

**VILLAGE OF ELBERTA
FIREWORKS ORDINANCE**

AN ORDINANCE REGULATING THE USE OF FIREWORKS IN THE VILLAGE OF ELBERTA IN ACCORDANCE WITH THE MICHIGAN FIREWORKS SAFETY ACT

THE VILLAGE OF ELBERTA, BENZIE COUNTY, ORDAINS:

SECTION 1. NAME. This Ordinance shall be known and cited as the Village of Elberta Fireworks Ordinance.

SECTION 2. DEFINITIONS. As used in this Ordinance, the following definitions shall apply:

- 2.1. "Act" means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011, being MCL 28.451, et seq., as it may be amended from time to time.
- 2.2. "Articles pyrotechnic" means that term as defined in the Act
- 2.3. "Consumer fireworks" means that term as defined in the Act
- 2.4. "Display fireworks" means that term as defined in the Act
- 2.5. "Firework" or "fireworks" means that term as defined in the Act
- 2.6. "Low-impact fireworks" means that term as defined the Act
- 2.7. "Person" means that term as defined in the Act
- 2.8. "Serious impairment of a body function" means that term as defined in the Act
- 2.9. "Serious violation" means that term as defined in the Act
- 2.10. "Sky lanterns" are airborne paper lanterns constructed from oiled rice or other paper on a frame, and contain a small candle or fuel cell composed of a waxy flammable material. When lit, the flame heats the air inside the lantern causing the lantern to rise into the air.
- 2.11. "Special effects" means that term as defined in the Act
- 2.12. "Village" means the Village of Elberta

SECTION 3. CONSUMER FIREWORKS. Consumer fireworks shall not be ignited, discharged, or used in the Village by any person except on the day before, the day of and the day after a National Holiday, as defined in 5 USC §6103, and only between the hours of 8:00 am and 1:00 am.

SECTION 4. SKY LANTERNS. Sky lanterns shall not be ignited, used or released in the Village.

SECTION 5. FIREWORK SAFETY. No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge, or use of fireworks.

SECTION 6. DISPLAY FIREWORKS, ARTICLES PYROTECHNIC AND SPECIAL EFFECT FIREWORKS.

- 6.1. Articles pyrotechnic, display fireworks or special effects fireworks may not be used or ignited within the Village without a permit issued by the Village Council.

- 6.2. Any person who desires to ignite, discharge or use any articles pyrotechnic, display fireworks, or special effects display must submit a written application to the Village Council and the required fee at least 45 days prior to any such ignition, discharge, or use. The application shall be submitted on a permit form furnished by the Village Clerk.

SECTION 7. ENFORCEMENT AND SEIZURE OF FIREWORKS.

- 7.1. This Ordinance may be enforced by any sworn law officer.
- 7.2. If an enforcing officer determines that a violation of this Ordinance or the Michigan Fireworks Safety Act has occurred, the official may seize and secure the fireworks as evidence of such violation in accordance with the Act. Evidence seized under this section shall be stored pending disposition of any criminal or civil proceedings arising from a violation of this Ordinance or the Act at the expense of the person, if the person is found guilty, responsible, or liable for any violation.
- 7.3. Upon conviction, or finding of responsibility, for a violation of this Ordinance or the Act, the Village may dispose of or destroy any fireworks retained as evidence in the prosecution of any person for any violation of this Ordinance in accordance with the Act.
- 7.4. A person found responsible for a violation of this Ordinance shall reimburse the Village for its actual costs of storing or disposing of the seized fireworks in accordance with the Act.

SECTION 8. VIOLATIONS, FINES AND PENALTIES.

- 8.1 Any person violating the provision of this Ordinance as it relates to the ignition, discharge or use of consumer fireworks shall be subject to a civil fine of not more than \$500.00 for each violation of the Ordinance and no other fine or sanction.
- 8.2 Except as otherwise provided herein, any person who violates any of the provisions of this Ordinance shall be guilty of a crime as follows:
 - 8.2a Except as otherwise provided in this section, a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than \$1,000.00, or both.
 - 8.2b If the violation causes damage to the property of another person, a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$5,000.00, or both.
 - 8.2c If the violation causes serious impairment of a body function of another person, a felony punishable by imprisonment for not more than five (5) years or a fine of not more than \$5,000.00, or both.
 - 8.2d If a violation causes the death of another person, a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.
- 8.3 In addition to any other penalty imposed for a violation of this Ordinance, a person that is found guilty of a violation of this Ordinance shall be required to reimburse the Village or the appropriate governmental agency for the costs of storing and disposing

any fireworks that the Village or governmental agency seized or confiscated for a violation of this Ordinance.

SECTION 9. REPEALER. Any and all ordinances and resolutions heretofore adopted inconsistent herewith are hereby repealed to the extent that the provisions thereof are inconsistent with the provisions hereof.

SECTION 10. SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 11. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

SECTION 12. EFFECTIVE DATE. This Ordinance shall be effective thirty (30) days after adoption.

Adopted 11/19/2015

Published 11/25/2015



Catherine M. Anderson, Clerk