

CHARTER TOWNSHIP OF JAMESTOWN

COUNTY OF OTTAWA, MICHIGAN

At a regular meeting of the Township Board of the Charter Township of Jamestown, held at the Township Hall, on the 16th day of September, 2013, at 7:00 p.m.

PRESENT: Members: Tacoma, Jensen, Brouwer, Pruis, Altman, Bergwerff and Oskin.

ABSENT: Members: None

The following Ordinance was offered by Member Tacoma and supported by Member Oskin:

**ORDINANCE #13-003**

**AN ORDINANCE TO REGULATE THE IGNITION, DISCHARGE AND USE OF CONSUMER FIREWORKS IN THE TOWNSHIP**

THE CHARTER TOWNSHIP OF JAMESTOWN ORDAINS:

Section 1. **Definitions.** As used in this Ordinance the following terms are defined as follows.

- A. **Alcoholic Liquor.** That term defined in section 1d of the Michigan Vehicle Code, 1949 PA 300, MCL 257.1d, as amended.
- B. **APA Standard 87-1.** The 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.
- C. **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.
- D. **Controlled Substance.** That term as defined in section 8b of the Michigan Vehicle Code, 1949 PA 300, MCL 257.8b, as amended.

- E. **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, and special effects.
- F. **Low Impact Fireworks.** Ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.
- G. **National Holiday.** Includes any of the following:
1. New Years' Day, January 1st.
  2. Birthday of Martin Luther King, Jr., the third Monday in January.
  3. President's Day, the third Monday in February.
  4. Memorial Day, the last Monday in May.
  5. Independence Day, July 4th.
  6. Labor Day, the first Monday in September.
  7. Columbus Day, the second Monday in October.
  8. Veteran's Day, November 11th.
  9. Thanksgiving Day, the fourth Thursday in November.
  10. Christmas Day, December 25th.
- H. **Person.** A firm, association, partnership, joint venture, corporation, trust, municipal or public entity or equivalent entity or a combination thereof as well as a natural person.

Section 2. Ignition, Discharge and Use of Consumer Fireworks.

- A. No person shall ignite, discharge or use consumer fireworks within the Township, or allow the ignition, discharge, or use of consumer fireworks within the Township, between the hours of 1:00 a.m. and 8:00 a.m. on the day before, the day of, or the day after a national holiday, or between the hours of 11:00 p.m. to 8:00 a.m., on any other days of the year.
- B. A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property or the property of another person without the express permission of the person or organization to use those fireworks on their premises.

- C. A person shall not recklessly endanger the life, health, safety or well-being of any person or property by the ignition, discharge or use of consumer fireworks.
  - D. A person shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance or combination thereof.
  - E. A person shall not sell consumer fireworks to a person under the age of 18 years.
  - F. A person under the age of 18 years shall not buy, purchase, acquire or obtain consumer fireworks.
  - G. A person under the age of 18 years shall not possess, ignite, discharge or use consumer fireworks without the presence and under the control of a parent, guardian or other responsible adult of the age of 18 years or older.
- Tentative Preliminary Plat Approval - Procedures.

Section 3.     **Violations.**

- A. Any person who violates any term or provision of this Ordinance shall be responsible for a municipal civil infraction and subject to payment of a civil fine as well as any other action by the Township to abate the violation. The minimum fine for a municipal civil infraction under this Ordinance shall be Fifty (\$50.00) dollars plus costs and other sanctions for each violation. Each day during which any violation continues shall be deemed a separate offense.
- B. The following persons may issue a municipal civil infraction citation for a violation of this Ordinance:
  - 1. A Township ordinance enforcement official appointed by the Township Board
  - 2. A law enforcement officer of the Ottawa County Sheriff's Department or the Michigan State Police
- C. The issuance of a municipal civil infraction citation is not an exclusive remedy and may be undertaken in addition to all other means of enforcement, including but not limited to injunctive and other relief.

Section 4.     **Nuisance Per Se.** Any violation of this Ordinance is a public nuisance per

se. The Township Board may enforce the provisions of this Ordinance by seeking injunctive

relief in a court of competent jurisdiction in addition to any other remedies which may be available under the law or this Ordinance.

Section 5.     **Administrative Liability.** No officer, agent, employee, or member of the Township Board shall be personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of duties and responsibilities pursuant to this Ordinance.

Section 6.     **Severability and Captions.** This Ordinance and its various parts, sections, subsections, sentences, phrases, and clauses are severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall not be affected. The captions included at the beginning of each Section are for convenience only and shall not be considered as part of this Ordinance.

Section 7.     **Repeal.** All ordinances which are in conflict in whole or in part with any of the provisions of this Ordinance as of the date of this Ordinance are repealed to the extent of that conflict.

Section 8.     **Publication/Effective Date.** This Ordinance shall become effective seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

AYES:           Tacoma, Altman, Browuer, Pruis, Jensen, Oskin and Bergwerff.

NAYS:           None

ORDINANCE DECLARED ADOPTED.

Passed and adopted by the Township Board of the Charter Township of Jamestown, County of Ottawa, Michigan, on September 16, 2013, and approved by me on Sept. 17, 2013.



Kenneth Bergwerff, Supervisor  
Charter Township of Jamestown

Attest:



Ruth Pruis, Township Clerk

First Reading: August 19, 2013

Second Reading: September 16, 2013

Ordinance becomes effective: October 6, 2013