

Crystal Lake Township
1651 Frankfort Highway
PO Box 2129
Frankfort, MI 49635-2129

Resolution Number: 5-17-2022 # _____

Date: 5-17-2022

FOR CONSUMER FIREWORKS REGULATION

WHEREAS, the Township shall provide for the health, safety and welfare of its constituents;

WHEREAS, the Township may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks;

WHEREAS, Township finds that ignition, discharge and use of fireworks can endanger property, cause noise pollution, pollute bodies of water, cause physical injury or death to animals, humans and natural elements, as well as disrupt the peace and threaten the quality of residential neighborhoods and other districts; and

WHEREAS, Crystal Lake Township endeavors to reconcile the rights that the State of Michigan confers with the rights of township residents and visitors to reside in a healthy, safe, peaceful community;

NOW, THEREFORE, BE IT RESOLVED that Crystal Lake Township hereby adopts the following Consumer Fireworks Ordinance (attached).

Moved by Supervisor Amy Ferris

Seconded by: _____

Roll Call Vote:

Amy Ferris, Supervisor: _____

Richard Nielsen, Trustee: _____

William Northway, Trustee: _____

Sue Sullivan, Clerk: _____

Brooke Trentham Popp, Treasurer: _____

The supervisor declared this motion failed / carried and duly adopted.



CRYSTAL LAKE TOWNSHIP
CONSUMER FIREWORKS ORDINANCE
Ordinance No. _____

AN ORDINANCE PURSUANT TO ACT 256 OF THE PUBLIC ACTS OF 2011, AS AMENDED, AND PURSUANT ACT TO 246 OF THE PUBLIC ACTS OF 1945, AS AMENDED, TO PROHIBIT THE IGNITION, DISCHARGE, AND USE OF CONSUMER FIREWORKS WITHIN THE TOWNSHIP, EXCEPT AS PERMITTED BY STATE LAW, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

THE TOWNSHIP OF CRYSTAL LAKE ORDAINS:

Section 1. Findings.

The Crystal Lake Township Board makes the following findings: Public Act 246 of 1945 (MCL 41.181, et seq.) authorizes Crystal Lake 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 Crystal Lake Township to enact an ordinance regulating the ignition, discharge, and use of consumer fireworks. The Crystal Lake Township Board hereby finds that 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 of persons and property within Crystal Lake Township.

Section 2. Title.

This Ordinance shall be known as the Crystal Lake Township Consumer Fireworks Ordinance.

Section 3. Definitions. As used in this Ordinance,

- “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. Consumer fireworks does not include low impact fireworks.
- “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. 1
- “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.

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

(A). No person shall ignite, discharge, or use consumer fireworks within Crystal Lake Township

at any time, except during any of the following days and times:

- (1). After 11 a.m. on December 31 and until 1 a.m. on January 1.
- (2). After 11 a.m. and until 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day.
- (3). After 11 a.m. and until 11:45 p.m. on June 29 through July 4.
- (4). If July 5 falls on a Friday or Saturday, then after 11:00 a.m. and until 11:45 p.m. on July 5.
- (5). After 11 a.m. and until 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day.

(B). Notwithstanding subsection (A) above to the contrary, no person shall ignite, discharge, or use consumer fireworks within Crystal Lake Township when a burn ban has been declared by the township fire chief, the governor, the Department of Natural Resources, or the state fire marshal pursuant to state law.

Section 5. 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 civil fine of One Thousand and 00/100 (\$1,000.00) Dollars for each violation of the Ordinance and no other fine or sanction. Five Hundred and 00/100 Dollars of the fine collected under this Ordinance shall be remitted to the Benzie County Sheriff's Office, which is responsible for the enforcement of this Ordinance. Each day this Ordinance is violated shall be considered as a separate violation.

Section 6. Enforcement.

The Township Supervisor, the Township Enforcement Officer, other persons designated by the Township Board, and deputies of the Benzie County Sheriff 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.

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

Section 8. Injunctive Relief.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 9. Repeal.

The Crystal Lake Township Fireworks Ordinance, being Ordinance 2014-07-08, as amended, is hereby repealed in its entirety.

Section 10. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

Section 11. Effective Date.

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

AGREEMENT

THIS AGREEMENT is effective on _____, 2022 between Crystal Lake Township, a Michigan general law township, and the Benzie County Sheriff.

Recitals

- A. Crystal Lake Township has enacted a Consumer Fireworks Ordinance prohibiting the ignition, discharge, and use of Consumer Fireworks in Crystal Lake Township at all times except for the days and times specified in the Ordinance and during burning bans declared pursuant to state law
- B. Crystal Lake Township does not have a police department to utilize for the enforcement of the Ordinance.
- C. Under MCL 41.181(1) the Sheriff is empowered to enforce local township ordinances to the extent that township funds are appropriated for the enforcement.
- D. The Benzie County Sheriff has the personnel with the training and experience necessary to enforce the Ordinance, and desires to assist Crystal Lake Township in the enforcement of the Ordinance.
- E. Because the extent and nature of the Ordinance enforcement by the Sheriff's deputies contemplated by this Agreement will be relatively minor, no township funds are needed in connection with this Agreement.

Agreement

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

- 1. The Benzie County Sheriff agrees that his deputies shall enforce the Ordinance under the terms and conditions of this Agreement.
- 2. Crystal Lake Township acknowledges and agrees that when enforcing the Ordinance, the deputies, in the sole exercise of their professional judgment, are free to take whatever action they deem necessary and proper to enforce the Ordinance. Crystal Lake Township further acknowledges and agrees that the discretion granted to the deputies in this paragraph includes the discretion to take no enforcement action, if the deputies deem this action warranted under the circumstances.
- 3. The Benzie County Sheriff agrees that any expenses incurred in the enforcement of the Ordinance, including but not limited to the expenses associated with required court appearances by his deputies, shall not be passed on to Crystal Lake Township, but shall be considered an expense of the Sheriff's Office.

4. Each party shall indemnify and hold the other party, its officers, board members, assigns, agents, servants, employees, insurance companies, harmless from any and all damages, legal fees or expenses, awards, demands, rights, and causes of action which arise from the enforcement of the Ordinance.
5. Either party may terminate this Agreement upon seven (7) days written notice to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective the day and year first above written.

CRYSTAL LAKE TOWNSHIP

Date: _____

By: _____
Amy Ferris, Supervisor

BENZIE COUNTY SHERIFF

Date: _____

By: _____
Kyle Rosa, Sheriff

Agreement Approved by:

BENZIE COUNTY BOARD
OF COMMISSIONERS

By: _____
Robert Roelofs, Board Chair

Date: _____