

**TOWNSHIP OF BRUCE
MACOMB COUNTY, MICHIGAN
ORDINANCE NO. 153**

FIREWORKS ORDINANCE

AN ORDINANCE to protect the health, safety and general welfare of the Bruce Township residents and property owners by regulating the firing, discharge, and use of consumer fireworks and the discharge and use of display fireworks within the Township, and repealing all ordinances and/or regulations in conflict therewith.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF BRUCE, MACOMB COUNTY, MICHIGAN, ORDAINS:

Section 1. SHORT TITLE.

This Ordinance shall be known and may be cited as the Bruce Township Fireworks Ordinance.

Section 2. DEFINITIONS.

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

Act - means the Michigan Fireworks Safety Act, Act 256 of 2011, and any subsequent amendments to the Act.

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

Articles Pyrotechnic - means pyrotechnic devices for professional use that are similar to consumer fireworks in the chemical composition and construction but not intended for consumer use; that meet the weight limits for consumer

fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

Consumer Fireworks - means 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 does not include low-impact fireworks or novelties.

Display Fireworks - means 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 as provided in 27 CFR 555.11, 49 CFR 162 and APA standard 87-1, 4.1.

Firework or Fireworks - means 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. Novelties are excluded from this definition.

Low Impact Firework - means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5p.

Minor - means an individual who is less than 18 years of age.

National Holiday - as used in this Ordinance means those holidays listed in 5 U.S.C. 6103, as it may be amended; currently, those are the following:

New Year's Day (January 1);
Martin Luther King Jr. Day (third Monday in January);
Washington's Birthday (third Monday in February);
Memorial Day (last Monday in May);
Independence Day (July 4);
Labor Day (first Monday in September);
Columbus Day (second Monday in October);
Veterans Day (November 11);
Thanksgiving Day (fourth Thursday in November);
Christmas Day (December 25)

NFPA - means the National Fire Protection Association.

Novelties - means the term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4 and 3.2.5. 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 a 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, 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.

(d) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

Person - means any individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity. An individual shall include a Minor as defined in this Ordinance.

Section 3. FIREWORKS REQUIRING A TOWNSHIP BOARD ENDORSED PERMIT.

A person, firm, partnership or corporation shall not use, ignite or discharge display fireworks, articles pyrotechnic and/or special effect fireworks without first obtaining a written permit from the Township Board.

A. Qualifications of Applicants.

1. Completion and submission of a written application on forms promulgated by the Michigan Department of Licensing and Regulatory Affairs. Such forms are available online and at the Bruce Township Hall during regular business hours. The application must be filed with the Township Supervisor at least thirty (30) days prior to the date requested for the display.
2. Applicants must be eighteen (18) years or older.

3. Applicants must be a resident of the State of Michigan or appoint, in writing, a resident member of the Michigan State Bar Association or a resident agent to be their legal representative upon whom all process in an action or proceeding against the Applicant may be served.
 4. Applicants must provide proof of financial responsibility in the following form: personal liability insurance coverage in an amount no less than Three Million (\$3,000,000.00) Dollars for each accident or occurrence, and property insurance coverage in an amount not less than Five Hundred Thousand (\$500,000.00) Dollars. These insurance policies shall identify Bruce Township as an additional insured.
 5. Demonstrate compliance with NFPA 1123, Code for Fireworks Display, 2010 Edition and Chapter 33 of the International Fire Code (IFC, 2006), or any successor code thereto.
 6. Demonstrate competency and qualifications of the operator of the display.
 7. Demonstrate the existence of a proper level of fire protection for the display, in accordance with the standards and requirements set forth by NFPA 1123, or any successor code thereto.
 8. Applicants must submit payment of appropriate fees as set forth in this Ordinance.
- B. Review by Township Board.

The Township Board shall grant or deny a fireworks permit on the basis of the information set forth in the written application, including but not limited to the following factors:

1. Age of the applicant.
2. Proof of financial responsibility.
3. Safety of the persons attending the display.
4. Protection of property adjacent to the display.
5. Type of fireworks to be used in relation to the site of the display.
6. Competency and qualifications of the operator of the display.

7. Time, place and safety aspects of the proposed display.
8. Provision of an adequate water source located in the immediate vicinity.
9. Report and recommendation of fire inspector after inspection of site and review of application.

Within twenty (20) days of receipt of a completed application and payment of fees, the Township Supervisor or his designee, shall notify the Applicant of the Township Board's decision.

C. Issuance of Permit.

Once a permit is granted, the use of fireworks must strictly conform to the conditions of the permit. Permits are not transferable. Permits shall be conditioned upon the applicant cleaning up all debris caused or created by the fireworks display within twenty-four (24) hours of the display. A violation of the conditions of the permit is a violation of this Ordinance.

Section 4. FEES.

The Township Board shall establish a fee for the issuance of a fireworks permit. This fee shall be set in an amount representing the cost involved in the administration of this Ordinance, including, but not limited to, that amount determined by the Fire Chief necessary for on-site firefighters and equipment.

Section 5. MINORS.

Minors are prohibited from:

- (a) igniting, discharging or using any consumer fireworks, at any time, on any day, including national holidays, the day before and after a national holiday.
- (b) igniting, discharging or using any low impact fireworks or novelty fireworks unless under the direct supervision of a parent, guardian or responsible adult.

Section 6. HOURS.

No person shall discharge, ignite or use any fireworks within the Township of Bruce between the hours of 11:00 p.m. and 10:00 a.m. This section shall not apply to discharge, ignition or use of fireworks on the day before, day of and day after a National Holiday.

Section 7. PERMISSION OF PROPERTY OWNER.

No person shall at any time, discharge, ignite or use any fireworks in any way that would cause them to land on someone else's private property without the express consent of the property owner. The person, partnership, firm or corporation shall not ignite, discharge or use consumer fireworks on public property, school property, church property or the property of another person without the organization or person's express written consent to ignite, discharge or use the fireworks on the premises.

Section 8. UNDER THE INFLUENCE OF ALCOHOL.

A person shall not use, ignite or discharge fireworks while impaired by or under the influence of alcohol, controlled substance(s) or a combination thereof as these terms are defined by the Michigan Vehicle Code, MCL 257.601 et seq.

Section 9. DROUGHT; FIRE RISK.

A person shall not use, ignite or discharge fireworks during a drought, or on any day or during anytime that the Michigan DNR has identified the Fire Danger Rating as “high”, “very high” and/or “extreme conditions exist.” Such information may be obtained by viewing, the Michigan DNR website, contacting the Fire Department or Township Clerk’s office.

Section 10. RESTRICTIONS ON LOCATION AND MANNER OF DISCHARGE, IGNITION AND USE OF CONSUMER AND LOW IMPACT FIREWORKS.

No person shall discharge consumer or low impact fireworks other than in the manner prescribed by the manufacturer’s directions. No person shall discharge consumer or low impact fireworks:

- (a) within 25 feet of a property line;
- (b) within any public roadway or public right-of-way;
- (c) within, upon or from a motor vehicle;
- (d) at a person, vehicle or animal;
- (e) within 500 feet of a gasoline service station;
- (f) during weather conditions involving wind speeds in excess of 10 mph;

- (g) within 25 feet of a building, structure, shed or playscape;
- (h) within a building or enclosed space within fifty (50) feet of a flame or flammable surface;
- (i) from or upon any type of container or other object that could reasonably be foreseen to impede the aerial of progress of the firework or to cause a fire or explosion after ignition;
- (j) without an adequate water source located in the immediate vicinity.

Section 11. PENALTY; VIOLATION.

Any violation of this Ordinance shall constitute a misdemeanor and be punishable by fines up to \$500.00 and/or ninety (90) days in jail at the discretion of the court.

Section 12. REPEAL OF CONFLICTING PROVISIONS.

All Resolutions, Ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict, hereby repealed.

Section 13. SEVERABILITY.

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 14. PUBLICATION.

A true copy of this Ordinance or a summary thereof shall be published twice in accordance with MCL 42.20. Publication shall be made by posting a true copy of the Ordinance in the office of the Township Clerk and on the Township's website in accordance with MCL 42.8(3)(b).

Section 15. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon second publication of the Ordinance or a summary thereof.