

**Village of Lakeview Ordinance No. 2019-08**

**Fireworks Ordinance**

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE VILLAGE OF LAKEVIEW THROUGH REGULATION OF THE POSSESSION AND USE OF FIREWORKS PURSUANT TO THE MICHIGAN FIREWORKS SAFETY ACT, PUBLIC ACT 256 OF 2011, AS AMENDED

**Section 1: Title & Purpose**

- 1.1. **Title.** This Ordinance shall be known and be cited as the “Village of Lakeview Fireworks Ordinance.”
- 1.2. **Purpose.** The purpose of this Ordinance is to establish a safe environment for the use or discharge of fireworks and to regulate the public health, safety, and general welfare of persons and property; in particular, to ensure protection of the viewing public and the property owners surrounding the discharge site of fireworks.

**Section 2: Definitions**

For the purposes of this Ordinance, the following words and phrases shall have the following meanings, unless the context in which they are used specifically indicates otherwise.

1. **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 APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Examples include, but are not limited to, aerials, roman candles, bottle rockets, firecrackers, helicopter/aerial spinners, reloadable shell devices, missile-type devices, single tube devices with report, and other items that leave the ground. Consumer fireworks does not include low-impact fireworks.
2. **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.
3. **Firework or Fireworks** means any composition or device, except for a starting pistol, flare gun, or flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of Consumer Fireworks, Display Fireworks, Low-impact Fireworks, articles of pyrotechnic, and special effects.
4. **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.
5. **Novelty Fireworks** 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:
  - 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 preceding paragraph are used, which are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and which 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.

- 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.
6. **Person** means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, and any other legal or commercial entity.

### **Section 3: Regulations**

No person shall ignite, discharge, or use any fireworks within the Village of Lakeview except as specifically allowed by the exceptions listed below in this Section.

- 3.1. Prohibition on Use of Display Fireworks; Exception. No person shall ignite, discharge or use display fireworks within the Village at any time without a license or permit issued by the Village of Lakeview per Section 4 of this Ordinance.
- 3.2. Prohibition on Use of Consumer Fireworks; Exception; Penalty. A person shall not ignite, discharge or use consumer fireworks except on the following days after 11:00 AM.
  1. December 31<sup>st</sup> until 1:00 AM on January 1<sup>st</sup>.
  2. The Saturday and Sunday immediately preceding Memorial Day until 11:45 PM on each of those days.
  3. June 29<sup>th</sup> to July 4<sup>th</sup> until 11:45 PM on each of those days.
  4. July 5<sup>th</sup>, if that date is a Friday or Saturday until 11:45 PM.
  5. The Saturday and Sunday immediately preceding Labor Day until 11:45 PM on each of those days.

The Village, upon application in writing on forms provided by the Village and payment of a fee set by Council, if any, may grant a permit for the ignition, discharge or use of consumer fireworks within the Village, on days other than the days listed above. After a permit has been granted, use of consumer fireworks, for the purposes described in the permit only, may be made in conformance with this Section. A permit granted under this subsection is not transferable and shall not be issued to a minor.

Any person who violates this subsection 3.2 shall be deemed responsible for a civil infraction, punishable by a fine of \$1,000.00 for each violation. The sum of \$500.00 of each such fine collected for a violation of this ordinance shall be remitted to the Lakeview Police Department. In addition, the Village 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.

- 3.3. Use of Low-Impact or Novelty Fireworks. Low-impact fireworks shall be ignited, discharged, or used so as to not cause injury or damage to any person or property. Novelty fireworks may be ignited, discharged, or used without restriction but shall only occur in a manner so as to not cause injury or damage to any person or property.
- 3.4. Other Regulations:
  1. No person shall discharge, ignite, or use consumer fireworks, low-impact or novelty fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

2. A person shall not ignite, discharge, or use consumer fireworks, low-impact or novelty fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission.

#### **Section 4: Display Fireworks Permit**

- 4.1. Any person wishing to use display fireworks on any day of the year, shall, at least 30 days prior to the event, pay a fee established by the Village Council, if any, submit an application for a permit on a form created by the Michigan Department of Licensing and Regulatory Affairs furnished by the Village, and secure permission from the Village Council prior to the event as provided under MCL 28.451 et seq.

#### **Section 5: Penalties; Enforcement**

- 5.1. This Ordinance may be enforced by any duly authorized individual on behalf of the Village and by police officers operating within the Village. This includes the Lakeview Village Manager, any Lakeview Police Officer, or a duly sworn law enforcement officer approved through the Michigan Commission on Law Enforcement Standards (MCOLES) employed by an agency having jurisdiction in the Village of Lakeview including the Montcalm County Sheriff Department, the Michigan State Police, and the Michigan Department of Natural Resources.
- 5.2. Except for subsection 3.2, a first violation of any provision of this Ordinance by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than one hundred dollars (\$100.00) for a first violation, not less than two hundred and fifty dollars (\$250.00) for a second violation, and not less than five hundred dollars (\$500.00) for a third or subsequent violation. In addition, the Village 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.

#### **Section 6: Severability**

- 6.1. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, section, or clause is adjudged to be invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected by such ruling.

#### **Section 7: Effective Date**

- 7.1. This Ordinance shall take effect from and be in force upon the expiration of 20 days after the date when the notice of adoption for this Ordinance is published in a newspaper of general circulation in the Village of Lakeview.