

Sec. 10-110. Regulation of the Ignition, Discharge and Use of Fireworks.

(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 Lyons finds that fireworks endanger property, can cause physical injury and disrupt the peace and quality of residential neighborhoods and other districts. The Village of Lyons 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.

(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:

- (A) "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. MCL 28.451 et seq.
- (B) "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 SPS 87-1,3.1.2, 3.1.3 or 3.5. A consumer's firework does not include low-impact fireworks.
- (C) "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 27CRP555.1149CFR172, and APA standard 87-1.
- (D) "Articles 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 UND 432 under 49CFR172.101.
- (E) "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.

(F) "Low-Impact Fireworks" means ground and hand held sparkling devices as that phrase is defined under APA standards.

(G) "Novelties" means that term as defined under APA standards and all the following:

(a) Toy plastic or paper caps for toy pistols in sheet, 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.

(b) 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 explosion.

(c) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(d) 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.

(H) "Special Effects" means a combination of chemical elements or chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed as 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.

(I) "Minor" means an individual who is less than 18 years of age.

(J) "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.

(3) Prohibited Use and Exemptions

(a) A person shall not ignite, discharge or use consumer fireworks or homemade fireworks except on the following days after 11:00 a.m.

1. 11 a.m. Dec 31 to 1 a.m. Jan 1

2. 11 a.m. to 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.

3. June 29th to July 4th until 11:45 p.m. on each of those days.

4. July 5th, if that date is a Friday or Saturday, until 11:45 p.m.

5. The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(b) Exempt from the provisions of the 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 Lyons-Muir, Lyons Township Fire Department and the Village of Lyons, if possible, prior to plan explosive use, and shall take adequate measures to ensure the safety of village residents and visitors.

(c) Manufacturing of fireworks is prohibited within the Village of Lyons.

(d) Minors

(1) A minor shall not possess, use, discharge or ignite any consumer fireworks at any time or on any day including national holidays and the day before and day after a national holiday.

(2) 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.

(e) General Restrictions

(1) No person shall at any time ignite, discharge or use consumer or low impact fireworks upon another person's property or within 15 feet of another person's property without such property owner's permission. No person shall at any time, ignite, discharge, except under the terms and conditions of a permit issued pursuant to this section, any fireworks in a public street or right-of-way, a public park, school property or any other place of public assembly without the approval of the owner of such property or, in the case of a public park, street or right-of-way, the approval of the village.

(2) No person shall at any time cause or allow to be caused any debris, remnants, or unburned fragments of consumer fireworks or low impact fireworks to remain on any private or public property without the property owner's permission.

(3) Fireworks, consumer or low impact, 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.

(4) Penalties

(a) Any person who violates Section 3 (a) of this ordinance is responsible for a municipal civil infraction and shall be ordered to pay a civil fine of One thousand dollar fine (\$1,000.00) for each violation of the subsection and no other fine or sanction; provided, however that \$500.00 of the fine collected shall be remitted to the Ionia County Sheriff's Department as required by MCLA 28.457(3).

(b) Any person who violates Section 3 (c-e) shall be responsible for a \$500.00 fine.

(5) Prior Ordinance

All prior ordinances or parts thereof, in conflict with the terms of this ordinance are deemed repealed, Specifically, Ordinance - Article VI offenses against Public Safety – Div. 1 Generally Sec. 10-133 - sale or use of. (1999 & 1983)

(6) 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.

(Amended 7-15-19, eff 8-4-19; approved 9-16-13, eff 11-6-13).