

**RESOLUTION #140402
TYRONE TOWNSHIP, LIVINGSTON COUNTY**

FIREWORKS ORDINANCE No. 41A

Section 1 Title

This Ordinance shall be known as the Tyrone Township Fireworks Ordinance.

Section 2 Purpose and Preamble

The purpose of this ordinance is to govern the use of fireworks in Tyrone Township in a manner that conforms to the requirements of the laws of the State of Michigan, in particular Public Acts 256 of 2011, as amended (MCL 28.451, et seq) and 65 of 2013, as amended referenced in this document as the “ACTS”. This ordinance also provides the minimum requirements necessary for the use of consumer and novelty fireworks commercially available for personal use and to provide for the promotion of display fireworks events that minimize any risk to the community’s residents and display observers. While the ordinance requires a permit, the holder of the permit still bears the responsibility to ensure all activities are conducted in a manner that meets and/or exceeds the minimum criteria.

Section 3 Definitions

For purposes of this Ordinance, the following definitions shall apply:

1. Articles pyrotechnic: 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.
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 does 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 as provided 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 means ground and handheld sparkling devices at that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5.
8. Minor: individual who is less than 18 years old.
9. National holiday: A national holiday is defined in 5 USC 6103 and includes: New Year's Day (January); 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).
10. NFPA: National Fire Protection Association.
11. Novelties: 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 cup.
 - b. Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in the above paragraph are use, 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.
12. Person: individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.

13. Special effects: a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as in integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

Section 4 Novelty and Consumer Fireworks

- a) A person shall not ignite, discharge, or use consumer fireworks on public property school property, church property or the property of another person, without that person or organization's express permission to use the consumer fireworks on those premises.
- b) 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 the above.
- c) Consumer fireworks shall not be used if a burn ban is in effect.
- d) Consumer fireworks shall be used in a safe and responsible manner, including have sufficient distance between structures and other areas that could potentially cause a fire hazard.

Section 5 Articles Pyrotechnic and Display Fireworks

- a) Display Fireworks Permit Requirements.
 - i. The Fireworks Display Permit shall be obtained from the Township via a Fireworks Display Permit Application submitted at least 30 days prior to the scheduled event to allow the Township Board to review and verify the data contained on the application.
 - ii. The permit shall be held by an individual, organization, company or other legal entity residing in or operating in the Township. The permit application shall clearly identify the organization, the officers enabled to act on behalf of the organization and the address of the organization. If an agent is designated to act for the organization, the application shall include a letter stating that authorization.
 - iii. The permit application shall state in detail the specifics of the event including the date, time of the display, rain date and time, and the location. The location description of the site shall include a diagram of the area of the display and the specific clear area.
 - iv. The permit application shall list the name of the pyrotechnic display

operator and shall provide copies of the company's State and Federal licenses and the name(s), address and qualifications of the actual technicians operating the display, including their certificates of training meeting the (National Fire Protection Association) NFPA-1123. The permit application shall also include copies of the State license necessary for operating the specific event.

- v. The application shall also include a letter from the local fire department that has reviewed the site plan for fire safety, clear area and outlines the level of support or backup provided.
- vi. The permit application shall also list the insurance carrier for the liability insurance, worker's compensation and any other insurance required by State and Federal regulations. A copy of the insurance coverage must be included with the application.
- vii. The application shall include a list of the fireworks to be used during the event.
- viii. The applicant shall pay a permit fee as set forth in the current Tyrone Township fee schedule, which shall be submitted with the completed Fireworks Display Permit Application.

b) Insurance Requirement

- i. The individual, organization or corporation sponsoring the event of the operator shall secure a liability policy that names Tyrone Township as a co-insured entity. The liability insurance shall be a minimum amount of \$1,000,000.

c) Operators

- ii. The operators igniting or discharging the pyrotechnic display shall be trained in the safe operation of such fireworks, following the guidelines of (National Fire Protection Association) NFPA-1123.

d) Safety and Security

- i. The sponsor and operator shall be responsible for providing for the necessary safe clear area. This means they shall provide a method to ensure that unauthorized persons do not enter this clear area during the operation of the display. This may include, but is not limited to simple fencing, security personnel or other means of control.
- ii. The events also tend to create traffic congestion. The sponsors and/or operators shall contact and arrange with the local law enforcement agency

to provide necessary traffic control methods that will minimize the traffic problems. This includes, but is not limited to, additional personnel to direct traffic at intersections that promote the safe efficient movement of vehicles from the event. Should the event exceed 500 people in a single location, then the sponsor must also obtain an Outdoor Gathering permit from the Township.

iii. The sponsors and/or the operators shall contact and identify a plan to expedite availability of emergency medical personnel if such a need should arise.

e) Fireworks Used in the Display

i. The operator shall supply the local fire department with a list of the fireworks, quantity, size, and material being used at an event to allow them to determine the appropriate methods to respond in event of an emergency situation. The listing of the fireworks does not constitute any approval of the devices, but provides information for fire response.

f) Township Responsibility

i. The issuing of a permit does not constitute the Township's approval of the fireworks operation. The permit merely identifies the organization sponsoring the event, the persons operating the pyrotechnics, and verifies that they have the appropriate federal licenses and related training.

Section 6 Violations

a) Users of fireworks must be in compliance of the requirements of the ACTS, and this Ordinance.

b) Any person, organization or corporation that operates a fireworks display without a permit from the Township will be in violation of this ordinance.

c) Violations of any of the requirements stated in this Ordinance shall be deemed a municipal civil infraction and can be fined in accordance with the following schedule:

| | <u>Minimum Fine</u> |
|-------------|---------------------|
| 1st offense | Warning |
| 2nd offense | \$100.00 |
| 3rd offense | \$500.00 |

Section 7 Cost Recovery

In the event fire services are dispatched to a site where fireworks have been used in a prohibited manner, Tyrone Township, per Ordinance #24 Emergency Response Cost Recovery, may bill the user the cost of the fire services at the rate in effect at the time of dispatch of the fire service.

Section 8 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 9 Effective Date

This Ordinance shall take effect 30 days after publication following its adoption. (*Effective May 16, 2014.*)

RESOLVED BY: Trustee Pedersen
SUPPORTED BY: Treasurer Bunting-Smith

VOTE: Cunningham, no; Kremer, no; Bunting-Smith, yes; Gonzalez, yes; Schultz, yes; Pedersen, yes; Walker, absent.

ADOPTION DATE: April 15, 2014

CERTIFICATION OF THE CLERK

The undersigned, being the duly qualified and acting Clerk of Tyrone Township, Livingston County, Michigan, hereby certifies that (1) the foregoing is a true and complete copy of a resolution adopted by the Township Board at a regular meeting, held on April 15, 2014, at which meeting a quorum was present and remained throughout, (2) the original thereof is on file in the records in my office, (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976, as amended) and (4) minutes of such meeting were kept and will be or have been made available as required thereby.



Keith L. Kremer
Township Clerk