

**THORNAPPLE TOWNSHIP
BARRY COUNTY, MICHIGAN
Ordinance No. 01-2020**

At a regular meeting of the Township Board of Thornapple Township held at the Township Hall on July 13, 2020 at 7:00 p.m., the following Ordinance was offered for adoption by Board Member _____, and seconded by Board Member _____:

AN ORDINANCE TO AMEND CHAPTER 18, ARTICLE III, SECTION 18-48 ENTITLED “OPEN FIRES, LAND CLEARING FIRES, AND FIREWORKS;” TO ENACT CHAPTER 18, ARTICLE III, SECTION 18-51 ENTITLED “NO BURNING RESTRICTIONS;” AND TO ENACT CHAPTER 18, ARTICLE V ENTITLED “FIREWORKS” OF THE THORNAPPLE TOWNSHIP CODE OF ORDINANCES

THORNAPPLE TOWNSHIP ORDAINS:

Article 1: Amendment of Chapter 18, Article III, Section 18-48. Chapter 18, Article III, Section 18-48 of the Thornapple Township Code of Ordinances is amended to read in its entirety as follows:

Sec. 18-48. – Open fires and land clearing fires.

- (a) The chief, or his authorized representative, is hereby authorized to issue, upon written or verbal application and in his discretion, permits for the controlled burning of leaves and brush for purposes of disposing of accumulated leaves or brush or for clearing areas of weeds, brush, tree stumps or other such combustible materials. Such permits shall be issued upon and shall contain such conditions and limitations as may be appropriate in order to protect public health, safety or welfare, including limitations as to time and area of burning, wind conditions, monitoring of burning, availability of fire extinguishing equipment and other matters. The burning of such materials in accordance with such permits shall not be subject to the incinerator requirements of subsections (c) or (d) of this section. The township board may, by resolution, establish fees for the issuance of such permits.
- (b) No person shall burn outside a building any refuse, waste materials or debris except as permitted in this article. For purposes hereof, refuse, waste materials or debris, or any of them, shall include, though not be limited to, paper, wood, paper and wood products, paper and wooden boxes, garbage, leaves and other combustible or inflammable materials.
- (c) No person shall kindle any fire within 25 feet of any building, unless such fire is confined in an approved container, and in no case shall any such fire

be permitted within 15 feet of any building, and not less than ten feet from the nearest property line of such premises. Nor shall any fire be kindled or maintained in any outdoor container unless such container is an approved container. The burning of garbage or refuse that smolders or gives off noxious odors is prohibited.

- (d) The term “approved container” as used in this section means a steel or masonry enclosure so constructed as to prevent the blowing about of any pieces of burning material, ashes or cinders. The top of such enclosure shall consist of a cover with openings no larger than one-half inch. Any such container shall be situated not less than 15 feet from any building and not less than ten feet from the nearest property line.
- (e) No person having kindled an open fire or land clearing fire shall fail to be in constant attendance upon the same until it is completely extinguished.
- (f) No person shall kindle a fire in or upon any street or alley.
- (g) When in the judgment of the chief, the kindling of a fire will constitute a fire or health hazard, he shall direct any person kindling a fire to extinguish the same. It shall be unlawful to fail to obey such direction.

Article 2. Enaction of Chapter 18, Article III, Section 18-51. Chapter 18, Article III, Section 18-51 of the Thornapple Township Code of Ordinances is enacted to read in its entirety as follows:

Sec. 18-51. - No burning restrictions.

- (a) Powers and Authority.
 - (1) If the environmental concerns based on the Department of Natural Resources Fire Division criteria are elevated to extreme fire conditions or if the environmental concerns based on the Department of Natural Resources Fire Division criteria are elevated to very high for 72 consecutive hours, the Township Fire Chief, in consultation with the Department of Natural Resources, may impose and enforce a no burning restriction that includes but is not limited to a ban on the ignition, discharge, or use of fireworks as defined in Act No. 256 of the Public Acts of Michigan 2011, as amended.
 - (2) Not more than 24 hours after the fire condition is downgraded from extreme or very high, the Township Fire Chief shall lift the restriction imposed.
- (b) Notice Requirements. If a no burning restriction is instituted under this section the Township Fire Chief shall ensure that adequate notice of the

restriction is provided to the public. The Township Fire Chief shall ensure that notice of the lifting of the restriction is provided in the same manner that the restriction was announced, or in any other manner calculated to give appropriate notice to the public.

- (c) Penalty: Any person who violates a no burn restriction imposed under this Section shall be responsible for a municipal civil infraction and subject to a civil fine of up to \$1,000 for each violation.

Article 3. Enaction of Chapter 18, Article V. Chapter 18, Article V of the Thornapple Township Code of Ordinances is enacted to read in its entirety as follows:

Article V. – Fireworks.

Sec. 18- 90. Definitions.

As used in this Article the following shall apply:

- (a) Words and phrases in this Article shall have the same definition and meaning as provided for in the Act unless the context clearly requires otherwise.
- (b) “Act” means Act No. 256 of the Public Acts of Michigan 2011, as amended.

Sec. 18-91. Consumer fireworks – dates and times.

- (a) Except as provided in Section 18-91(b), no person shall ignite, discharge, or use consumer fireworks.
- (b) A person may ignite, discharge, or use consumer fireworks only on the following days after 11:00 a.m.:
 - (1) December 31 until 1 a.m. on January 1.
 - (2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
 - (3) June 29 to July 4 until 11:45 p.m. on each of those days.
 - (4) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
 - (5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
 - (6) Other dates at the discretion of the resident(s) with the understanding that they MUST obtain a Fireworks Permit (similar to a Burn Permit as stated in Sec. 18-48 (a.) above) by contacting the Thornapple Township Emergency Services at (269) 795-3350. Fireworks would be permitted between 11:00 a.m. and 11:45 p.m. on the date requested. Fireworks discharged without a permit will be subject to the fines listed in (d) below.

- (c) The ignition, discharge, or use of consumer fireworks under this Section does not require prior authorization by the Township.
- (d) A person who violates this Section shall be responsible for a municipal civil infraction and subject to a civil fine of \$1,000 for each violation. There shall be no other fine or sanction. Five hundred dollars of each fine shall be remitted to the Barry County Sheriff's Department for enforcing this ordinance pursuant to the Act.

Sec. 18-92. Display fireworks – permitting.

- (a) No person shall ignite, discharge, or use display fireworks without a permit issued by the Township.
- (b) Application for a permit under this Section must be submitted to the Township Clerk no later than 30 days prior to the desired display date and no later than 10 days prior to the Township Board at which permitting approval will be sought.
 - (1) Applications must be accompanied by an application fee as set by resolution of the Township Board from time to time.
 - (2) Applications must include proof of financial responsibility by a bond or insurance in the amount, character, and form as determined by resolution of the Township Board from time to time.
 - (3) Incomplete or untimely applications will not be accepted.
- (c) The Township Board is the Township permitting authority.
 - (1) Prior to issuing a permit under this Section, the Township Board must make a finding regarding the competency and qualifications of the display fireworks operator, as furnished on the application form, in accordance with the Act, requirements provided under NFPA 1123, and on the time, place, and safety aspects of the fireworks display.
 - (2) A permit granted under this Section is not transferable and shall not be issued to a minor.
 - (3) Applications can be summarily denied if the applicant or a representative thereof is not present at the Township Board meeting when the application is being considered.

- (4) Prior to issuing a permit, the Township Clerk must collect the permitting fee as set by resolution of the Township Board from time to time.

Sec. 18-93. Fireworks – locations

- (a) No person shall ignite, discharge, or use fireworks on public property, school property, church property, or the property of another person or organization without that person’s or organization’s express permission to do so.
- (b) A person who violates this Section shall be responsible for a municipal civil infraction and subject to a civil fine of up to \$500 for each violation.

Sec. 18-94. Use by a minor.

- (a) No person under the age of 18 years shall possess, ignite, discharge, or use fireworks except while in the presence and under the control of a parent, guardian or other responsible adult.
- (b) A person who violates this Section shall be responsible for a municipal civil infraction and subject to a civil fine of up to \$500 for each violation.

Sec. 18-95. Firework safety.

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

Sec. 18-96. Use of fireworks under the influence.

No person shall use fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. As used in this Section:

- (a) “Alcoholic liquor” means that term as defined in section 1d of the Michigan Vehicle Code, Act 300 of the Public Acts of Michigan of 1949, as amended.
- (b) “Controlled substance” means that term as defined in section 8b of the Michigan Vehicle Code, Act 300 of the Public Acts of Michigan of 1949, as amended.

Sec. 18-97. Homemade and modified fireworks.

Regardless of the calendar date, no person shall use, ignite, or discharge homemade, or modified, enhanced, or altered fireworks not otherwise authorized by the Act.

Sec. 18-98. Violations, fines, and penalties.

Except as otherwise provided, a person violating the provisions of this Article shall be guilty of a misdemeanor, punishable by up to 90 days in jail and/or a fine up to \$500.

Article 4. Effective Date.

This Ordinance shall become effective 30 days after its publication in the manner required by law.

YEAS: _____
NAYS: _____
ABSENT: _____

ORDINANCE NO. 01-2020 ADOPTED.

Michael T. Bremer, Supervisor

Cindy A. Willshire, Clerk

I, Cindy Willshire, the Clerk of Thornapple Township hereby attest that the foregoing is a true and accurate copy of an ordinance adopted by the Board of Thornapple Township at a regularly scheduled meeting held on July 13, 2020, which was held in accordance with State law.

Cindy A. Willshire, Clerk