

**TOWNSHIP OF HOLLY  
CODE OF ORDINANCE AMENDMENT**

AN ORDINANCE TO AMEND THE HOLLY TOWNSHIP CODE OF ORDINANCES BY AMENDING ADDING CHAPTER 12 FIRE PREVENTION AND PROTECTION, ARTICLE V FIREWORKS

THE TOWNSHIP OF HOLLY ORDAINS:

SECTION 1 – AMENDMENTS

**ADD ARTICLE V. - FIREWORKS**

**Definitions.**

[The following words, terms and phrases, when used in this article, shall have the meanings 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 (MCL 28.451 et seq.), as it may be amended from time to time.

*Agricultural and wildlife fireworks* means firework devices distributed to farmers, ranchers and growers through a wildlife management program administered by the United States Department of Interior of the Michigan Department of Natural Resources.

*Alcoholic liquor* means that term as defined in MCL 257.1d of the Michigan Vehicle Code, Public Act 300 of 1949, as amended.

*Articles pyrotechnic* means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use and are identified as such in the Act.

*Commercial fireworks* means display fireworks, articles pyrotechnic, special effects and agricultural and wildlife fireworks.

*Consumer fireworks* means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and are identified as such in the Act. Consumer fireworks do not include low-impact fireworks.

*Controlled substance* means that term as defined in MCL 257.8b, Public Act 300 of 1949, as amended.

*Display fireworks* means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration or detonation and are identified as such in the Act.

*Firework or fireworks* as defined by the Act means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, article pyrotechnic, display fireworks and special effects.

*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, 3.1.1.1.8, and 3.5.

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

*National holiday* means any of the following legal public holidays:

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

*Novelties or novelties fireworks* means those terms 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:

- (1) 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.
- (2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subsection (1) are used, that are constructed so that the hand cannot come in contact with the cap where in place for the explosion, and that are not designated to break apart or be separated so as to form a missile by the explosion.
- (3) Flitter sparklers in paper tubes not exceeding 1.8 inches in diameter.
- (4) 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 boxes and toy smoke devices.

*Person* means an individual, agent, association, charitable organization, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.

*Special effects* means a combination of chemical elements or chemical compound capable of burning independently of the oxygen of the atmosphere and designed and intended to

produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

*Unmanned free-floating devices* means any unmanned free-floating device, such as sky lanterns, Chinese lanterns, including, but not limited to Chinese and sky lanterns which require fire underneath to propel it and is not moored to the ground while aloft, having an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk.

### **Use of consumer fireworks.**

(a) A person may ignite, discharge or use consumer fireworks in Rose Township only on the day before, the day of and the day after a national holiday between the hours of 8:00 a.m. and 12:00 midnight, except for New Year's Day when a person may ignite, discharge or use consumer fireworks between the hours of 12:00 midnight and 1:00 a.m. and between 8:00 a.m. and 12:00 midnight.

(b) Fireworks shall not be ignited, discharged or used by i) a minor, ii) a person under the influence of alcohol or controlled substance; or iii) on public property, a public street right-of-way, school property, church property or property of another person without that persons written authorization to do so, or iv) in a manner that causes damage to persons or adjacent property or in violation of this article or the Act.

(c)

Rubbish resulting from the ignition discharge and use of fireworks shall be contained on the property in which the fireworks are ignited, discharged, or used and shall be properly disposed of from said property and any adjacent property.

### **Commercial fireworks.**

Commercial fireworks shall not be discharged in Rose Township without a permit.

### **Unmanned free-floating devices, low impact or novelty fireworks.**

Unmanned free-floating devices are prohibited from use in Rose Township. Low impact or novelty fireworks are regulated by the Act and not by this article.

### **Permits.**

A permit is required to discharge commercial fireworks.

(1) *Permit application.* A person seeking a permit to discharge commercial fireworks shall complete an application for a permit, which shall be submitted to the township clerk's office at least 45 days in advance of the proposed discharge or display date and shall include the following:

- a. A completed application from the Michigan Department of Licensing and Regulation as required by MCL 28.466(1) with all requested information provided;
- b. Proof that the applicant is over 18 years of age;
- c. A license or permit to operate and discharge commercial fireworks from the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives as required by the Safe Explosives Act;
- d. A scale drawing of the site, including the location of adjacent buildings, viewing and parking areas;
- e. Proof of insurance as provided herein;
- f. Qualifications of the fireworks display operator as required by NFPA 1123;
- g. A description of the display and number and type of fireworks to be discharged including, a protocol to track and account for all discharged fireworks and any unexploded fireworks, their location and disposal;
- h. Proof to the township fire chief or its designee, that the applicant is knowledgeable of the recommended safety requirements outlined in NFPA 1123;
- i. Out of state applicants shall appoint in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person may be served; and
- j. Payment of and application fee in the amount of \$250.00 payable to the township.

### **Approval Process.**

- (a) The township clerk shall forward the application to the fire chief for the North Oakland County Fire Authority ("NOCFA") and both shall review for completeness.
- (b) The fire chief or his designee shall make a written recommendation to the township board.
- (c) The township board shall review the application and issue a permit if satisfied that the application is complete, the discharge will not endanger the public health, safety or welfare and the time, duration and location of the fireworks will not unreasonably disturb the peace of neighboring property owners. The board may consider the impact the discharge may have on adjoining properties with livestock or horses.
- (d) Permits shall not be transferred or assigned without prior board approval.
- (e) As a condition of approving a permit application, the applicant shall provide a certificate of insurance and a copy of the policy acceptable to the township naming the Township of Rose, NOCFA, its elected and appointed officials, employees, agents and volunteers as additional insureds with coverage and limits as follows:
  - (1) Workers compensation and employer's liability coverage with the statutory limits and requirements;
  - (2) General liability for claims for personal injury or property damage, \$2,000,000.00/per occurrence and \$4,000,000.00/aggregate and products/completed operations, \$2,000,000.00.
  - (3) Automobile liability combined single limit of \$500,000.00
- (f)

Execution of an indemnity and hold harmless agreement in favor of the township.

**Right of inspection, entry and revocation.**

The fire chief or his designee shall be entitled to inspect and enter the site or location of the area identified in the permit for the discharge of fireworks to confirm compliance with this article and may revoke the permit if violations are found or if damage to adjacent property or injury to the viewing public is occurring or is probable in the judgment of the fire chief or his designee. An additional \$50.00 inspection fee is payable to NOCFA for any subsequent inspections to verify compliance.

**Enforcement authority.**

The fire chief or any personnel of NOCFA authorized by the fire chief, a police officer, or the township constable or other designee of the township shall have enforcement authority to issue citations for violations of this article.

**Violations.**

- (a) A violation of this article shall be deemed a municipal civil infraction subject to penalties set forth in the municipal civil infraction provisions of this Code.
- (b) A violation of this article shall be subject to costs which shall include all direct and indirect expenses and any other liabilities incurred in connection with a violation.
- (c) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punishable separately.
- (d) The township reserves the right to seek injunctive relief from the circuit court to enforce compliance with this article.

**SECTION 2 - INVALIDITY**

If any word, clause, sentence, paragraph, or section of this Ordinance is held to be unconstitutional, illegal or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of the Ordinance.

**SECTION 3 - EFFECTIVE DATE**

This ordinance shall become effective 7 days after publication as prescribed by law.

**SECTION 4 - REPEALING CLAUSE**

All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 5 - ADOPTION

At a regular meeting of the Township Board of the Township of Holly held on August 16, 2017, adoption of the foregoing Code of Ordinance amendment was moved by P. Feeney and supported by M. Freeman.

Ayes: 3

Nays: 0

Absent: 2

CERTIFICATION

*I, duly elected clerk of the Township of Holly, County of Oakland, and State of Michigan, do hereby certify that the foregoing is a true copy of the Holly Township Ordinance Chapter 12, Article V, adopted by the Township Board of Trustees of the Township of Holly at the regular meeting held on the 16<sup>th</sup> day of August, 2017 at which a quorum was present.*

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Karin S. Winchester, MMC  
Clerk, Holly Township  
Oakland County, Michigan

Attest:

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George A. Kullis  
Supervisor, Township of Holly  
Oakland County, Michigan