

**Crystal Lake Township
Frankfort, Michigan**

Ordinance No. 2014-07-08

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF THE MANUFACTURE, IGNITION, DISCHARGE AND USE OF FIREWORKS WITHIN CRYSTAL LAKE TOWNSHIP.

Crystal Lake Township Ordains:

Section 1. Purpose

This ordinance shall provide for the regulation of the manufacture, ignition, discharge and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act. MCL28.451 et seq., as amended. Crystal Lake Township finds that fireworks can endanger property; can pollute bodies of water; can cause physical injury; can disrupt the peace and threaten the quality of residential neighborhoods and other districts. Crystal Lake Township endeavors to reconcile the rights that the Act confers upon sellers and consumers, with the rights of residents and visitors 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 township residents.

Section 2. Title

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

Section 3. 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.

“Article pyrotechnic” means pyrotechnic devices for professional use that are similar to consumer fireworks in 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 UND431 or UND432 under 49 CFR 172.101.

“Consumer fireworks” means fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion under 18

CCFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.12, 3.13, or 3.5. “Consumer fireworks” 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 CFR 555.11 49 CFR172, and APA standard 87-1.

“Excessive use” is defined as conduct that includes the continuous or intermittent ignition of fireworks continuing for more than 30 minutes.

“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 effects.

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

“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 1st
2. Martin Luther King’s Birthday, the 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 25th

“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) Fiber 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.

“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. “Person” shall include a minor as defined in this ordinance.

“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 theatrical production or live entertainment.

Section 4. Ignition, Discharge and Use of Consumer Fireworks

No person shall ignite, discharge or use consumer fireworks within Crystal Lake Township on any day that is not the day preceding, the day of, or the day after a national holiday.

Section 5. Prohibited Use of Fireworks

The use, discharge or ignition of any consumer fireworks, individually or in concert with another person, is strictly prohibited regardless of the day, notwithstanding anything contrary in the Act, if:

- (a) between the hours of 11:00 PM and 8:00 AM.
- (b) a burn ban is in effect as declared by the Michigan Department of Natural Resources, the Frankfort Fire Department, or other official designee.
- (c) deemed illegal or is not approved by the State of Michigan or the State Fire Marshall, regardless of how it is labeled.
- (d) on public property.
- (e) it results in damage or pollution to public property or the property of another, including bodies of water that would suffer from littering or contamination.
- (f) 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.
- (g) within 200 feet of a residential building or vehicle.

- (h) it results in the inordinate disruption of residents.
- (i) it presents an imminent danger or threat to the public health, safety, or welfare, as deemed so by the Frankfort Fire Department.

Section 6. Minors and Impaired Persons

- A. A minor shall not possess, use, discharge or ignite any consumer fireworks.
- 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.
- C. A person shall not ignite, discharge or use fireworks while under the influence of alcoholic liquor or a controlled substance, and/or acting in a manner that such behavior would reasonably be judged to jeopardize the health, safety and general welfare of people or property.

Section 7. Special Use Exemptions

A written request for a special event involving the use of fireworks on private or public property may be applied for and approved by the Township Zoning Administrator or Supervisor upon compliance with restrictions, fees and regulations of fire and enforcement agencies. Written approval may include, in addition, any possible conditions deemed necessary to safeguard persons and property as it applies to that particular special event.

Section 8. Manufacture of Fireworks

The manufacture of fireworks is prohibited within the Township.

Section 9. Enforcement

Members of the Township Board, the Township Zoning Administrator and the Benzie County Sheriff and deputies are authorized as local enforcement officers of this ordinance.

Section 10: Penalties

- A. Any person who violates any section of this ordinance shall be responsible for a municipal civil infraction, and subject to the sanctions therefor, as provided in the Crystal Lake Township's Civil Infraction Ordinance #2013-01-01.

- B. A person who owns property and/or is in charge of property who knowingly allows a violation of this ordinance to occur on his/her property shall be responsible for a municipal civil infraction and subject to sanctions therefore, as provided in the Crystal Lake Township's Civil Infraction Ordinance #2013-01-01.
- C. All fireworks used, discharged, and/or ignited in violation of the Act and/or this ordinance are subject to seizure. Any costs incurred by the Township to seize and store the fireworks shall be paid by the responsible party.

Section 11. Prior Ordinances

All prior ordinances, or parts thereof, in conflict with the terms of this ordinance are deemed rescinded.

Section 12. 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 13. Effective Date

This ordinance shall become effective upon the 30th day following its adoption or the date of its publication, whichever occurs first.

At a special meeting of the Board of Crystal Lake Township, held on the 8th day of July, 2014, Supervisor Ferris moved for the adoption of the foregoing ordinance and Trustee Tammy may supported the motion.

Voting for: Amy Ferris, Richard Nielsen, Tammy May, Sue Sullivan and Broooke Trentham

Voting against: None.

Abstained: None.

Absent: None.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 2014-07-08, which was enacted by the Board of Crystal Lake Township at a regular meeting held on July 8, 2014.

Sue Sullivan, Clerk