

HAYES TOWNSHIP FIREWORKS ORDINANCE

Ordinance No. 13-01

An Ordinance to promote the health, safety, and welfare of the people of Hayes Township, Clare County, Michigan, by regulating the use and ignition of Fireworks; defining the classes of Fireworks regulated by this Ordinance; describing and establishing the time when use and ignition of Fireworks is prohibited and permitted; establishing remedies, providing for enforcement, and fixing penalties for the violation of this Ordinance; and repealing all Ordinances or parts of Ordinances in conflict with this Ordinance.

THE TOWNSHIP OF HAYES, CLARE COUNTY, MICHIGAN, ORDAINS:

SECTION 1: TITLE. This Ordinance shall be known and cited as the Hayes Township Fireworks Ordinance.

SECTION 2: DEFINITION OF TERMS. As used in this Ordinance, the following words and terms shall have the meanings stated herein:

A. “*Consumer Fireworks*” means Fireworks 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.

C. “*Firework*” or “*Fireworks*” or “*Fireworks Devices*” 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, and Display Fireworks.

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:

- (i) New Years’ Day, January 1.
- (ii) Birthday of Martin Luther King, Jr., the third Monday in January.
- (iii) Washington’s Birthday, the third Monday in February.
- (iv) Memorial Day, the last Monday in May.

- (v) Independence Day, July 4.
 - (vi) Labor Day, the first Monday in September.
 - (vii) Columbus Day, the second Monday in October.
 - (viii) Veteran's Day, November 11.
 - (ix) Thanksgiving Day, the fourth Thursday in November.
 - (x) Christmas Day, December 25.
- 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. "Township" means Hayes Township, Clare County, Michigan.
- H. "Township Code Enforcement Officer" means that person designated by the Township Board to enforce the provisions of Township Ordinances.

SECTION 3: 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 between the hours of 8 A.M. and 12 A.M. (Midnight of the same day) as provided for in Section 7(2) of Public Act 256 of 2011, as amended, and consistent with all other Ordinances enacted by the Township.

SECTION 4: ENFORCEMENT. The Township Supervisor, the Township Code Enforcement Officer, his or her designee and sworn law enforcement officers are authorized to enforce the provisions of this Ordinance.

SECTION 5: VIOLATIONS, FINES, PENALTIES AND SEIZURE.

- A. Any person, firm, corporation or entity violating the provisions of this Ordinance shall be subject to a civil fine of up to \$500.00 for each violation.

- B. If the Township Supervisor, the Township Code Enforcement Officer, his or her 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 civil fine, 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 6: 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.

SECTION 7: REPEAL. All regulatory provisions contained in other Township Ordinances which are inconsistent with the provisions of this Ordinance, are repealed and/or inapplicable.

SECTION 8: EFFECTIVE DATE; PUBLICATION. This Ordinance shall take effect on the day following publication, except that any penalties for violation of this Ordinance shall take effect 30 days after publication as required by law.

The above Ordinance was offered for enactment by **Scherrer** and was supported by **Dancer** at a special meeting of the Hayes Township Board, held at the Hayes Township Hall, on the 16th day of July, 2013, at 7:00 p.m., the vote being as follows:

YEAS: **Dancer, Rood, Augenstein, Breese, Scherrer**
NAYS: **None**
ABSENT/ABSTAIN: **None**

ORDINANCE DECLARED ADOPTED.


Ray Augenstein, Hayes Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Hayes Township Board at a duly scheduled and noticed meeting of that Township Board held on July 16th, 2013, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the Clare County Cleaver newspaper, a newspaper that circulates within Hayes Township, on July 25th, 2013.



Kevin Breese, Hayes Township Clerk