

RICHFIELD TOWNSHIP
ORDINANCE NO. 57
CONSUMERS FIREWORKS ORDINANCE

Section 1. Short Title. This ordinance shall be known and may be cited as the "2012 Consumer 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 of 2011, MCL 28.451 et seq., as it may be amended from time to time.

Section 3. Definitions. As used in this ordinance, the following terms shall be defined as follows:

- a. "Act 256" means the Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451 et seq. as amended.
- b. "Consumer fireworks" means that term as defined in Act 256.
- c. "Burn Permit" A permit required by the Michigan Department of Natural Resources (DNR), whenever open fires exist, unless the fire is a campfire, is on snow-covered ground or has an agricultural exemption. Permit seekers will be advised whether conditions are too dry or windy to burn. If so, a permit will not be issued that day. Individuals in northern Lower Michigan are now able to obtain a burning permit on-line from the Department of Natural Resources on the Internet by going to www.michigandnr.com/burnpermits. This site displays the DNR Burn Permit Map. Updates are made every day by 10:00 a.m. Eastern Time by the Michigan DNR. Daily information will appear providing details about the availability, restrictions and local information on Burn Permits for each township. Individuals will select Richfield Township in Roscommon County when using the DNR Burn Permits Map. If "YES" appears in the Burning Permits Issued column you are authorized to burn today. If "NO" appears in the Burning Permits Issued column, NO open burning is allowed for that location. At the state level, open burning is regulated under Parts 55, 115, and 515 of The Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended (Act 451), and associated administrative rules.
- d. "National Holiday" means that term as defined in Act 256.
- e. "Shall" the word shall is always mandatory.
- f. "May" the word may is permissive.
- g. "Inoperable" the word shall mean nonfunctioning, non-operating, deactivated, inaccessible, unavailable, unobtainable

Section 4. Use of Consumer Fireworks Prohibited.

No person shall ignite, discharge or use consumer fireworks in Richfield Township; except this prohibition shall not preclude any person from the following:

- a. Igniting, discharging, or using consumer fireworks on the day preceding, the day of, and the day after a National Holiday.
- b. During any time burning permits are available from Michigan Department of Natural Resources for Richfield Township. See Paragraph 3.C for availability of burn permits.
- c. Additionally, the following restrictions shall apply to consumer fireworks:
 1. No person under the age of 18 shall ignite consumer fireworks.
 2. When using any consumer fireworks or fireworks within the township, a person shall not use them in a manner inconsistent with or contrary to the manufacturer's directions for use, or in a manner which could reasonably be foreseen to cause, or which actually causes, harm to another or to property, or within or upon public roads, walks, or rights-of-way, or within or upon private roads or private property of another without express written permission, or which causes, creates, or perpetuates a violation of any provision of the Townships Code or Zoning Ordinances, including but not limited to:
 - i. Disturbing the public peace;
 - ii. Violating the townships noise ordinances;
 - iii. Violating the townships Public Disturbance and Public Nuisance Ordinance;
- d. No person shall discharge consumer fireworks in the following manner:
 1. While within a building or enclosed space.
 2. Within 50 feet of a flame or flammable surface.
 3. Within 20 feet of a property line.
 4. Within any public roadway or public right-of-way.
 5. Within, upon, or from a motor vehicle, ATV, ORV or golf cart.
 6. In the direction of any person, vehicle, or conveyance.
 7. Within 500 feet of a gasoline service station.

8. From any location not at ground level.
9. From any surface that is not flat and level without adequate fire suppressant material on hand.
10. Within 25 feet of a building.
11. Within any type of container or other object that could reasonably be foreseen to impede the aerial progress of the firework, or to cause a fire or explosion, after its ignition.
12. Between the hours of 11:00 p.m. and 10:00 a.m. in any location zoned for Residential, Manufactured or Neighborhood Commercial of the Township/Zoning Ordinance.

Section 5. Penalty.

- a. Any individual who violates the restrictions in Section 4, or who aids, abets, perpetuates, participates in, or otherwise promotes the actions of the individual that violate said restrictions, may be cited and prosecuted for the applicable ordinance violation(s) and/or shall be responsible for a civil infraction punishable by a fine of up to \$500.00, plus the costs of prosecution.
- b. It shall be the duty of the Richfield Township Public Safety Department to enforce the provisions of this Ordinance. If, after investigation, an officer determines that a violation of this Ordinance exists, the officer shall be authorized to issue a municipal civil infraction citation to any person, firm, or corporation that is responsible for violating the provisions of this Ordinance. Service of said civil infraction citation or civil infraction notice shall be made in accordance with MCL 600.8707, Public Act 12 of 1994. Any Public Safety Officer who identifies a firework that is in violation of this ordinance shall secure the firework(s) and take steps to ensure that the Director of Public Safety or designee is immediately notified of the alleged violation.
- c. A law enforcement officer and/or fire official may confiscate and impound all fireworks and fireworks paraphernalia involved in causing a violation of this ordinance or which are found to be within the access and control of the violator(s). If the impounded items are lawful to possess, they may be retained as evidence until any court proceedings or citations have been adjudicated and any probationary periods have been completed. If the impounded items are unlawful to possess, the police department or fire department shall dispose of or destroy the items in accordance with evidence protocols that will still allow for effective prosecution of the charged offenses without actual retention of the items. If any fireworks are retained by the township, they shall be stored in compliance with the Act and rules promulgated under the Act. The person from whom fireworks are seized under the Act or this ordinance shall pay the actual costs of storage and/or disposal of the seized fireworks. The Public Safety Department may dispose of the seized fireworks by providing them to a disposal organization

approved by the Director of Public Safety or designee, or by allowing them to be used by township police or fire divisions for training purposes.

Section 6. Severability.

If any Section, subsection, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

Effective Date:

This Ordinance shall become effective in the Township of Richfield following adoption by the Richfield Township Board and five (5) days after passage thereof.

Motion by Van Wormer, 2nd by Scroggin.

Ayes: Scott, Scroggin, Rieli, Alexander, Van Wormer. Carried.

Nays: None

July 17, 2012

