

Some Q & A's regarding Fireworks Regulation in CLT

(Created on Tuesday, July 31, 2012 by the Michigan Township Association
for the use of its members, including Crystal Lake Township.)

Q. Did the law regarding fireworks change?

Yes. The Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451, et seq., took effect January 1, 2012. Among other things, it expanded the types of fireworks that are legal for use in Michigan. It also limited some aspects of local fireworks regulation. Public Act 65 of 2013, effective June 19, 2013, amended the Act to authorize local units to regulate the hours fireworks may be used on the days before, of, and after a national holiday.

Q. What types of fireworks are now legal in Michigan?

According to the Bureau of Fire Services in the Michigan Department of Licensing and Regulatory Affairs (LARA), the following types of fireworks are legal for sale and use in Michigan and are regulated by the state (see the *American Pyrotechnics Association (APA) standard 87.1, 2001 Edition*):

Effective January 1, 2012, the Act permits the sale and use of **consumer fireworks** such as 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. Also called "1.4G" or "Class C" fireworks, consumer fireworks by law cannot contain more than 50 mg of explosive material. These devices are most commonly sold at neighborhood stands during the Fourth of July season. Sellers of consumer fireworks must register with LARA.

Low impact fireworks such as ground-based and some hand-held sparklers, sparkling wheel devices, ground sparkling devices, and smoke devices with less than 500 g of explosive mixture remain legal for sale and use. Sellers of low impact fireworks must also register with LARA.

The following types of fireworks are legal for sale and use in Michigan, but are not regulated by LARA:

Novelty fireworks are lawful for sale and use. They include snappers, drop pops, snakes, party poppers, smoke balls, and sparkling devices that are not low impact fireworks.

Display fireworks are large and explosive items typically used at Fourth of July or other celebrations by professionals. These require a permit from the township, as well as applicable permits from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Federal regulations at 27 CFR, Part 555, require that any person engaging in the business of importing, manufacturing, dealing in, or otherwise receiving display fireworks must first obtain a federal explosives license or permit from ATF for the specific activity.

Articles pyrotechnic for proximate display are fireworks that are used indoors or with an audience that is closer to pyrotechnic devices than allowed by the National Fire Protection Association (NFPA) 1123, *Code for the Outdoor Display of Fireworks*. Examples include stage or indoor displays, such as a concert or stadium event.

Q. Who may buy or use consumer fireworks?

Pretty much anyone may buy or use consumer fireworks, except a minor (anyone under the age of 18) or anyone who is under the influence of drugs or alcohol.

Fireworks may not be used on public, school, or private property of another person unless express permission is obtained to use the fireworks on that property.

Q. What are the requirements for someone to sell consumer or low impact fireworks in Michigan?

A person must be certified by the State of Michigan to sell **consumer** fireworks. The applicant must pay an application fee of \$1,000 for a permanent building or structure or \$600 for a retail location that is not a permanent building or structure that meets National Fire Protection Association (NFPA) requirements. The application deadline is April 1st of every year the fireworks are sold. The retailer must also have a valid federal tax identification number, unless the retailer is a sole proprietorship. In addition, any structure that is used for retail fireworks sales must be approved before a certificate is issued. The Consumer Fireworks Certificates only apply to the sale of consumer fireworks.

Any retailer selling **consumer** fireworks is entered into an online registry on LARA's website.

The Act requires that any retailer selling **low-impact** fireworks register on-line each calendar year at least 10 days before the low-impact fireworks are sold. There is no cost associated with registration.

If a retailer sells *both* **consumer** fireworks, and **low-impact** fireworks, they must register on both on-line registries before any low impact fireworks can be sold.

A 6% Fireworks Safety fee is also assessed on the retail sales of both consumer and low-impact fireworks. Retailers are required to collect and submit the fees to the State of Michigan. The fee is used to fund the operations of the Bureau of Fire Services and firefighter training.

For more information, visit the [LARA Fireworks web portal](#).

Q. How can I find out who is selling consumer and low-impact fireworks in my township?

LARA has two look-up pages:

Consumer Fireworks: www7.dleg.state.mi.us/consumerfireworks/

Low Impact Fireworks: www7.dleg.state.mi.us/fireworks/

Q. How are townships involved in permitting fireworks displays?

The Act refers to fireworks "displays" in two different ways. One relates to the display of fireworks **for sale**—and townships cannot regulate the display for sale.

But the more commonly understood use of "fireworks display" refers to the ignition, discharge and use of display fireworks or articles pyrotechnic for proximate display. Townships are responsible for issuing permits for public or private displays of these two types of fireworks. All permits issued for the discharge of display fireworks are obtained from the local jurisdiction where the fireworks will be displayed. Any fees charged for these permits are charged by and retained by that local jurisdiction.

Fireworks application and permit forms are provided **only** to the township (the local permitting authority), and are available **only** from the LARA Bureau of Fire Services at (517) 241-0691.

MTA staff, in consultation with LARA staff, MTA Legal Counsel, and liability insurance carriers, believe that a township may enact an ordinance incorporating standards for the competency and qualifications of operators for "articles pyrotechnic" and "display fireworks," including time, place and safety aspects of the display (ignition, discharge or use) of articles pyrotechnic or display fireworks, as part of the process of granting permits. NFPA fireworks standards should be used. (MCL 28.466) Townships should note that such an ordinance will possibly be required by an insurance carrier as a condition of fireworks liability insurance.

The federal Safe Explosives Act (SEA) requires any person who receives explosive materials, including display fireworks, to have a license or permit from the ATF. The SEA mandates inspections of applicants for new display fireworks license or permits, as well as inspections of existing licensees or permittees. Townships may be contacted by the ATF investigators during these inspections to determine compliance with state and local requirements. Questions regarding the federal regulation of display fireworks may be referred to ATF Industry Operations in Detroit at (313) 259-8050, or in Grand Rapids at (616) 301-6100.

In the event that display fireworks or illegally manufactured fireworks are involved in a permit violation, contact your local ATF office for enforcement assistance and safe handling/storage recommendations.

The Michigan State Police Bomb Squad can also assist townships with safe handling/storage recommendations and can be contacted through the MSP Operations Center at 800-525-5555.

Q. What can a township regulate dealing with fireworks?

A township **cannot** regulate or adopt an ordinance specifically regulating the sale, display *for sale*, storage, transportation, or distribution of fireworks that are regulated by PA 256--consumer fireworks and low impact fireworks. (MCL 28.457) Sellers of consumer fireworks must comply with the NFPA 101 (2009) and NFPA 1124 (2006) Codes (AGO 7266 of 2012). LARA regulates the storage and sale through mandatory registration and fees, and the U.S. Department of Transportation regulates transport.

It is important to consider aspects of existing ordinances, including zoning ordinances, to determine if they prevent the sale of consumer or low impact fireworks. For example, [Attorney General Opinion 7266 of 2012](#) states that a generally applicable local ordinance regulating all use of temporary vending facilities (not just those related to fireworks) has only an incidental effect on the sale of fireworks, and is not preempted by PA 256. Note that items within the Michigan Building Code pertaining to explosives do *not* apply to consumer fireworks (1.4G). See [BCC Consumer Fireworks Guidelines](#).

A township **may** enact an ordinance regulating--including prohibiting--the ignition, discharge, and use of consumer fireworks, including, but not limited to, an ordinance prescribing the hours of the day or night during which a person may ignite, discharge, or use consumer fireworks. If a local unit of government enacts an ordinance under this subsection, the ordinance shall not regulate the ignition, discharge, or use of consumer fireworks on the day preceding, the day of, or the day after a national holiday except as follows:

(a) A local unit of government with a population of 50,000 or more or a local unit of government located in a county with a population of 750,000 or more may regulate the ignition, discharge, or use of consumer fireworks between the hours of 12 midnight and 8 a.m. or between the hours of 1 a.m. and 8 a.m. on New Year's day.

(b) A local unit of government with a population of less than 50,000 located in a county with a population of less than 750,000 may regulate the ignition, discharge, or use of consumer fireworks between the hours of 1 a.m. and 8 a.m. ([MCL 28.457](#))

"National holidays" are those defined in 5 USC 6103:

- New Year's Day, January 1
- Martin Luther King, Jr. Day, the third Monday in January
- Washington's Birthday, the third Monday in February
- Memorial Day, the last Monday in May
- Independence Day, July 4
- Labor Day, the first Monday in September
- Columbus Day, the second Monday in October
- Veterans Day, November 11
- Thanksgiving Day, the fourth Thursday in November, and
- Christmas Day, December 25.
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Q. Do townships inspect fireworks facilities?

LARA may delegate inspection duties under the Fireworks Safety Act to local units to carry out inspections for approved fireworks facilities within their jurisdiction. Approved local units are responsible to conduct facility inspections of both permanent and temporary structure types during the specific authorized fireworks season. Compensation for the delegated fireworks inspections is 70% of the Consumer Grade Fireworks Certificate Fee for the structure type that was collected (\$700 for permanent and \$420 for temporary) at the time of the facility application. Compensation is paid to the township upon completion and submission of a final facility inspection report and if an actual fireworks facility inspection of a structure was completed.

The deadline for applying to conduct inspections is late January each year (January 24, 2014). If approved, both the township board and the fire chief for the department that would do the township inspections must sign off on an agreement with the state. Information on the program is available on the [LARA Fireworks web portal](#).

If township declines to participate, LARA retains the inspection duties.

Quick Links

- [American Pyrotechnics Association \(APA\)](#)
- [Attorney General Opinion 7266 of 2012](#)
- [LARA Fireworks Regulation page](#)
- [LARA Fireworks Safety Act Emergency Rules](#)
- [Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451, et seq.](#)
- [National Fire Protection Association \(NFPA\)](#)