

HAYES TOWNSHIP FIREWORKS ORDINANCE

Ordinance No. 19-02

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 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:

ACT 256 means the Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451 et seq., as amended.

APA STANDARD 87-1 means the 2001 APA Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.

AGRICULTURAL AND WILDLIFE FIREWORKS means firework devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of Interior or Michigan DNR.

ARTICLES PYROTECHNIC means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for Consumer Fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

COMMERCIAL MANUFACTURER means a person engaged in the manufacture of consumer fireworks.

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 American Pyrotechnics Association ("APA") standard 87-1, 3.12, 3.1.3, or 3.5. Consumer Fireworks do not include Low-impact Fireworks.

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.

FIREWORK 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.

HOLIDAY means the following dates, beginning at 11:00 a.m. on each day.

- 1) December 31 until 1:00 a. m. on January 1.
- 2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p. m. on each of those days.
- 3) June 29 to July 4 until 11:45 p. m. on each of those days.
- 4) July 5, if that date is a Friday or Saturday, until 11:45 p. m.
- 5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p. m. on each of those days.

HOMEMADE FIREWORKS means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Safety Commission under 16 CFR parts 1500 and 1507.

LOW IMPACT FIREWORKS means ground and hand held 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.

MINOR means an individual who is less than 18 years of age.

NFPA 1123 means the "Code for Fireworks Display", 2010 edition, developed by NFPA.

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;

(1) 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.

(2) 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 into 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.

(3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(4) 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.

PERSON means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.

PRIVATE DISPLAY means a fireworks display other than consumer fireworks or low-impact fireworks that is not open to the general public for viewing.

PUBLIC DISPLAY means a fireworks display other than consumer fireworks or low-impact fireworks that is open to all persons for viewing.

TOWNSHIP means Hayes Township, Clare County, Michigan.

SECTION 3: USE OF FIREWORKS:

a. **PROHIBITION.** No person shall create, make, or have possession of, ignite, discharge or use homemade fireworks within Hayes Township. A person shall not ignite, discharge or use Consumer or Display Fireworks except on a Holiday. The use of Agricultural and Wildlife Fireworks and Display Fireworks will require approval of the Township Board prior to use.

b. **LOCATION OF USE.** A person shall not ignite, discharge, or use Consumer or Display 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.

SECTION 4: USE OF LOW-IMPACT FIREWORKS: The use of Low-Impact fireworks is permitted year-around between the hours of 11:00a.m. and 11:00 p.m..

SECTION 5: CONDITIONS OF USE FOR CONSUMER AND LOW-IMPACT FIREWORKS: A person shall not discharge, or use Consumer Fireworks or Low-Impact fireworks;

a. while under the influence of alcohol, a controlled substance, or a combination of alcohol and controlled substances.

b. In a manner that is intended to harass, scare, or injure the public, livestock or wildlife.

c. thereby violating the smoking prohibition described in NFPA 1124, 7.3.11.1.

SECTION 6: NOVELTIES: Novelties are not regulated by this Ordinance.

SECTION 7: DANGEROUS CONDITIONS AND NO-BURNING RESTRICTIONS:

a. If the State Fire Marshall or the Fire Chief of the City of Harrison Fire Department, or a fire fighter in uniform acting under orders and directions of the Fire Chief determines a dangerous condition exists, the State Fire Marshall, the Fire Chief, or the fire fighter in uniform acting under orders and direction of the Fire Chief upon finding an emergency condition dangerous to persons or property, may take all necessary restrictions and requirements to protect persons and property until the dangerous condition is abated.

b. If environmental concerns based on the Department of Natural Resources (DNR) Fire Division's criteria are elevated to extreme fire conditions or if the environmental concerns based on the DNR Fire Division's criteria are elevated to very high for 72 consecutive hours, the Fire Chief of the City of Harrison Fire Department, in consultation with the DNR, may enforce a no burning restriction, which would include a ban on the ignition, discharge, and use of Consumer Fireworks within the Township. The Governor, the DNR, or the State Fire Marshall may also enforce such a restriction statewide. If a no burning restriction is implemented by the Fire Chief, the public shall be given adequate notice of that restriction. No later than 24 hours after the fire conditions are downgraded from extreme or very high conditions, the Fire Chief shall lift the restriction on the use of Consumer Fireworks and shall inform the public in the same manner the restriction was announced if the Fire Chief initiated the ban.

SECTION 8: ENFORCEMENT AND PENALTIES:

a. This Ordinance may be enforced by the Fire Chief of the City of Harrison Fire Department, Captain, or Lieutenants, law enforcement officers, Township Supervisor, Township Zoning officer, or Township Code Enforcement Official, or any other person authorized by the Township Board.

b. Any person who violates this Ordinance is guilty of a municipal civil infraction, which shall be punishable upon a finding of responsibility thereof by a fine not exceeding \$1000.00. Upon a finding of responsibility, \$500.00 of that fine shall be remitted to the agency responsible for the enforcement of the violation.

c. If an enforcing official determines that a violation of state law or this Ordinance has occurred, the official may seize the fireworks as evidence of such violation and store or cause those fireworks to be stored pending disposition of enforcement proceedings. Upon a finding of guilt, responsibility, or liability, a final disposition of any appeal that affirms the conviction or responsibility, the seized may be provided to the Department of Licensing and Regulatory Affairs to be used or disposed of in accordance with Act 256. A person from whom fireworks are seized under this act shall pay the actual costs of storage and disposal of the seized fireworks.

SECTION 9: SEVERABILITY. The provisions of this Ordinance are hereby declared to be severable. If any word, sentence, section, provision, or clause is hereinafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not effect the remainder of such Ordinance which shall continue in full force and effect.

SECTION 10: REPEAL. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed, including Ordinance 13-01, cited as Hayes Township Fireworks Ordinance.

SECTION 11: ENACTMENT AND EFFECTIVE DATE: This Ordinance shall take effect thirty 30 days after publication as required by law.

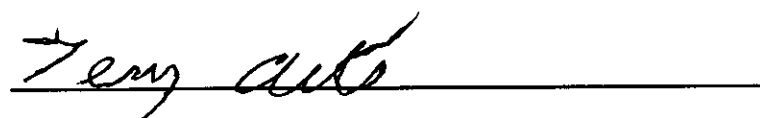
Motion by Acton, Second by Haley

Yeas: Acton, Buckley, Haley, Rood, Hoyt

Nays: None

Absent: None

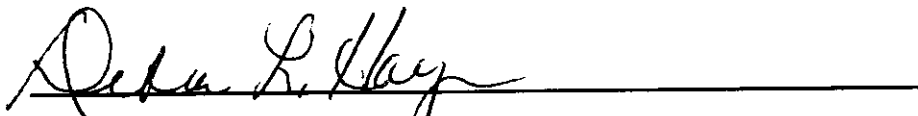
ORDINANCE DECLARED ADOPTED



Terry Acton Hayes Township Supervisor

CERTIFICATION

I Debra Hoyt, Clerk of Hayes Township, do hereby certify that the foregoing is a true and accurate copy of Ordinance No. 19-02 adopted by Hayes Township on February 18, 2020. A summary of the Ordinance was duly published in the Clare County Cleaver newspaper, a newspaper that circulates within Hayes Township, on February 27, 2020. Within one (1) week after such publication, I recorded the Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted. I filed an attested copy of the Ordinance with the Clare County Clerk on April 2, 2020.



Debra Hoyt, Hayes Township Clerk

Adopted 2/18/2020