

# FORSYTH TOWNSHIP, MICHIGAN

## ORDINANCE NO. 1-2018

### Forsyth Township Fireworks Ordinance

An ordinance to protect the health, safety, and general welfare of persons and property within the Township of Forsyth through the regulation of use of fireworks, as provided in PA 256 of 2011 and to repeal all Ordinances or parts of Ordinances in conflict herewith.

THE TOWNSHIP OF FORSYTH, MARQUETTE COUNTY, MICHIGAN, ORDAINS:

#### Section 1: Name

This ordinance shall hereafter be known and cited as the Forsyth Township Fireworks Ordinance.

#### Section 2: Purpose

In the interest of maintaining public health, safety and general welfare and the comfort and repose of Forsyth Township residents, Forsyth Township hereby provides for the regulation and use of fireworks in Forsyth Township, as provided in PA 256 of 2011, as may be amended, (MCL 28.451, et seq) and repeals all Ordinances or parts of Ordinances in conflict herewith.

#### Section 3: Definitions

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

1. **Agricultural and Wildlife Fireworks:** Fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of the Interior or the Department of Natural Resources of Michigan.
2. **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.
3. **APA:** American Pyrotechnics Association
4. **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.
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, Wildlife and Agricultural Fireworks and Special Effects.
7. **Low-Impact Fireworks:** Low-Impact Fireworks means ground and handheld sparkling devices as the 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 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).
10. **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 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 used, 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.
11. **Person:** Individual, agent, association, charitable organization, company, Limited Liability Company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal commercial entity.
12. **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 an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

#### **Section 4: Novelties**

This Ordinance does not apply to and does not regulate the use of Novelties in Forsyth Township.

#### **Section 5: Consumer Fireworks**

1. Consumer Fireworks may **ONLY** be used in Forsyth Township on the day preceding, the day of and the day after a national holiday, (see listed in Section 3, item 9), subject to the following requirements and restrictions.
  - a. Consumer Fireworks shall not be used between the hours of 1:00am and 8:00am.

- b. Consumer Fireworks shall only be used in accordance with all applicable local, state and federal laws.

## **Section 6: Display, Article Pyrotechnic, Agricultural or Wildlife, and Special Effects Fireworks**

1. Any party wishing to stage a Fireworks Display, Article Pyrotechnic, Agricultural or Wildlife, and/or Special Effects Fireworks, shall, at least 45 days prior to the display, submit an application on a form furnished by the Township and shall secure permission from the Township Board prior to the fireworks event.
2. A site plan of the area where the fireworks event is to be conducted shall be submitted with the application. The site plan shall set forth all structures in the area and the discharge site fallout area. The site plan shall furthermore set forth the distance separating the mortars used to launch the fireworks and the structures, and also set forth the distance separating the mortars and the spectators viewing the event. All site plans must be approved by the Forsyth Township Fire Department prior to Township Board approval.
3. Requirements and Restrictions:
  - a. The applicant conducting the event shall follow National Fire Protection Association (NFPA) Code 1123 for firework display and/or the Forsyth Township requirements, whichever is more restrictive.
  - b. Applicant must be licensed as required under any and all Federal State of Michigan requirements.
  - c. A copy of any required state or federal permit for the fireworks event shall be submitted with the application.
  - d. The applicant shall maintain Personal Injury Liability Insurance/Property Damage Liability Insurance in the minimum amount of \$1,000,000 during each event. Forsyth Township shall be named as an Additional Insured on the insurance policy. The insurance policy must be submitted with the aforementioned application and shall be subject to the Risk Management review. The insurance policy shall also include coverage for the cleanup after the fireworks display has ended.
  - e. The applicant shall be responsible for all shells being fired. In the event any of the shells do not explode, the applicant shall secure the area until the unexploded shells are found and properly disposed of.
  - f. The consumption of alcohol prior to and during display by the fireworks' shooters or any persons on site employed by the fireworks company is strictly prohibited.
  - g. The area shall be cleaned up within 24 hours after the fireworks event has ended.
  - h. A permit is not transferable and shall not be granted to a minor.

## **Section 7: Sanctions**

Any person (s) that violates any provision of this Ordinance shall be deemed responsible for a Municipal Civil Infraction and fined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1 <sup>st</sup> offense within 2 year period*	\$100.00	\$500.00
2 <sup>nd</sup> offense within 2 year period*	\$300.00	\$500.00
3 <sup>rd</sup> or subsequent offense within 2 years*	\$500.00	\$1,000.00

*\*Determined on the basis of the date of commission of the offense(s).*

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Forsyth Township has been put in connection with the Municipal Civil Infraction. In no case, however, shall costs of less than \$100.00 nor more than \$1,000.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.

### **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: Repeal of Conflicting Ordinances**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

### **Section 10: Effective Date**

The undersigned Supervisor and Clerk of Forsyth Township hereby certify that this Ordinance was adopted by the Township Board on the 23<sup>rd</sup> day of August, 2018, and was published in The Mining Journal on the 29 day of August, 2018. This Ordinance shall become effective thirty (30) days after said date of publication.

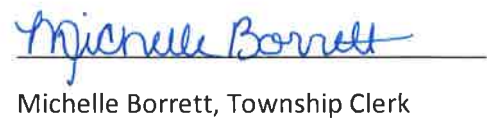
Board Members voting "Aye" : Treasurer Roberts, Trustee Adams, Supervisor Boogren, Trustee Armatti, Clerk Borrett

Board Members voting "Nay" : None

Board Members Absent : None



Joseph Boogren, Township Supervisor



Michelle Borrett, Township Clerk

Published: 8/29/18

Effective: 9/28/18