

TOWNSHIP OF EAGLE
CLINTON COUNTY, MICHIGAN
ORDINANCE NUMBER 9-08-2015-1

Fireworks Ordinance

An ordinance to protect the health, safety, and general welfare of the persons and property within Eagle Township, Clinton County, Michigan, by regulating the ignition, discharge and use of consumer fireworks within the Township, to provide penalties for the violation thereof, and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP OF EAGLE ORDAINS:

Section 1: Title

This ordinance shall be known and cited as the “Eagle Township Fireworks Ordinance.”

Section 2: Purpose and Intent

The purpose and intent of this ordinance is to protect the people and property within Eagle Township against health, safety, environmental, and fire hazards caused by the ignition, discharge and use of consumer fireworks within the Township as permitted by the Michigan Fireworks Safety Act, MCL 28.451 et seq, as amended, and to repeal all ordinances or parts thereof in conflict therewith.

Section 3: Definitions

(a) *Consumer fireworks* means firework devices that are designed to produce visible efforts 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 American Pyrotechnics Association (“APA”) standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.

(b) *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 CFR 172, and APA standard 87-1, 4.1. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces that exceed the limits of explosive materials for classification as “consumer fireworks.” This term also includes fused setpieces containing components which together exceed 50 mg of salute powder.

(c) *Firework* or *fireworks* means any composition or device, except for a starting pistol, a flare gun, or a flare, designated for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, pyrotechnic articles, display fireworks, and special effects.

(d) *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.

(e) *National holiday* means the following legal public holidays:

New Years' Day	Labor Day
Birthday of Martin Luther King, Jr.	Columbus Day
Washington's Birthday	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

(f) *Novelties* means that term 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:

(i) 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.

(ii) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) 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 projectile or missile by the explosion.

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

(iv) 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.

(g) *Person* means an individual, partnership, firm, company, association, organization, governmental entity, limited liability company, corporation, or other entity.

Section 4: Prohibition on Use of Consumer Fireworks

No person shall ignite, discharge or use consumer fireworks within the Township, except on the day preceding, the day of, or the day after a national holiday, and during such holiday periods, no person shall ignite, discharge or use consumer fireworks within the Township between the hours of 12 A.M. and 10 A.M. as provided for in Section 7(2) of Public Act 256 of 2011, as amended.

Section 5: Permits; Financial Responsibility

A permit is required for articles pyrotechnic or display fireworks in the Township. A permit applicant shall complete the State approved application and submit same to the Township. No permit shall issue unless the applicant furnishes proof of financial responsibility by a bond or insurance in an amount, character and form set forth in the Township's schedule of fees, or, if none appears on the schedule of fees, as deemed necessary by the Township to protect the public and to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the permit applicant.

Section 6: Enforcement

The Fire Chief, his designees and sworn law enforcement officers are authorized to enforce the provisions of this ordinance.

Section 7: Violations, Fines, Penalties and Seizure

(a) Any person who violates any of the provisions of this ordinance or fails to comply with a duly authorized order issued pursuant to this ordinance shall be deemed to be guilty of a misdemeanor and shall be subject to a fine or penalty not less than \$250.00 nor greater than \$500.00, or by imprisonment in the Clinton County Jail not exceeding ninety (90) days, or both.

(b) If the Fire Chief, his designee, or a sworn law enforcement officer, determines that a violation of this ordinance has occurred, he or she may seize the consumer fireworks as evidence of the violation.

(c) Following the final disposition of a finding of responsibility for violating this ordinance, the Township may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.

(d) In addition to any other penalty, a person, firm, corporation, or entity that is found responsible for a violation of this ordinance shall be required to reimburse the Township for the costs of storing, disposing of, or destroying the consumer fireworks that were confiscated for a violation of this ordinance.

Section 8: Severability

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.

Section 9: Repeal

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

Section 10: Effective Date

This ordinance shall take effect thirty (30) days after publication following its adoption.

Section 11: Publication

This ordinance is ordered to be given publication in the manner prescribed by law.

Section 12: Adoption, Repeal, and Certification

This ordinance is hereby declared to be adopted by the Township Board of the Township of Eagle, Clinton County, Michigan, at a regular meeting held on September 8, 2015. All ordinances, or parts of ordinances, in conflict with any of the provisions of this ordinance, are hereby repealed.

Moved by Trustee Jones and supported by Supervisor Schafer that the foregoing ordinance be adopted.

A vote on the foregoing ordinance was as follows:

Aye: Jones, S. Smith, Wirth, J. Smith, Schafer

Nay: None

Starr Wirth, Clerk

CERTIFICATION

I, Starr Wirth, Clerk of the Township of Eagle, do hereby certify that the foregoing is a true and accurate copy of the Fireworks Ordinance adopted by the Township of Eagle on the 8th day of September, 2015.

Starr Wirth, Clerk