

EMPIRE TOWNSHIP

CONSUMER FIREWORKS ORDINANCE No. 05-13

AN ORDINANCE TO SECURE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS OF EMPIRE TOWNSHIP, LEELANAU COUNTY, MICHIGAN, BY REGULATING THE USE OF CONSUMER FIREWORKS IN EMPIRE TOWNSHIP, AS PROVIDED IN PUBLIC ACT 256 OF 2011, AS AMENDED (MCL 28.451, *et seq.*).

EMPIRE TOWNSHIP HEREBY ORDAINS:

Section 1: Findings

The Empire Township Board makes the following findings:

Public Act 246 of 1945 (MCL 41.181, *et seq.*) authorizes Empire Township to enact ordinances that regulate the public health, safety and general welfare of persons and property. Public Act 256 of 2011, as amended (MCL 28.451, *et seq.*) authorizes Empire Township to enact an ordinance regulating the ignition, discharge, and use of Consumer Fireworks. The Township Board believes an ordinance prohibiting the ignition, discharge, and use of Consumer Fireworks, to the extent allowed by Public Act 256 of 2011, as amended, is in the interest of public health, safety, and general welfare.

Section 2: Title

This Ordinance shall be known and cited as the Empire Township Consumer Fireworks Ordinance.

Section 3: Definitions

The following definitions apply for purposes of this Ordinance:

a. 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 AP A standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.

b. 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.

c. 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); Washington's Birthday (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).

Section 4: Ignition, Discharge, and Use of Consumer Fireworks

The ignition, discharge, and use of Consumer Fireworks in Empire Township are prohibited at all times except for the day preceding, the day of, and the day after a National Holiday, and are further limited by the following:

- a. A person shall not ignite, discharge, or use consumer fireworks between the hours of 1:00 a.m. and 8:00 a.m.
- 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 that person or organization's express permission to use the consumer fireworks on those premises.
- c. 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, or other intoxicating substance.
- d. Consumer fireworks shall only be used in accordance with all applicable local, state, and federal laws.

Section 5: Severability

This Ordinance shall be deemed severable. If any word, sentence, clause, section, or provision is declared invalid or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any other portion of this Ordinance and the remaining portions of this Ordinance shall remain valid and enforceable.

Section 6: Penalty/ Civil Infraction

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 a fine of not more than Five Hundred and 001100 (\$500.00) Dollars, plus cost and assessments as provided in MCL 600.8727. Each day this Ordinance is violated shall be considered as a separate violation.

Section 7: Enforcement

Deputies of the Leelanau County Sheriff or other persons designated by the Township Board are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 8: Effective Date

This Ordinance shall take effect 30 days after publication in accordance with law.

Adoption of the foregoing ordinance was moved by Neiswonger and supported by Price.

Voting for: Neiswonger, Bolton, Price, Noonan. Absent: Deering. Voting against: None.

The ordinance was declared adopted.

William B. Bolton
Township Supervisor

CERTIFICATION

The above is a true copy of ordinance No. 05-13 which was duly adopted by the Empire Township Board at a regularly scheduled meeting held on June 11, 2013.

Christine M. Neiswonger
Township Clerk