

Blue Lake Township

Ordinance Number 02012023 of 2023

(Side note: This replaces Ordinance #05062015-2 of 2015)

AN ORDINANCE TO REGULATE FIREWORKS ACTIVITIES AND USAGE AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE

The Township of Blue Lake Ordains:

Section 1: Purpose

In the interest of maintaining public health, safety and the general welfare and the comfort and repose of Blue Lake Township residents, Blue Lake Township hereby provides for the regulation and use of fireworks in Blue Lake Township.

Section 2: Definitions

For purposes of this Ordinance, the following definitions shall apply.

1. 1. Articles of pyrotechnic: Pyrotechnic devices for professional use that are similar to consumer fireworks in the 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 UN)431 under 49 CFR 172.101.
2. APA: American Pyrotechnics Association
3. Consumer fireworks: Fireworks devices that are designed to produce 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.
4. Department: Department of Licensing and Regulatory Affairs (LARA), State of Michigan.
5. 5. Display fireworks: Large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effect by combustion, deflagration, or detonation as provided in 27 CFR 555.11, 49CFR 162 and APA standard 87-1, 4.1.
6. Firework or fireworks: 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-impacted fireworks, articles of pyrotechnic, display fireworks and special effects.
7. Low-impact fireworks means ground and handheld sparkling devices and that phrase is defined under APA standard 87-1, 3.1.1.1 to 3.1.1.8 and 3.5.
8. Minor: Individual who is less than 18 years old.
9. NFPA: National Fire Protection Association.

10. Novelties: As defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4 and 3.2.5 and all of the following:
 - a. 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 cup.
 - b. Toy pistols, toy cannons, toy canes, toy trick noisemakers, and guns in which toy caps as described in the above paragraph 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.
11. Person: Individual, agent, association, charitable organization, company, Limited Liability Company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.
12. 12. Special effects: 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 in integral part of a motion picture, radio television, theatrical or opera production or live entertainment.

Section 3: Novelties

This Ordinance does not apply to and does not regulate the use of Novelties or low impact fireworks in Blue Lake Township.

Section 4: Consumer Fireworks

1. Consumer fireworks may only be used in Blue Lake Township subject to the following requirements and restrictions:
 - a. After 11 a.m. on December 31 and until 1 a.m. on January 1.
 - b. After 11 a.m. and until 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day.
 - c. After 11 a.m. and until 11:45 p.m. on June 29 through July 4.
 - d. If July 5 falls on a Friday or Saturday, then after 11:00 a.m. and until 11:45 p.m. on July 5.
 - e. After 11 a.m. and until 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day.
2. Consumer fireworks shall not be used if a burn ban is in effect.
3. A person shall not ignite, discharge or use consumer fireworks on public property, school property, road ends, churches, parks, public road ends, or the property of another person, without that person or organization's express permission to use the consumer fireworks on those premises.

4. 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.
5. The use of consumer fireworks will only be allowed by a person 18 years or older in accordance with the Michigan Fireworks Safety Act 256 of 2011 as amended.
6. A permit is required for the use of display fireworks per state regulations.

If the State law changes, that supersedes this ordinance.

Section 5: Violations and Penalties.

1. 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 \$1,000 (one thousand dollars) for each violation of the Ordinance and no other fine or sanction. \$500 (five hundred dollars) of the fine collected under this Ordinance shall be remitted to the Kalkaska County Sheriff's Office, which is responsible for the enforcement of this Ordinance.
2. Each day this Ordinance is violated shall be considered a separate violation.
3. Violations of this Ordinance may be reported to the Kalkaska County Sheriff's Department.

Section 6: Enforcement Officials.

The Township Supervisor, Zoning Administrator and police officers of the Kalkaska County Sheriff's Department 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 Per Se.

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

Section 8: Severability

If any section, clause or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed each part, section, subsection, phrase, sentence, and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences, or clauses be declared invalid.

Section 9: Conflicts

If any provision of the Blue Lake Township Zoning Ordinance conflicts with this Zoning Ordinance Amendment, then the provisions of the zoning Ordinance Amendment shall control.

Section 10: Effective Date

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

Township of Blue Lake

By: _____

Blair Shearer, Supervisor

Adoption date: 02/02/2023

By: _____

Tracy Nichol, Clerk

Effective date: 03/15/2023