

BATH CHARTER TOWNSHIP
CLINTON COUNTY, MICHIGAN

ORDINANCE NO. 47.1

PREAMBLE

AN ORDINANCE TO AMEND CHAPTER 30 OF THE CODE OF ORDINANCES RELATING TO ENVIRONMENT BY ADDING SECTION 30-34; TO ESTABLISH PENALTIES FOR VIOLATION; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

THE CHARTER TOWNSHIP OF BATH, CLINTON COUNTY, MICHIGAN, ORDAINS:

SECTION 1. TITLE.

This ordinance shall be known as the "Bath Charter Township Consumer Fireworks Ordinance."

SECTION 2. DEFINITIONS.

The *Act* means the Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451, *et seq.*, and any amendments to the Act (the "Act"), which may from time to time be adopted.

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 identified under the Act, and that are listed as provided under the Act. Consumer fireworks do not include low-impact fireworks or novelties.

Firework or *fireworks* means any combustion 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. Articles pyrotechnic, display fireworks, and special effects are governed by the Act.

Low-impact fireworks means ground and handheld sparkling devices as provided under the Act.

Novelties means that term as defined under the Act and all of the following:

- (i) 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.

- (ii) 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 to 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.
- (iii) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- (iv) 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.

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.

Except as otherwise provided, other terms in this Article shall have the meaning ascribed to them in the Act.

SECTION 3. PROHIBITED CONDUCT, VIOLATIONS, FINES AND PENALTIES.

(a). Ignition, Discharge and Use of Consumer Fireworks; Violations, Fines and Penalties.

No person shall ignite, discharge or use consumer fireworks within the Township, except as follows:

On the following days after 11 a.m.:

- (i) December 31 until 1 a.m. on January 1.
- (ii) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
- (iii) June 29 to July 4 until 11:45 p.m. on each of those days.
- (iv) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
- (v) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

Any person who violates this subsection is responsible for a municipal civil infraction, and shall be subject to a civil fine of \$500.00 for each violation of the ordinance and no other fine or

sanction. \$500.00 of the fine collected under this section shall be remitted to the local law enforcement agency responsible for enforcing the ordinance.

(b). Firework Safety; Violations, Fines and Penalties.

No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge, or use of fireworks or novelties.

Any person who violates this subsection is responsible for a municipal civil infraction, and shall be subject to a civil fine of \$500.00 for each violation.

A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than ninety (90) days and/or a fine of not more than \$500.00, or both, if the violation of this subsection causes damage to the property of another person, or injury to another person.

(c). Prohibited Conduct; Violations, Fines and Penalties.

A person who violates any of the following is subject to the penalties provided under the Act:

- (i) A person shall not ignite, discharge, or use consumer 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.
- (ii) A person shall not sell consumer fireworks to an individual who is under the age of 18.
- (iii) An individual shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor and/or a controlled substance, as those terms are defined in the Act.

Any person who violates this subsection is responsible for a municipal civil infraction, and shall be subject to a civil fine of \$500.00 for each violation.

(d). Seizure and Cost Recovery.

Any fireworks or novelties used, discharged, ignited or possessed in violation of the Act or this Article shall be subject to seizure. A person found guilty of violating the Act or this Article shall be responsible to reimburse the Township for the costs of storing seized fireworks as provided under the Act.

(e). Applicability of General Ordinances.

Nothing in this Article or in the Act shall be construed or interpreted to limit the authority of the Township to enforce ordinances or laws of general applicability at any time or on any day, if the conduct is incidental to the sale, distribution, display, storage, transportation, ignition, discharge or use of fireworks and novelties.

SECTION 4. PENALTIES.

All proceedings pending and all rights and liabilities existing or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in effect when they are commenced. This Ordinance shall not be construed to affect any prosecution pending or initiated before December 28, 2018.

SECTION 5. SEVERABILITY.

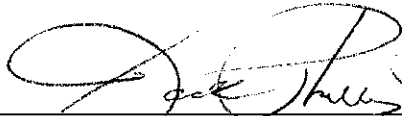
If any section, paragraph, clause, phrase or part of this Ordinance is held invalid by any court of competent jurisdiction, or by any agency, department, or commission empowered by statute for such purpose, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstances shall not be affected thereby.

SECTION 6. REPEAL.

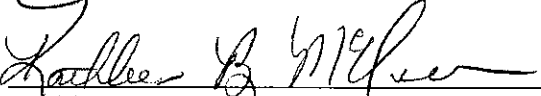
All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed; provided that any violation charged before the effective date of this Ordinance under an ordinance provision repealed by this Ordinance shall continue under the ordinance provision then in effect.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall become effective thirty (30) days after its passage and publication and recording as required by law.



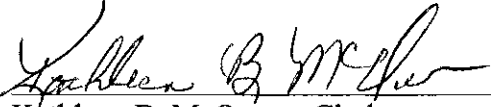
Jack J. Phillips, Supervisor



Kathleen B. McQueen, Township Clerk

I, Kathleen B. McQueen, Clerk of the Charter Township of Bath, do hereby certify that the above is a true action taken by the Bath Township Board of Trustees as follows:

First Reading: 6th day of May, A.D., 2019.
First Publication: 12th day of May, A.D., 2019.
Second Reading/Adoption: 20th day of May, A.D., 2019.
Second Publication: 20th day of May, A.D., 2019.
Effective Date: 26th day of June, A.D., 2019.



Kathleen B. McQueen, Clerk