

**ORDINANCE NO. 33
TOWNSHIP OF MUSSEY
ST. CLAIR COUNTY, MICHIGAN**

An ordinance enacted pursuant to the authority of Act 256 of 2011, as amended, and Act 246 of 1945, as amended, to promote the health, safety and welfare of the people by regulating the ignition, discharge, and use of consumer fireworks; to fix penalties for the violation of this ordinance; and for other purposes.

THE TOWNSHIP OF MUSSEY ORDAINS:

Section 1.0: Title

This ordinance shall be known and cited as the Mussey Township Fireworks Ordinance, and it shall be sufficient to any action for enforcement of the provisions hereof, to define the same by such title and reference to the number hereof.

Section 2.0: Definitions

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Act means Public Act 256 of 2011, MCL 28.451 et seq. and the Fireworks Safety Act Emergency Rules drafted by the Michigan Department of Licensing and Regulatory Affairs and filed with the Secretary of State on March 9, 2012.

APA refers to American Pyrotechnics Association of Bethesda, Maryland.

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 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. Examples of consumer fireworks include bottle rockets and roman candles.

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, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

Firework or 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. Fireworks consist of consumer fireworks, low-impact fireworks, articles 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 to 3.1.1.8, and 3.5.

National Holiday means: New Year's Day (January 1), Birthday of Martin Luther King, Jr. (the third Monday in January), Washington's Birthday (the third Monday in February), Memorial Day (the last Monday in May), Independence Day (July 4), Labor Day (the first Monday in September), Columbus Day (the second Monday in October), Veterans Day (November 11), Thanksgiving Day (the fourth Thursday in November), and Christmas Day (December 25).

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

Section 3.0: Use, ignition, or discharge of consumer fireworks.

1. A person shall not ignite, discharge, or use consumer or display fireworks, except as permitted in this subsection.
2. Except as prohibited in this subsection, a person is permitted to use consumer fireworks on the day preceding, the day of, or the day after a national holiday.
3. No person shall ignite, discharge, or use fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises.
4. A person shall not willfully cause, by way of ignition, discharge, use, or any other means, fireworks to enter upon the lands or premises of another without the express permission of the owner or occupant, or agent or servant of the owner or occupant of the lands or premises.
 - a. A person who pleads or is found responsible for this civil infraction shall be presumed responsible for any resulting property damage and shall be required to pay full restitution to the property owner.
5. An individual shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.
6. No minor shall ignite, discharge, or use consumer fireworks, at any time.
7. A person shall not ignite, discharge, or use consumer fireworks on the day preceding, the day of, or the day after a national holiday between the hours of 1:00 a.m. and 7:00 a.m.... (amended 12/12/18).
8. A person shall not ignite, discharge or use consumer fireworks when a burn ban is in effect for the Township. (amended 12/12/18).

Section 4.0: Articles pyrotechnic or display fireworks ignition; permit; competency and qualifications of operators; retention of fee.

The township board, upon application in writing, in accordance with the provisions of MCL 28.451 et seq., may grant a permit for the use of fireworks otherwise prohibited by this section for public display by organizations or groups of individuals approved by the township board. Prior to the issuance of a permit under this section, the township board shall rule on the competency and qualifications of operators seeking such permit. The township board may charge a fee to issue a permit under this section and shall retain the fee paid.

Section 5.0: Severability.

The various parts of this ordinance shall be deemed severable. Should any section, paragraph, or provision hereof be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part held to be unconstitutional or invalid.

Section 6.0: Repeal.

All Ordinances or portions, thereof, which are in conflict with this Ordinance, are hereby repealed.

Section 7.0: Publication.

This Ordinance shall be published in full in a newspaper of general circulation in the Township of Mussey, within 30 days after its adoption.

Section 8.0: Effective Date.

This Ordinance shall take effect thirty (30) days after publication following its adoption.

Section 9.0: Adoption.

Made and passed by the Township Board of Trustees of the Township of Mussey, St. Clair County, Michigan, on this 8th day of May, 2013, A.D.

1. Date of Adoption by Township Board: **May 8th, 2013**
2. Date of Publication: **May 15, 2013.**
3. Date and Time Ordinance Shall Take Effect: **June 15, 2013;** at 12 noon.

Publish 05/15/13

Sheila McDonald, Township Clerk