

**BEAR CREEK TOWNSHIP
EMMET COUNTY, MICHIGAN**

**CONSUMER FIREWORKS ORDINANCE
ORDINANCE NO. 34-16**

An ordinance to protect the health, safety and general welfare of Bear Creek Township through regulation of the use of consumer fireworks, pursuant to Public Act 256 of 2011, as amended, to prescribe the penalties for the violation thereof, and to repeal all ordinances or parts of ordinances in conflict herewith.

THE TOWNSHIP OF BEAR CREEK ORDAINS:

Section 1. Name. This ordinance shall be known and cited as the Bear Creek Township Consumer Fireworks Ordinance.

Section 2. Purpose. In the interest of maintaining public health, safety, and the general welfare and the comfort and repose of Bear Creek Township residents and visitors, the township hereby provides for the regulation and use of consumer fireworks in Bear Creek Township, as provided in PA 256 of 2011 (Michigan Compiled Law 28.451, *et seq.*), as amended, and repeals all ordinances or parts of ordinances in conflict herewith.

Section 3. Definitions and Interpretation.

“National Holiday” means any of the following: New Year’s Day (January 1); 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).

This ordinance shall further be interpreted in accordance with the definitions included in Michigan Fireworks Safety Act, PA 256 of 2011, as amended.

Section 4. Novelties and Low Impact Fireworks. This ordinance does not apply to and does not regulate the use of Novelties and Low Impact Fireworks in Bear Creek Township.

Section 5. Regulation of Consumer Fireworks Use.

A. Days of Use in Specified Areas. Certain geographic areas of the Township (the “Specified Areas”) have a greater population density and more residential and/or commercial uses than other areas of the Township. The Specified Areas are identified as the following geographic sections or portions of these sections within the Township:

- Sections 3, 4, 5, 7, 30, and 31, of Town 34 North, Range 5 West;
- Sections 22, 23, 24, 25, 26, 27, 32, 33, 34, 35, and 36, of Town 35 North, Range 5 West.

The Township finds that residents and visitors of these Specified Areas are more likely to be adversely impacted by the use of Consumer Fireworks than residents and visitors of other areas of the Township. Therefore, in accordance with MCL 28.457 and any successor provisions, the ignition, discharge, and use of Consumer Fireworks in the Specified Areas is prohibited on all days of the year except for the day preceding, the day of, or the day after a National Holiday. This regulation does not apply to the sections or portions of sections of the Township located outside of the Specified Areas.

- B. Times of Use in Specified Areas.** The use of Consumer Fireworks at certain times of the days on which such use is allowed in the Specified Areas is likely to adversely affect residents and visitors in the Specified Areas. Therefore, in accordance with MCL 28.457 and any successor provisions, the ignition, discharge, and use of Consumer Fireworks is prohibited in the Specified Areas between the hours of 1 a.m. and 8 a.m. on the day preceding, the day of, or the day after a National Holiday.
- C. Times of Use in Other Areas.** The use of Consumer Fireworks at certain times of day is likely to adversely affect residents and visitors in areas of the Township outside of the Specified Areas. Therefore, in accordance with MCL 28.457 and any successor provisions, the ignition, discharge, and use of Consumer Fireworks is prohibited in all areas of the Township outside of the Specified Areas between the hours of 1 a.m. and 8 a.m. on all days.
- D. Further Provisions.** The use of Consumer Fireworks in Bear Creek Township is further subject to the following requirements and restrictions:
1. A person shall not ignite, discharge, or use Consumer Fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises.
 2. Consumer Fireworks shall not be sold to a minor.
 3. A person shall not use Consumer Fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.
 4. Consumer Fireworks shall only be used in accordance with all applicable local, state and federal laws.

Section 6. Violations and Penalties.

A. Municipal Civil Infraction. Any person who violates any provision of this ordinance shall be responsible for a municipal civil infraction and shall be subject to the following fines:

1. For a first offense, the offender shall pay a fine of two hundred fifty dollars (\$250).
2. For a second offense or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of five hundred dollars (\$500).

Each day this ordinance is violated shall be considered a separate violation.

B. Remedies Not Exclusive. The issuance of a citation for a municipal civil infraction shall not in any way limit the township from seeking enforcement of this ordinance in any other manner, including, but not limited to, an action to abate any nuisance created by a violation of this ordinance and to recover any costs, expenses, damages, and fees, including attorney fees, that may be permitted or allowed by law in connection with such abatement and the enforcement of this ordinance.

Section 7. Enforcement Officials. The township supervisor and any other designee of the township board, including the Emmet County Sheriff's Department or the Michigan State Police, are authorized to enforce this ordinance and are authorized to issue citations for violations.

Section 8. 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 9. Nonexclusively. The regulations in this ordinance shall be in addition to, and not exclusive of, any other state or federal law or regulation concerning the use of fireworks.

Section 10. Validity. If any section, provision or clause of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or application of this ordinance, which can be given effect without the invalid portion or application.

Section 11. Effective Date and Repealer. This ordinance shall take effect thirty (30) days after publication of the ordinance or a summary thereof in the manner provided by law. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Dennis Keiser, Township Supervisor

Judy Mays, Township Clerk

CLERK'S CERTIFICATION

I hereby certify this ordinance was adopted by the Bear Creek Township Board of Trustees at a regular meeting held on May 4, 2016, and that the vote was as follows:

FOR: Keiser, Hoffman, Nowland, Mays, Golding

AGAINST: none

I further certify this ordinance or a summary thereof was published in the *Petoskey News-Review* on May 10, 2016.

Judy Mays, Township Clerk