

LAKE TOWNSHIP

FIREWORKS ORDINANCE

Ordinance No. 2014-01

An ordinance to protect the health, safety and general welfare of Lake Township through the regulation of use of fireworks, as provided in PA 256 of 2011 and to repeal all Ordinances or parts of Ordinances in conflict herewith.

THE TOWNSHIP OF LAKE ORDAINS:

Section 1: Name. This Ordinance shall be known and cited as the Lake Township Fireworks Ordinance.

Section 2: Purpose. In the interest of maintaining public health, safety and general welfare and the comfort and repose of Lake Township residents, Lake Township hereby provides for the regulation and use of fireworks in Lake Township, as provided in PA256 of 2011, as may be amended, (MCL 28.451, et seq) and repeals all Ordinances or parts of Ordinances in conflict herewith.

Section 3: Definitions. For the purposes of this Ordinance, the following definitions shall apply:

1. **Articles 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 UN0431 or UN0432 under 49 CFR 172.101.
2. **APA:** American Pyrotechnics Association
3. **Consumer fireworks:** 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 do not include low impact fireworks.
4. **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, 49 CFR 162 and APA standard 87-1, 4.1.
5. **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-impact fireworks, articles pyrotechnic, display fireworks and special effects.

6. **Low-impact Fireworks:** Low-impact fireworks means ground and hand held sparkling devices at that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5.
7. **Minor:** Individual who is less than 18 years old.
8. **National Holiday:** A National Holiday is defined in 5 USC 6103 and includes: New Year's Day (January); Martin Luther King Jr. Day (third Monday in January); Washington's Birthday (third Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Columbus Day (second Monday in October); Veterans Day (November 11); Thanksgiving Day (fourth Thursday in November); Christmas Day (December 25).
9. **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 cap.
 - (B) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy 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 the explosion.
 - (C) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
10. **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.
11. **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 an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

Section 4: Novelties. Low Impact fireworks shall be ignited, discharged, or used so as not to cause injury or damage to any person or property, and shall not be ignited, discharged, or used inside any building or structure of any kind.

Novelty fireworks may be ignited, discharged, or used without restriction, but such shall only occur in a manner so as to not cause injury or damage to any person or property.

Section 5: Consumer Fireworks.

1. Consumer fireworks may be used in Lake Township on the day proceeding, the day of and the day after a national holiday with the restriction that no fireworks be allowed between the hours of 1:00AM and 8:00AM.
2. At any time other than the day proceeding, the day of and/or the day after a national holiday consumer fireworks may be used in Lake Township subject to the following requirements and restrictions:
 - (A) This ordinance shall be applicable commencing on the Friday before Memorial Day, and shall continue through the Tuesday after Labor Day
 - (B) On Fridays and Saturdays only Consumer Fireworks may be used commencing at 8:00 PM and ending at 12:00 A.M. for the dates set forth in Paragraph A. No fireworks are allowed Sunday through Thursday.
 - (C) Consumer Fireworks shall not be used if a burn ban is in effect.
 - (D) A person shall not ignite, discharge or use Consumer Fireworks on the public property, school property, church property or the property of another person, without that person or organization's express permission to use the consumer fireworks on those premises.
 - (E) 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.
 - (F) Consumer Fireworks shall only be used in accordance with all applicable local, state and federal laws.
 - (G) Special effect fireworks, such as Chinese Lanterns, are hereby prohibited within Lake Township.
 - (H) Any person(s) using Consumer Fireworks is/are responsible for cleaning up any debris caused from the use of said fireworks.

Section 6: Sanctions. Any person who violates any provision of this Ordinance shall be deemed responsible for a municipal civil infraction and fined in accordance with the following schedule:

		Minimum Fine	Maximum Fine
---	1 st offense within 2 year period*	\$100.00	\$100.00
---	2 nd offense within 2 year period*	\$300.00	\$500.00
---	3 rd or subsequent offense within 2 years*	\$500.00	\$500.00

*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Lake Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$100.00 be

ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.

Section 7: Severability. Should any section, clause or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid.

Section 8: Permit for Pyrotechnic Display. An application for a permit for a pyrotechnic display shall be made in writing to the Township Board. Before a permit for such a display is issued, the person, firm, or corporation making said application shall furnish proof of financial responsibility by a bond or insurance company of an amount deemed necessary by the township to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation, or an agent or employee thereof, in the amount, and form that the township determines necessary, for the protection of the public.

The applicant shall provide the township proof of training and/or licenses to perform such a display. A general plan outlining how the display will be conducted must be included in the permit application. The local police and fire department will be forwarded the permit for review. If it is determined that fire or EMS equipment must be present onsite, it will be at the homeowners expense.

Section 9: Prohibition of Permits. A permit shall not be issued under this section to a non-resident person, firm, or corporation for conduct of a pyrotechnic display within the township until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be his/her/its legal representative upon whom all process in an action or proceeding against him/her/ it may be served.

The Township Board shall reserve the authority to rule on the competency and qualification of operators of pyrotechnic displays as the operator has furnished in his application form, and on the time, place, and safety aspects of the display before granting any permits for said pyrotechnic displays.

Section 10: Repeal of Conflicting Provisions and Effective Date. This Ordinance shall take effect 30 days after publication as required by law. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed; provided that any violation charged before the effective date of this Ordinance under an Ordinance provision repealed by this Ordinance shall continue under the Ordinance provision then in effect.

This Ordinance is hereby declared to have been adopted and passed by the Lake Township, at a regular meeting thereof duly called and held on the 21st day of April, 2014.

Valerie J. McCallum, Township Supervisor

Claren Russell, Township Clerk

Adopted: April 21, 2014

Published: May 1, 2014

Effective: May 31, 2014