of, or the day after a National Holiday. National Holidays include: New Year's Day, Martin Luther King Day, Inauguration Day, Washington's Birthday (President's Day), Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas. On these days the ignition, discharge, and use of Consumer Fireworks is prohibited between 1:00 A.M. until 8:00 P.M.

Section 5. Severability

This Ordinance shall be deemed severable and if any word, sentence, clause, section, or provision is declared invalid or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any other portion of this Ordinance and the remaining portions of this Ordinance shall remain valid and enforceable.

Section 6. Penalties

Municipal Civil Infraction. A violation of this Ordinance is a municipal civil infraction, subject to a maximum fine of \$500.00 plus court costs.

Misdemeanor. Any Person who refuses to abate a fireworks violation upon the demand of an authorized local enforcement officer, interferes with the officer's complaint of a noise disturbance is guilty of a misdemeanor punishable by a maximum of 90 days in jail and/or a fine of \$500.00 plus court costs.

Section 7. Enforcement

Any Township Zoning Official and the Charlevoix County Sheriff and his deputies are authorized as local enforcement officers of the Ordinance.

Section 8. Non-exclusive Remedy

Nothing in this ordinance impairs or precludes a separate cause of action, civil or criminal, provided by statute or common law for conduct prohibited herein.

Section 9. Effective Date

This Ordinance shall take effect 30 days following publication.

The following voted:

Yeas: Martin, Williams, Rajewski and Center

Nays: None

Abstain: None

Absent: David Christiansen

July 2015
upd. att.

AUGUST 26, 2015

ENFORCE CONSUMER FIREWORKS ORDINANCE

RESOLUTION

WHEREAS, an agreement between Charlevoix Township and the Charlevoix County Sheriff's Department has been received and reviewed by the Internal Government Committee; and

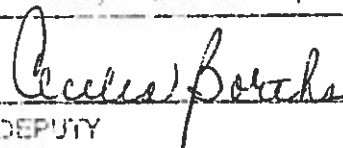
WHEREAS, this agreement is requesting the Sheriff Department enforce the Consumer Fireworks Ordinance in the sole exercise of their professional judgment; and

WHEREAS, the Internal Government Committee recommends its approval to the entire Board;

NOW THEREFORE BE IT RESOLVED, that the Charlevoix County Board of Commissioners hereby accepts the above recommendation and authorizes the Chairman to sign said agreement.


Chairman of the Board


Clerk to the Board of Commissioners

CERTIFIED	
Cheryl D. Browne, County Clerk	
	08/27/2015
DEPUTY	DATE

AGREEMENT

THIS AGREEMENT is effective on this 17th day of August, 2015 between Charlevoix Township, a Michigan general law township, and the Charlevoix County Sheriff's Department.

Recitals

- A. Charlevoix Township has enacted a Consumer Fireworks Ordinance prohibiting the ignition, discharge, and use of Consumer Fireworks in Charlevoix Township at all times except for the day preceding, the day of, or the day after a National Holiday (New Year's Day, Martin Luther King Day, Inauguration Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day); the ignition, discharge and use of Consumer Fireworks on these days is prohibited from 1:00 A.M. until 8:00 P.M. (the "Ordinance").
- B. Charlevoix Township does not have a police department to utilize for the enforcement of the Ordinance.
- C. Under MCL 41.181(1) the Sheriff is empowered to enforce local township ordinances to the extent that township funds are appropriated for the enforcement.
- D. The Charlevoix County Sheriff's Department has the personnel with the training and experience necessary to enforce the Ordinance, and desires to assist Charlevoix Township in the enforcement of the Ordinance.
- E. Because the extent and nature of the ordinance enforcement by the Sheriff's Department contemplated by this Agreement will be relatively minor, no township funds are needed in connection with this Agreement.

Agreement

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

- 1. The Charlevoix County Sheriff's Department agrees that its officers shall enforce the Ordinance under the terms and conditions of this Agreement.
- 2. Charlevoix Township acknowledges and agrees that when enforcing the Ordinance, the officers, in the sole exercise of their professional judgment, are free to take whatever action they deem necessary and proper to enforce the ordinance. Charlevoix Township further acknowledges and agrees that the discretion granted to the officers in this paragraph includes the discretion to take no enforcement action, if the officer deems this action warranted under the circumstances.
- 3. The Charlevoix County Sheriff's Department agrees that any expenses it may incur in the enforcement of the Ordinance, including but not limited to the expenses associated

with required court appearances by its officers, shall not be passed on to Charlevoix Township, but shall be considered an expense of the sheriff's department.

4. Each party shall indemnify and hold the other party, its officers, board members, assigns, agents, servants, employees, insurance companies, harmless from any and all damages, legal fees or expenses, awards, demands, rights, and causes of action which arise from the enforcement of the Ordinance.
5. Either party may terminate this Agreement upon seven (7) days written notice to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective the day and year first above written.

CHARLEVOIX TOWNSHIP

Date: Aug. 17, 2015

By: Chuck Center
Chuck Center, Supervisor

CHARLEVOIX COUNTY SHERIFF'S
DEPARTMENT

Date: _____

By: W. D. Schneider
W. D. Schneider, Sheriff

Agreement Approved by:

CHARLEVOIX COUNTY BOARD
OF COMMISSIONERS

By: _____
Joel Evans, Board Chair

Date: _____

with required court appearances by its officers, shall not be passed on to Charlevoix Township, but shall be considered an expense of the sheriff's department.

4. Each party shall indemnify and hold the other party, its officers, board members, assigns, agents, servants, employees, insurance companies, harmless from any and all damages, legal fees or expenses, awards, demands, rights, and causes of action which arise from the enforcement of the Ordinance.
5. Either party may terminate this Agreement upon seven (7) days written notice to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective the day and year first above written.

CHARLEVOIX TOWNSHIP

Date: 7-11-17

By: Chuck Center
Chuck Center, Supervisor

CHARLEVOIX COUNTY SHERIFF'S
DEPARTMENT

Date: 7/2/17

By: Charles Vondra
Charles Vondra, Sheriff

Agreement Approved by:

CHARLEVOIX COUNTY BOARD
OF COMMISSIONERS

By: _____
Joel Evans, Board Chair

Date: _____