Proposed Dryden Fireworks Ordinance

Ordinance # 62

An Ordinance to regulate consumer fireworks within the village, and to prescribe penalties for violations thereof.

Michigan’s Fireworks Safety Act of 2012 (Public Act 256, sometimes referred to herein as “ACT 256” was amended in December 2018, giving local government entities – villages, townships, and cities – the right to restrict the days and times for their residents to use consumer fireworks by enacting a local ordinance. Pursuant to Section 7 of said Act 256, the Village of Dryden enacts the ordinance and limited regulations herein and furtherance of the authority granted by the Michigan Legislature as set forth said December 2018 amendments to Act 256 in furtherance of the public health and welfare of the Villager and its residents.

The Village of Dryden Ordains:

Section 1, Definitions.

 “Consumer fireworks” as defined in MCL 28.454 (Act 256) means:

“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 labelling 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, or as otherwise defined through subsequent amendment of Act 256.

“Firework” or “Fireworks” means “any composition or device, except for a starting pistol, or 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, homemade fireworks, and special effects, “ or as otherwise defined through subsequent amendment of Act 256.

“Retailer” means “a person that sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.” or as otherwise defined through subsequent amendment of Act 256.

 “Wholesaler” means “a person that sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person that sells only display fireworks or special effects.” or as otherwise defined through subsequent amendment of Act 256.

Section 2, Retailer and Wholesaler Requirements.

 A retailer or wholesaler of fireworks located within the Village must comply with the requirements of the Villages Zoning Ordinance, as well as all building codes and regulations.

Section 3, Regulations Concerning Consumer Fireworks.

1. No person shall ignite, discharge or use consumer fireworks in the Village except on the following days after 11 AM.:
2. December 31 until 1 AM on January 1.
3. The Saturday and Sunday immediately preceding Memorial Day until 11:45 PM on each of those days.
4. June 29 to July 4 until 11:45 PM on each of those days.
5. July 5, if that date is a Friday or Saturday, until 11:45 PM.
6. The Saturday and Sunday immediately preceding Labor Day until 11:45 on each of those days.

 A violation of this section shall constitute a civil infraction punishable by a fine of $1,000 for each such violation. Of this fine, the sum of $500 shall be remitted to the Township Police Department.

1. No person shall ignite, discharge, or use consumer fireworks on public property, school property, church property, streets and alleys, or the property of another person without that organization’s or person’s expressed written consent to use those fireworks on those premises. And, fireworks shall not be ignited within 150 ft. of a property line.

A violation of this section constitutes a state civil infraction punishable by a fine of $500.00. In addition, the Village may seize, store or cause to be stored the fireworks pending disposition of any criminal or civil proceedings arising from the violation and if the person subject to criminal or civil proceedings is found guilty, responsible or liable for the violation, that person shall pay the actual costs of storage and disposal of the fireworks seized.

1. No person shall sell consumer fireworks to a minor. (A minor being a person younger than age 18 per Michigan Public Act 722.1)

A violation of this section constitutes a civil infraction punishable by a fine of $1,000.00, or, for a second or subsequent violation, a civil fine of $2,500.00. In addition, the Village may seize, store or cause to be stored the fireworks pending disposition of any criminal or civil proceedings arising from the violation and if the person subject to criminal or civil proceedings is found guilty, responsible or liable for the violation, that person shall pay the actual costs of storage and disposal of the fireworks seized.

(d) No person shall discharge, ignite, or 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. As used in this subsection: .

1. “Alcoholic liquor” means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.
2. "Controlled substance” means that term as defined in section 8b of the Michigan vehicle code, 1949 PA 300, MCL 257.8b.

 A violation of this section constitutes a state civil infraction punishable by a fine of $1,000.00. In addition, the Township may seize, store or cause to be stored the fireworks pending disposition of any criminal or civil proceedings arising from the violation and if the person subject to criminal or civil proceedings is found guilty, responsible or liable for the violation, that person shall pay the actual costs of storage and disposal of the fireworks seized.

 (e) No person shall ignite, discharge, or use consumer fireworks or low- impact fireworks in a manner that is intended to harass, scare, or injure domestic animal, livestock people. As used in this subsection, “livestock’’ means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(f) No person shall sell consumer fireworks unless the person annually obtains and maintains a consumer fireworks certificate from the State of Michigan Department of Licensing and Regulatory Affairs.

 A violation of this section constitutes a civil infraction punishable by a fine of $1,000.00. In addition, the Village may seize, store or cause to be stored the fireworks pending disposition of any criminal or civil proceedings arising from the violation and if the person subject to criminal or civil proceedings is found guilty, responsible or liable for the violation, that person shall pay the actual costs of storage and disposal of the fireworks seized.

(g) No person shall sell consumer fireworks from a retail location unless the conditions specified in Section 5 of PA 634 of 2018 are met.

 A violation of this section constitutes a civil infraction punishable by a fine of $2,500.00. In addition, the Village may seize, store or cause to be stored the fireworks pending disposition of any criminal or civil proceedings arising from the violation and if the person subject to criminal or civil proceedings is found guilty, responsible or liable for the violation, that person shall pay the actual costs of storage and disposal of the fireworks seized.

Section 4. Excepted Activity

 This ordinance shall not prohibit fireworks displays approved by the Village Board

under the Village Fireworks Ordinance, Ordinance No. TBD

Section 5. Effective Date.

This Ordinance shall become effective after Village Council approval and upon publication.

This ordinance shall become effective immediately upon publication of a notice of adoption.

Adopted this 3rd day of March 2020

Published: March 11, 2020

Dated: March 3, 2020

**Certification**

**STATE OF MICHIGAN )**

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**COUNTY OF LAPEER** I, the undersigned, and duly qualified and acting Village President and Clerk of The Village of Dryden, Lapeer County, Michigan. DO HEREBY CERTIFY that the foregoing was introduced and adopted at a meeting of the Dryden Village Council on the 3rd day of March, 2020.