

**Village of Empire  
Leelanau County, Michigan**

**Ordinance No. 138**

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF THE IGNITION,  
DISCHARGE AND USE OF FIREWORKS WITHIN THE VILLAGE OF EMPIRE

**The Village of Empire Ordains:**

**Section 1. Purpose**

This ordinance shall provide for the regulation of the ignition, discharge and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act, MCL28.451 et seq., as amended. The Village of Empire finds that fireworks endanger property, can cause physical injury and disrupt the peace and quality of residential neighborhoods and other districts. The Village of Empire endeavors to reconcile the rights that the Act confers upon sellers and consumers, with the rights of citizens and families to reside in a safe, peaceful, and harmonious community. This ordinance is adopted to amend any existing fireworks ordinances that conflict with the Act, and to impose conditions on the time, place, manner of use, discharge and ignition of fireworks deemed to be within the purview of local regulation, and to protect the public health, safety and general welfare of village residents.

**Section 2. Definitions**

Except when the context clearly indicates a different meaning, the following words, terms and phrases used in this ordinance shall have the following meanings:

“Act” means the Michigan Fireworks Safety Act, Act 256 of 2011, and any amendments to the Act which may be from time to time adopted.

“APA standard 87-1” means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the 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. A Consumers firework does not include low-impact fireworks.”

“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 CPR 555.11 49 CFR172, and APA standard 87-1.

“Articles pyrotechnic” means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction by not intended for consumer use, that meet

the weight limits for consumer fireworks but are not labeled as such, and that are classified as UND431 or UND432 under 49 CFR 172.101.

“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 effect.

“Low-impact fireworks” means ground and handheld sparkling devices as that phrase is defined under APA standards.

“Novelties” means that term as defined under APA standards and all of the following:

- (1) 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;
- (2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described above 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 the explosion.
- (3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- (4) 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.

“Special effects” means 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 an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

“Minor” means an individual who is less than 18 years of age.

National holiday means the following legal public holidays:

1. New Year’s Day, January 1<sup>st</sup>
2. Martin Luther King’s Birthday, third Monday in January
3. Washington’s birthday, the third Monday in February
4. Memorial Day, the last Monday in May
5. Independence Day, July 4
6. Labor Day, the first Monday in September
7. Columbus Day, the second Monday in October
8. Veterans Day, November 11
9. Thanksgiving Day, the fourth Thursday in November
10. Christmas Day, December 25<sup>th</sup>

“Person” means any individual, agent, legal representative, association, charitable organization, church, non-profit organization, unincorporated organization, labor organization, partnership, limited liability company, corporation, or any other entity or organization. An individual shall include a minor as defined in this ordinance.

### **Section 3. Manufacture of Fireworks**

The manufacture of fireworks is prohibited within the Village.

### **Section 4. Prohibited and exempt uses**

The use of explosives of any type is also prohibited, except as permitted by Ordinance 75 of 2001.

- (a) Consumer Fireworks: A person shall not ignite, discharge or use consumer fireworks, except on the day preceding, the day of, or the day after a national holiday, provided that a person shall not ignite, discharge or use consumer fireworks in violation of the Act and/or this ordinance.
- (b) Low impact or novelty fireworks may not be discharged between the hours of 11:00pm and 7:00AM., or after dark whichever is earlier, and may not otherwise be discharged in violation of this ordinance and/or the Act.
- (c) Illegal fireworks: Any use, possession, or discharge of fireworks that is illegal and not approved by the State of Michigan or the State Fire Marshall is prohibited, regardless of how it is labeled.
- (d) The use of display fireworks is prohibited, except as permitted by Ordinance 75 of 2001

### **Section 5. Minors**

A. A minor shall not possess, use, discharge or ignite any consumer fireworks, at any time, nor on any day, including national holidays, and the day before and day after a national holiday.

B. A minor shall not use, discharge, or ignite any low impact fireworks or novelty fireworks, unless under the supervision of a parent or guardian, and the use, discharge and/or ignition is within permitted hours, and does not violate the provisions of this ordinance and/or the Act.

### **Section 6. General Restrictions**

A. Unless specifically authorized, the use, discharge or ignition of any fireworks, including consumer fireworks, is prohibited on public property regardless of the day.

B. Fireworks, including consumer fireworks, shall not be ignited within 20 feet of an open flame, a burner, gasoline, ignited gas or electric grill, or in any enclosed structure, garage, tent, or shed, or under any canopy, or overhanging cover of any nature.

C. Excessive uses of fireworks, including consumer fireworks, which result in the disruption of residents, are prohibited, notwithstanding anything contrary in the Act. Excessive use is defined as conduct that includes the continuous or intermittent ignition of fireworks continuing for more than 20 minutes.

D. No person shall either individually or in concert with another person, cause damage to any private or public property by the use, discharge or ignition of any fireworks.

E. No consumer fireworks may be ignited, launched or discharged within 200 feet of a residential building or vehicle.

F. No consumer fireworks may be ignited, launched or discharged within the Village of Empire between the hours of 11:00 pm and 7:00 am.

### **Section 7. Exemptions**

Exempt from the provisions of this ordinance is the use of explosives by police officers, licensed contractors, and emergency response teams as required for public works, construction projects, and emergency management. These authorized parties shall notify the Glen Lake Fire department and the Village, if possible, prior to plan explosive use, and shall take adequate measures to ensure the safety of village residents and visitors.

### **Section 8. Imminent Dangers**

Notwithstanding the Act, any use, discharge or ignition of fireworks that presents an imminent danger or threat to the public health, safety, or welfare, as deemed by the Glen Lake Fire department shall be prohibited, and the fireworks may be immediately seized.

### **Section 9. Penalties**

Any person who violates this ordinance shall be responsible for a municipal civil infraction, as defined in the Village of Empire's Municipal Civil Infraction Ordinance # 107. All fireworks used, discharged, and or ignited in violation of the Act and/or this ordinance is subject to seizure. Any costs incurred by the Village to seize and store the fireworks shall be paid by the responsible party

### **Section 10. Prior Ordinances**

All prior ordinances or parts thereof, in conflict with the terms of this ordinance are deemed rescinded. Specifically, Ordinance 26b of 1913 is rescinded.

### **Section 11. Severability**

Each provision of this ordinance is declared to be separable and severable, and a judicial determination that any such provision is invalid or unenforceable, shall not affect the enforceability of any other ordinance, section, subsection or provision hereof.

**Section 12. Effective Date**

This ordinance shall become effective upon the twentieth day following its adoption or the date of its publication, whichever occurs first.

At a regular meeting of the Village Council for the Village of Empire held on the 28th day of May, 2013, Lanny Sterling moved for the adoption of the foregoing ordinance and Gerry Shiffman supported the motion.

Voting for: Lanny Sterling, Dan Davis, Gerry Shiffman, Cile Plumstead and Susan Carpenter

Voting against: Sam Barr and Karen Baja

The Village President declared the ordinance adopted.

  
Susan A. Carpenter, Village President

**CERTIFICATION**

The foregoing is a true copy of Ordinance No. 138 which was enacted by the Village Council for the Village of Empire at a regular meeting held on May 28, 2013.

  
Patricia L. Zoyhofski, Clerk