

Village of Morrice

ORDINANCE NO. 12-02

(Enacted August ¹⁴15, 2012)

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF THE IGNITION, DISCHARGE AND USE OF CONSUMER FIREWORKS, AS ALLOWED UNDER THE MICHIGAN FIREWORKS SAFETY ACT, MCL 28.451 ET SEQ., AS AMENDED

THE VILLAGE OF MORRICE ORDAINS:

Section 1: Discharge of Fireworks

Section 2: Short Title: This ordinance shall also be known and may be cited as the "2012 Fireworks Ordinance"

Section 3: Statement of Purpose: This is an ordinance to adopt the chapter to provide for the regulation of the ignition, discharge and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act, 28.451 et seq., as amended.

Section 4: Definitions: As used in this ordinance, the following terms shall be defined as follows:

- (1) "APA standard 87-1" means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.
- (2) "Display Fireworks" means large fireworks devices that are explosive materials intended for use in firework displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.
- (3) "Consumer Fireworks" means 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 part 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) "Low-impact Fireworks" means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1.3.1.3.1.1 to 3.1.1.8, and 3.5
- (5) "Novelties" means that term 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 subparagraph (i) 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.
 - (3) Flitter sparklers in paper tubes not exceeding 1/8 inch 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 box; and toy smoke devices.
- (6) "Fireworks" means 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 to include "Display", "Consumer", "Low-Impact" and "Novelties" as defined under Act 256 of 2011..
- (7) "Minor" means an individual who is less than 18 years of age.
- (8) "National Holiday" means the following legal public holidays:
- (1) New Years' Day, January 1
 - (2) Birthday of Martin Luther King, Jr., the third Monday in January.
 - (3) Washington's Birthday, the third Monday in February.
 - (4) Memorial Day, the last Monday in May.
 - (5) Independence Day, July 4.
 - (6) Labor Day, the first Monday in September.
 - (7) Columbus Day, the second Monday in October.
 - (8) Veteran's Day, November 11.
 - (9) Thanksgiving Day, the fourth Thursday in November.
 - (10) Christmas Day, December 25.
- (9) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.
- (10) "Controlled substance" means that term as defined in section 8b of the Michigan vehicle code, 1949 PA 300, MCL 257.8b.

Section 4: Ignition, Discharge and Use of Fireworks.

- (1) "Display Fireworks – Public and Private lands" No person(s) shall ignite, discharge or use "Display Fireworks" on any lands within the city without authorization and or approval by the Village of Morrice Council and subject to any fees, licenses, forms, or applications they deem fit.

(2) (A) "Consumer Fireworks – Public Lands" - No person(s) shall ignite, discharge or use "Consumer Fireworks" on public lands within the Village limits without proper authorization by the governing body of such public lands and subject to any fees, licenses, form, or applications deemed necessary by the governing body.

(B) "Consumer Fireworks – Private Property" - No person(s) shall ignite, discharge or use "Consumer Fireworks" on private property in the Village except on the day preceding, the day of, or the day after a national holiday as so defined under (c) 8 of this ordinance and subject to the approval of property owner.

(3) (A) "Low-impact Fireworks- Public" - All person(s) shall have the right to ignite, discharge or use "Low-Impact" fireworks on public lands within the city upon approval of the governing body of such lands and subject to any other ordinances in the Village such as nuisance, or noise restrictions.

(B) "Low-Impact Fireworks - Private" Under Public Act 256 of 2011, all person(s) shall have the right to ignite, discharge or use "Low-Impact" fireworks subject to approval by the property owner and subject to any other ordinances in the village such as nuisance, or noise restrictions.

(4) "Novelties" Under Public Act 256, subsection 28.453, the Village does not regulate the use of novelties under this ordinance. Use of novelties is subject to any other ordinances in the Village such as nuisance, or noise restrictions.

Section 5: Possession of Consumer or Display Fireworks by Minor. A minor shall not possess consumer or display fireworks.

Section 6: Under Influence of Alcoholic Liquor or Controlled Substance. An individual may not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor and/or a controlled substance.

Section 7: Disturbing the Peace. An individual shall not use consumer fireworks to intentionally frighten, intimidate, harass or disturb another person.

Section 8: Determination of Violation; Seizure. If a police officer determines that a violation of this ordinance has occurred, the officer may seize the fireworks as evidence of the violation.

Section 9: Penalty

- (1) A violator of this ordinance will be responsible for civil infraction and may be ordered to pay a civil fine of up to \$500.00.
- (2) Following final disposition of a finding of responsibility for violating this ordinance, the Village may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.

- (3) In addition to any other penalty, a person that is found responsible for a violation of this ordinance shall be required to reimburse the Village for the costs of storing, disposing of, or destroying fireworks that were confiscated for a violation of this ordinance.

Section 10: Other Violations

- (1) A person who knowingly, intentionally, or recklessly violates the Act will be guilty of a crime as follows;
- (a) A misdemeanor punishable by imprisonment for up to a 30 days and/or a maximum fine of \$1000.00, except as provided below.
- (b) If the violation damages another person's property, a misdemeanor punishable by imprisonment for up to 90 days and /or a maximum fine of \$5000.00.
- (2) A person shall not discharge consumer fireworks in such a manner so as remnants from consumer fireworks land on public property or the private property of another, including, but not limited to, hotel and motel property, apartment property, and condominium property, without the express permission of the person or organization lawfully possessing the private property.
- (3) An individual who owns or is in charge of property who knowingly allows a person to ignite fireworks on the owner's property or property for which he or she is in charge of, in such a manner so as remnants land on another's property, shall be responsible for a municipal civil infraction and subject to a civil fine of at least \$100.00 and no more than \$500.00 unless the lighter or igniter of those fireworks has permission from the person in charge of the property upon which the fireworks remnants are deposited.

Section 11: 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.

Section 12: Repealed. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 13: Effective Date. That this Ordinance and the related rules, regulations, provisions, requirements, orders and matters established shall take effect immediately upon publication, except penalty provisions which shall take effect twenty (20) days after publication, pursuant to MCL 66.1.

Moved By: Harold Dickerson

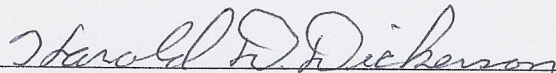
Seconded By: Kim Kollek-Jewell

Adopted at a Regular Meeting of the Village Council held on the ¹⁴15th day of August, 2012

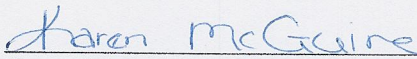
YEAS: Harold Dickerson, Kim Kolleck-Jewell, Christine Williams, Tom Cameron

NAYS: Robert Genter

ABSENT: -none-


Harold D. Dickerson, Village President

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 12-02 duly adopted by the Council of the Village of Morrice, Shiawassee County, Michigan, on the above date and that the same was published in accordance with Section 4 of the Act 3, P.A. 1895.


Karen McGuire, Village Clerk

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