

BEAR LAKE TOWNSHIP

Ordinance Number 1 of 2018

AN ORDINANCE TO REGULATE FIREWORKS ACTIVITIES AND USAGE AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE

The Township of Bear Lake Ordains:

Section 1. Purpose

In the interest of maintaining public health, safety and the general welfare and the comfort and repose of Bear Lake Township residents, Bear Lake Township hereby provides for the regulation and use of fireworks in Bear Lake Township.

Section 2. Definitions

For purposes of this Ordinance, the following definitions shall apply.

1. Articles of pyrotechnic: Pyrotechnic devices for professional use that are similar to consumer fireworks in the chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN)431 under 49 CFR 172.101.
2. APA: American Pyrotechnics Association
3. Consumer fireworks: Fireworks devices that are designed to produce 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.
4. Department: Department of Licensing and Regulatory Affairs (LARA), State of Michigan.
5. Display fireworks: Large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effect by combustion, deflagration, or detonation as provided in 27 CFR 555.11, 49CFR 162 and APA standard 87-1, 4.1.
6. 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-impacted fireworks, articles of pyrotechnic, display fireworks and special effects.

7. Low-impact fireworks means ground and handheld sparkling devices and that phrase is defined under APA standard 87-1, 3.1.1.1 to 3.1.1.8 and 3.5.
8. Minor: Individual who is less than 18 years old.
9. National holiday: A national holiday is defined in 5 USC 6103 and includes: New Year's Day (January); Martin Luther King Jr. Day (third Monday in January); President's Day (third Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Columbus Day (second Monday in October); Veterans Day (November 11); Thanksgiving Day (fourth Thursday in November); Christmas Day (December 25)
10. NFPA: National Fire Protection Association.
11. Novelties: 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:
 - a. 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 cup.
 - b. Toy pistols, toy cannons, toy canes, toy trick noisemakers, and guns in which toy caps as described in the above paragraph 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 explosion.
 - c. Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
12. Person: Individual, agent, association, charitable organization, company, Limited Liability Company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.
13. Special effects: A combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as in integral part of a motion picture, radio television, theatrical or opera production or live entertainment.

Section 3. Novelties

This Ordinance does not apply to and does not regulate the use of Novelties or low impact fireworks in Bear Lake Township.

Section 4. Use Of Consumer Fireworks.

- a. Consumer fireworks may be ignited, discharged and used in Bear Lake Township on the day proceeding, the day of and the day after a national holiday between the hours of 8:00 a.m. and 1:00 a.m. No person may ignite or discharge fireworks in Bear

Lake Township on the day proceeding, the day of and the day after a national holiday between the hours of 1:00 a.m. and 8:00 a.m. On any other day of the year, no person may ignite, discharge or use consumer fireworks in the township between the hours of 11:00 p.m. and 11:00 a.m.

- b. Consumer fireworks shall not be used if a burn ban or red flag is in effect.
- c. A person shall not ignite, discharge or use consumer fireworks on public property, school property, road ends, churches, parks, public road ends, or the property of another person, without that person or organization's express permission to use the consumer fireworks on those premises.
- d. A person 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.
- e. The use of consumer fireworks will only be allowed by a person 18 years or older in accordance with the Michigan Fireworks Safety Act 256 of 2011 as amended.
- f. A permit is required for the use of display fireworks per state regulations.

Section 5: Violations and Penalties.

1. Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to the following fines:

The offender shall pay a fine of One Hundred and 00/100 (\$100.00) Dollars and all court costs incurred.

- 2. Each day this Ordinance is violated shall be considered a separate violation.
- 3. Violations of this Ordinance may be reported to the Kalkaska County Sheriff's Department.

Section 6. Enforcement Officials.

The Township Supervisor, and police officers of the Kalkaska County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 7. Nuisance Per Se.

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 8: Severability

If any section, clause or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed each part, section, subsection, phrase, sentence, and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences, or clauses be declared invalid.

Section 9: Conflicts

If any provision of the Kalkaska County Zoning Ordinance conflicts with this Zoning Ordinance Amendment, then the provisions of the Kalkaska County zoning Ordinance Amendment shall control.

Section 10: Effective Date

This Ordinance shall become effective Thirty (30) days after being published in a newspaper of general circulation within the Township.

ROLL CALL VOTE

Yes: S. Havens, R. Dixon, J. Knight, G. Banker, C. Rosenberg

No:

Township of Bear Lake

BY: George Banker
George Banker, Supervisor

BY: Carol Rosenberg
Carol Rosenberg, Clerk