

**ONTWA TOWNSHIP ORDINANCE NO. 2019-08-12.1**

**Resolution**

**Adopted: 8-12-2019**

**Effective: 9-22-2019**

**AN ORDINANCE FOR THE REGULATION OF THE IGNITION, DISCHARGE, AND USE OF CONSUMER FIREWORKS, AS ALLOWED UNDER THE MICHIGAN FIREWORKS SAFETY ACT MCL 28.451 ET SEQ., AS AMENDED.**

**THE TOWNSHIP OF ONTWA ORDAINS:**

**Section 1 – Short Title.**

This Ordinance shall be known and may be cited as the “Fireworks Ordinance.”

**Section 2 – Statement of Purpose**

This is an Ordinance to provide for the regulation of the ignition, discharge, and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act, MCL 28.451 et seq., as amended.

**Section 3 – Definitions**

As used in this Ordinance, the following terms shall be defined as follows:

- (A) “APA standard 87-1” means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.
- (B) “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.
- (C) “Fireworks” means any composition or device, except for a starting pistol, a flare gun, designed for the purpose of producing a visible effect by combustion, deflagration, or detonation.
- (D) “Low-impact Fireworks” 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 3.5.
- (E) “Minor” means an individual who is less than 18 years of age.
- (F) “National Holiday” means the following days after 11:00 a.m.:
  1. December 31<sup>st</sup> until 1:00a.m. on January 1<sup>st</sup>
  2. The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m.
  3. June 29 to July 4 until 11:45 p.m. on each of those days.
  4. July 5, if that date is a Friday or Saturday, until 11:45 p.m.
  5. The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

#### **Section 4 – Ignition, Discharge and Use of Consumer Fireworks**

A person shall not ignite, discharge, or use consumer fireworks, except on the National Holidays identified above.

#### **Section 5 – Possession of Consumer Fireworks by a Minor**

A minor shall not possess consumer fireworks.

#### **Section 6 – Prohibited Location**

- (A) A person shall not ignite, discharge and/or use consumer fireworks on public property, school property, church property, or the property owned by another person or entity without that organization's or person's express permission.
- (B) A person shall not discharge consumer fireworks in such a manner so as remnants from consumer fireworks land on public property or the property of another, including, but not limited to, apartment property, and condominium property, without that person's or organization's express permission.

#### **Section 7 – Use While Under Influence Prohibited**

An individual shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination thereof.

#### **Section 8 – Reckless Use of Fireworks**

An individual shall not use consumer fireworks to damage or destroy property of others or use the same in a reckless disregard for the safety of persons or property.

#### **Section 9 – Drought; Fire Risk**

A person shall not use, ignite, or discharge fireworks during a drought or on any day or during any time 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.

#### **Section 10 – Penalty**

- (A) A violation of this Ordinance shall result in a civil fine of \$1,000.00 for each violation. \$500.00 of each fine collected shall be remitted to the Ontwa Township Edwardsburg Police Department.
- (B) If the police officer determined that a violation of the Ordinance occurred, the officer may seize the consumer fireworks as evidence of the violation. Following a final disposition, with a finding of responsibility for violation of this Ordinance, the Police Department may dispose or destroy any consumer fireworks retained as evidence in that prosecution.

#### **Section 11 – Permit for Consumer Fireworks**

Upon application in writing by any association or group of individuals, the Township Supervisor, Village President, or designee may grant permission for the public display of consumer fireworks on days other than the day before, the day of, and the day after a national holiday; subject to such conditions as deemed necessary to safeguard the welfare of the public and property.

### **Section 12 – Severability**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereby declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

### **Section 13 – Repeal**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

### **Section 14 – Effective Date**

This Ordinance shall become effective 30 days after publication.

Motion made by Treasurer Christensen, seconded by Trustee Stutsman to approve the Ordinance.

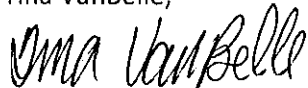
Upon roll call vote the following voted ayes: Supervisor Marchetti, Treasurer Christensen, Trustee Bolock, Trustee Kozinski, Trustee Stutsman, Trustee Duck.

Absent: Clerk VanBelle

The Supervisor declared the motion carried on the 12<sup>th</sup> day of August 2019,

Effective 9-22-2019

Tina VanBelle,



Ontwa Township Clerk