

**TOWNSHIP OF COURTLAND
COUNTY OF KENT, MICHIGAN**

At a regular meeting of the Township Board of the Township of Courtland, held at the Township Hall, on the 3rd day of October, 2012, at 7:00 p.m.

PRESENT: Andersen, Boncher, Crosby, Davis, Porter

ABSENT: Brown, Kinney

The following Ordinance was offered by Member Andersen, and seconded by Member Boncher.

ORDINANCE NO. 2012- 04

**AN ORDINANCE TO REGULATE THE IGNITION, DISCHARGE, AND USE OF
CONSUMER FIREWORKS; TO AUTHORIZE PERMITS FOR THE USE OF DISPLAY
FIREWORKS; AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF**

THE TOWNSHIP OF COURTLAND ORDAINS:

Section 1. Definitions. The following words and terms in this Ordinance are defined as follows:

(1) "Act 256" means the Michigan Fireworks Safety Act, Act 256 of 2011, as amended.

(2) "Consumer fireworks" means that term as defined in Act 256.

(3) "Display fireworks" means that term as defined in Act 256.

(4) "National holiday" means the following public holidays designated by Act 256:

(a) New Year's Day

(b) Birthday of Martin Luther King

(c) Washington's Birthday

(d) Memorial Day

- (e) Independence Day
- (f) Labor Day
- (g) Columbus Day
- (h) Veterans Day
- (i) Thanksgiving Day
- (j) Christmas Day

(b) "Person" means that term as defined in Act 256.

Section 2. Use of Consumer Fireworks Regulated.

(1) No person shall ignite, discharge, or use consumer fireworks within the Township, or allow the ignition, discharge, or use of consumer fireworks within the Township, between the hours of 11:00 p.m. to 11:00 a.m. the following day; provided, however, this prohibition shall not apply on the day before, the day of, or the day after a national holiday.

(2) Consumer fireworks shall not be used if a burn ban is in effect.

(3) 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's or organization's express permission to use the consumer fireworks on those premises. No person shall ignite, discharge or use consumer fireworks on Township property.

(4) A person shall not use consumer fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

Section 3. Articles Pyrotechnic and Display Fireworks.

(1) Articles pyrotechnic, display fireworks, and special effect fireworks may be used in Courtland Township following issuance of a permit by the Township Supervisor. In the

Supervisor's discretion, the decision whether to issue a permit may be delegated to the Township Fire Chief, or referred to the Township Board.

(2) Any person wishing to conduct an articles pyrotechnic, display fireworks or special effects display shall, at least 30 days prior to any display, submit an application on a form provided by the Michigan Department of Licensing and Regulatory Affairs, pay a fee of \$200 (or such other fee subsequently established by resolution of the Township Board), and shall secure permission from the Township prior to any such fireworks display.

(3) A plan of the area where the articles pyrotechnic, display fireworks or special effects display is to be conducted shall be submitted with the application. The plan shall set forth all structures in the area and within the discharge site fallout area. The plan shall furthermore set forth the distance separating any fireworks and any spectator viewing areas. All plans shall be forwarded to the Fire Chief and/or the designated alternate for approval, including any recommended conditions.

(4) A copy of any required state or federal permit for the fireworks display shall be submitted with the application.

(5) Proof of insurance conforming with the requirements of this Ordinance and Act 256 of 2011 shall be submitted with the application.

(6) The application shall include information as to the competency and qualifications of the fireworks display operators, as required by NFPA 1123.

(7) The Township shall approve an application for an articles pyrotechnic, display fireworks or special effects display if it finds that all of the following standards are satisfied:

(a) The application and accompanying documentation is complete and conforms to the requirements of this Ordinance.

(b) The operator of the fireworks display is competent and qualified to conduct the fireworks display, per NFPA 1123.

(c) The Fire Chief or his/her designated alternate has approved the application and plan.

(d) The fireworks display will not have an adverse effect upon public safety.

(e) The time, duration, location of the fireworks or special effects display will not, due to noise and other factors, unreasonably disturb the peace of persons residing within the vicinity.

(f) The Township, in approving an application hereunder, shall have the authority to impose such conditions as it determines are necessary to assure that the fireworks display will satisfy the above standards.

Section 4. Additional Requirements and Restrictions for Fireworks Displays.

(1) The person conducting the fireworks display shall follow NFPA 1123 for fireworks display and/or the Township requirements set forth herein, whichever are more restrictive.

(2) The applicant shall maintain personal injury liability insurance/property damage liability insurance in the amount of \$1,000,000 for each event. The Township shall be named as an additional insured on the insurance policy.

(3) The Township Board shall not issue a permit to a non-Michigan resident, firm or corporation until the person, firm or corporation has appointed in writing a member of the state bar or a resident agent to be the person's legal representative upon whom all process in an action or proceeding against the person may be served.

(4) The applicant shall be responsible for all shells being fired. In the event one or more of the shells does not explode, the applicant shall secure the area until the unexploded shell(s) is found and properly disposed of.

(5) The consumption of alcohol or controlled substances immediately prior to and during the fireworks display by any person involved in conducting the display is prohibited.

(6) A fireworks display conducted hereunder shall conform with all specifications set forth in the approved application and plan, as well as with any conditions imposed by the Township in granting such approval.

(7) The applicant shall cause the site of the fireworks display to be cleaned up within 24 hours after the fireworks display has ended.

(8) A permit is not transferable and shall not be granted to a minor.

Section 5. Responsibility of Property Owner. All owners of property, or all tenants in the case of leased property, upon which a violation of this ordinance is committed, shall be responsible for violation of the ordinance in addition to the person who ignites, discharges or uses fireworks in violation of this ordinance. A property owner or tenant charged with violation pursuant to this section may avoid responsibility by proving all of the following:

(1) The owner or tenant was not present on the property at the time of the violation;

(2) The violation was committed by persons who are not residents of the property;
and

(3) The owner or tenant did not have knowledge of, nor consent to, the ignition, discharge or use of consumer fireworks in violation of this ordinance.

Section 6. Fireworks Safety. No person shall recklessly endanger any person or property by the ignition, discharge, or use of fireworks within the Township.

Section 7. Penalty.

(1) A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$200 for the first offense and not less than \$200 nor more than \$500 for a subsequent offense, in the discretion of the court, and in addition to all other costs, damages, and expenses (including actual attorney fees) incurred in enforcing the Ordinance. For purpose of this Section, a “subsequent offense” means a violation of this Ordinance by the same person within 12 months of a previous violation of this Ordinance for which the person admitted responsibility or was adjudicated to be responsible. Each day a violation occurs shall constitute a separate offense.

(2) The following persons may issue a municipal civil infraction citation for a violation of this Ordinance:

- (a) The Township Supervisor, or Deputy Supervisor.
- (b) A Township ordinance enforcement official appointed by the Township Board.
- (c) The Township Zoning Administrator.
- (d) Township Fire Chief.
- (e) Township Deputy Fire Chief.
- (f) A law enforcement officer of the Kent County Sheriff’s Department or the Michigan State Police.

(3) The issuance of a municipal civil infraction citation is not an exclusive remedy and may be undertaken in addition to all other means of enforcement, including but not limited to injunctive and other relief.

Section 8. Severability. This Ordinance and the sections and subsections thereof are severable. If any portion of this Ordinance is adjudged invalid, the remainder of the Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 9. Repeal. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

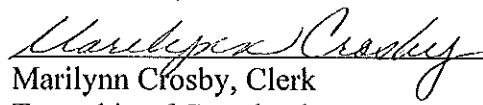
Section 10. Publication and Effective Date. This Ordinance or a summary of its regulatory effect shall be published in a newspaper of general circulation in the Township, within 30 days after adoption. The ordinance shall become effective 30 days after such publication.

AYES: Andersen, Boncher, Crosby, Porter

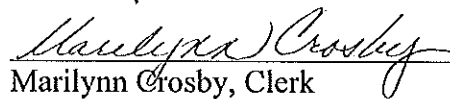
NAYS: Davis

ABSENT: Brown, Kinney

ORDINANCE DECLARED ADOPTED.


Marilynn Crosby, Clerk
Township of Courtland

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Township of Courtland at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.


Marilynn Crosby, Clerk
Township of Courtland