

**VILLAGE OF FAIRGROVE
TUSCOLA COUNTY, MICHIGAN**

ORDINANCE NO. 60

FIREWORKS

An ordinance to regulate the use of certain fireworks within the Village of Fairgrove; to provide for penalties; and, to repeal conflicting ordinances and parts of the ordinances.

THE VILLAGE OF FAIRGROVE, TUSCOLA COUNTY, MICHIGAN, HEREBY ORDAINS:

SECTION 1. This ordinance shall be known and may be cited as the "Village of Fairgrove Fireworks Ordinance".

SECTION 2. Definitions. As used in this ordinance:

- (a) **Consumer Fireworks** means fireworks devices that are designed to produce visible effect 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 do not include low-impact fireworks.
- (b) **Display Fireworks** means large fireworks devices that are explosive material intended for use in fireworks displays and designed to produce visual or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA stand 87-1, 4.1.
- (c) **Firework or Fireworks** means any composition or device, except for a starting pistol, a flare gun, or flare, designated 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, and special effects.
- (d) **Low-Impact Fireworks** means ground and handheld sparkling devices as that phrase is defined under APA standard 8701, 3.1, 3.1.1 to 3.1.1.8, and 3.5.
- (e) **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 are described in subparagraph 1 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 sales and if the manufacturer's name and the quality contained in each box are printed on the box; and toy smoke devices.

SECTION 3. Prohibition of Use of All Fireworks Except as Allowed: Exception. No person shall ignite, discharge, or use any fireworks within the Village of Fairgrove except a specifically allowed by this ordinance.

SECTION 4. Prohibition on Use of Display Fireworks: Exception. No person shall ignite, discharge or use display fireworks within Village of Fairgrove at any time without a permit issued by the Fire Chief.

- 1. Application for a permit shall be on a written form provided by the Michigan Department of Licensing and Regulatory Affairs. The permit application shall be accompanied by a fee set by resolution of the Village of Fairgrove Council. The Fire Chief may grant a permit for display

fireworks if applicable provisions of the Michigan Fireworks Safety Act, 2011 P.A. 256 are complied with. After a permit has been granted, sales, possession, or transportation of fireworks for the purposes described in the permit only may be made. A permit granted under this subsection is nontransferable and shall not be issued to a minor.

2. Before a permit authorized by this section is granted, the applicant shall furnish proof of financial responsibility in the form of a bond, or insurance deemed sufficient by the village to satisfy damage claims against the applicant, and to protect the public.
3. A permit shall not be issued to a non-resident of Michigan applicant until the applicant has appointed in writing a member of the state bar, or a resident agent upon whom all process in an action against the applicant can be served.
4. The Fire Chief shall rule on the competency and qualifications of display fireworks operators as required under NFPA 1123 and safety aspects of the display based upon the information provided in the application form before any permit is granted.

SECTION 5. Prohibition on Use of Consumer Fireworks: Exception. No person shall ignite; discharge or use consumer fireworks within Village of Fairgrove, except this prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks on the day preceding, the day of, or the day after a national holiday consistent with Sec. 7 (2) of 2011 P.A. 256. Consumer fireworks ignited, discharged, or used on the dates allowed by this section shall strictly conform to the definition of consumer fireworks in this ordinance and state statute by only creating visual, but not audible, effects by their combustion and if not conforming shall be prohibited at all times.

SECTION 6. Use of Low-Impact or Novelty Fireworks. Low-impact fireworks shall be ignited, discharged, or used so as to not cause injury or damage to any person or property but shall not be ignited, discharged, or used inside any building or structure at any time without a license or permit issued by the Fire Chief. Novelty fireworks may be ignited, discharged, or used without restriction, but only in a manner so as to not cause injury or damage to any person or property.

SECTION 7. Penalty. A violation of any of the provisions of this ordinance shall be a misdemeanor offense punishable by up to 90 days in jail and/or a fine of up to \$500.00.

SECTION 8. Severability. The provisions of this ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance which shall continue in full force and effect

SECTION 9. Repealer. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed and shall be of no further force and effect on the effective date of this ordinance.

SECTION 10. This ordinance shall become effective immediately after the last required publication following adoption.

The above ordinance was presented in draft form to the Fairgrove Village Council on , 2012; it was adopted at a regular Fairgrove Village Council Meeting on October, 1, 2012, and shall be published in the Tuscola County Advertiser on or before , 2012.

ROLL CALL VOTE

YEAS: 4

NAYS: 0

ABSENT: 3

ORDINANCE DECLARED ADOPTED

Melissa Couture, Fairgrove Village Clerk

Village of Fairgrove, Tuscola County, Michigan

CERTIFICATION

I, Melissa Couture, Clerk for the Village of Fairgrove, Tuscola County, Michigan, hereby certify the following, relative to the foregoing Ordinance:

1. That the same was introduced and received by the Village of Fairgrove on the 10th day of September, 2012.
2. That the same was adopted by the Village of Fairgrove Council on the 1st day of October, 2012.
3. That the same was published in the Tuscola County Advertiser on the 13th day of October, 2012.

Melissa Couture, Village Clerk
Village of Fairgrove
Tuscola County, Michigan