

**ALMIRA TOWNSHIP
BENZIE COUNTY, MICHIGAN**

ORDINANCE NO. 03-01 of 2014

ADOPTED: 03-10-14

EFFECTIVE: April 12, 2014

**THE TOWNSHIP OF ALMIRA
BENZIE COUNTY, MICHIGAN**

ORDAINS:

**SECTION I
NAME**

This Ordinance shall be known and cited as the Almira Township Fireworks Ordinance.

**SECTION II
PURPOSE**

In the interest of maintaining public health, safety and the general welfare and the comfort and repose of Almira Township residents, Almira Township hereby provides for the regulation and use of fireworks in Almira Township, as provided in PA 256 of 2011, as may be amended, (MCL 28.451, et seq) and repeals all Ordinances or parts of Ordinances in conflict herewith.

**SECTION III
DEFINITIONS**

For purposes of this Ordinance, the following definitions shall apply:

Consumer fireworks: Fireworks devices that are designed to produce visible or audible 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 APA standard 87-1, 3.1.2, 3.1.3 or 3.5 Consumer fireworks does not include low-impact fireworks.

Display fireworks: Large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effect by combustion, deflagration, or detonation as provided in 27 CFR 555.11, 49 CFR 162 and APA standard 87-1, 4.1.

National holiday: A national holiday is defined in 5 USC 6103 and includes: New Year's Day (January 1); Martin Luther King Jr. Day (third Monday in January); Presidents' Day (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).

NFPA: National Fire Protection Association.

Novelties: 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:

- a. 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 cap.
- b. Toy pistols, cannons, canes, trick noisemakers, and guns in which toy caps (as described in a. above) are used, which are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and which are not designed to form a missile by the explosion.
- c. Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- d. 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.

Special Effects: A combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

SECTION IV **NOVELTIES**

This Ordinance does not apply to and does not regulate the use of Novelties in Almira Township.

SECTION V **CONSUMER FIREWORKS**

1. No person shall ignite, discharge, or use consumer fireworks within Almira Township between the hours of 1 a.m. and 8 a.m. on the day preceding, the day of, and the day after a national holiday.
2. Except as provided in subsection 3 below, no person shall ignite, discharge, or use consumer fireworks within Almira Township on any day that is not the day preceding, the day of, or the day after a national holiday.

3. A person may ignite, discharge, or use consumer fireworks within Almira Township on any day that is not the day preceding, the day of, or the day after a national holiday when all of the following requirements are met:
 - a. The location where the consumer fireworks will be discharged (the launch area) is on a parcel that has no less than five (5) acres of land area. For purposes of this subsection, the parcel shall be determined by all land that is included under a single property identification number on the township tax roll.
 - b. There is no burn ban in effect within Almira Township at the time the consumer fireworks are ignited, discharged, or used.
 - c. The consumer fireworks are not ignited, discharged, or used before 10 a.m. on any day.

SECTION VI
ARTICLES PYROTECHNIC, DISPLAY FIREWORKS, AND SPECIAL EFFECTS

1. No person shall use articles pyrotechnic, display fireworks, or special effects within Almira Township without first obtaining a permit from the township board pursuant to the requirements of this Ordinance.
2. A person who desires to use articles pyrotechnic, display fireworks, or special effects within the township shall no less than forty-five (45) days prior to the proposed date of such use submit a complete application to the township clerk and pay the required fee, which shall be determined from time to time by resolution of the township board. If the township board desires assistance in the review of the application and/or participation in the review process by qualified professional engineers, attorneys, or other professionals, then the applicant shall deposit with the township treasurer such additional fees in an amount determined by the township board equal to the estimated additional costs. Any unexpended funds shall be returned to the applicant following final action on the application. Any actual costs incurred by the township in excess of the additional fees shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit authorized under this Ordinance. If the applicant fails to provide all the information required by this Ordinance or fails to pay all required fees, then the application shall be deemed incomplete, shall not be processed, and may be denied by the township board on that basis. The application shall include all of the following information and any information deemed reasonably necessary by the township board to determine whether the applicable standards for approval provided in Section VI.4 have been met.
 - a. A completed application form provided to the township by the Michigan Department of Licensing and Regulatory Affairs, Bureau of Fire Services, State of Michigan, or any successor agency.

- b. Proof that the applicant is 18 years of age or older.
- c. If the applicant is not a resident of the State of Michigan, then written proof that the applicant has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.
- d. Proof of financial responsibility by a bond or insurance policy that names the township as an additional named insured from a company in good standing that is licensed to do business in the State of Michigan in an amount not less than \$1,000,000 for a single occurrence and \$2,000,000 in the aggregate to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant or an agent or employee of the applicant to protect the public.
- e. Proof of the training and qualifications of the individual(s) who will be using the articles pyrotechnic, display fireworks, or special effects, as required by NFPA 1123.
- f. A site plan that provides all of the following information:
 - i. The address where the articles pyrotechnic, display fireworks, or special effects will be stored prior to their use.
 - ii. The type of building in which the articles pyrotechnic, display fireworks, or special effects will be stored prior to their use.
 - iii. The address where the use of the articles pyrotechnic, display fireworks, or special effects will be held.
 - iv. How the use of the articles pyrotechnic, display fireworks, or special effects will be conducted.
 - v. The location where the articles pyrotechnic, display fireworks, or special effects will be discharged (the launch area).
 - vi. The size of the articles pyrotechnic, display fireworks, or special effects that will be used.
 - vii. All structures in the area where the articles pyrotechnic, display fireworks, or special effects will be used and the distance between the launch area and those buildings.
 - viii. The spectator viewing area for the articles pyrotechnic, display fireworks, or special effects and the distance between the launch area and spectator viewing area.

- ix. The parking area for vehicles and the distance between the launch area and parking area.
 - x. All structures in the discharge fallout area.
- g. A copy of any required state or federal permit for the use of the articles pyrotechnic, display fireworks, or special effects.
 - h. A written statement indicating how the applicant plans to ensure that the individual(s) who will be using the articles pyrotechnic, display fireworks, or special effects will be free from any alcohol in their blood immediately prior to and during the use of the articles pyrotechnic, display fireworks, or special effects.
 - i. A written safety plan documenting how the applicant and the individual(s) who will be using the articles pyrotechnic, display fireworks, or special effects will deal with the situation where a device does not explode.
 - j. A written plan documenting how the applicant plans to clean up the site where the articles pyrotechnic, display fireworks, or special effects will be used.
 - k. A written statement that the applicant agrees to enter into an indemnification agreement with the township that holds the township harmless from any liability in connection with the use of the articles pyrotechnic, display fireworks, or special effects.
 - l. A written statement documenting that the applicant has provided written notice to the owners and residents of property within 300 feet of the site where the articles pyrotechnic, display fireworks, or special effects will be used, indicating the date and time of the proposed use.
- 3. The application and all required information shall be forwarded to the Almira Township Fire Chief and/or his designated alternate for a recommendation, including any recommended conditions, prior to coming before the township board for its consideration.
 - 4. The township board shall approve, or approve with conditions, an application for a permit to use articles pyrotechnic, display fireworks, or special effects within Almira Township only upon a finding that the application complies with all of the following standards:
 - a. The applicant is an individual 18 years of age or older.

- b. The applicant or the individual(s) who will be using the articles pyrotechnic, display fireworks, or special effects has the training and certification in compliance with NFPA 1123, as may be amended from time to time, and is in full compliance with any state or federal requirements.
- c. If the applicant is not a resident of the State of Michigan, the applicant has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.
- d. The applicant has obtained a bond or insurance policy that names the township as an additional named insured from a company in good standing that is licensed to do business in the State of Michigan in an amount not less than \$1,000,000 for a single occurrence and \$2,000,000 in the aggregate to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant or an agent or employee of the applicant to protect the public.
- e. The individual(s) who will be using the articles pyrotechnic, display fireworks, or special effects has the training and qualifications required by NFPA 1123 for the use of the articles pyrotechnic, display fireworks, or special effects.
- f. The applicant has agreed to enter into an indemnification agreement with the township that is acceptable to the township attorney that holds the township harmless from any and all liability in connection with the use of the articles pyrotechnic, display fireworks, or special effects.
- g. The applicant has adequate plans in place (1) to ensure that the individual(s) who will be using the articles pyrotechnic, display fireworks, or special effects will be free from any alcohol in their blood immediately prior to and during the use of the articles pyrotechnic, display fireworks, or special effects, (2) to ensure public safety and the safety of individuals assisting with the use of the articles pyrotechnic, display fireworks, or special effects when a device does not explode, and (3) to ensure the proper clean up of the site following the use of the articles pyrotechnic, display fireworks, or special effects.
- h. The storage of the articles pyrotechnic, display fireworks, or special effects devices prior to their use, the manner of using the articles pyrotechnic, display fireworks, or special effects, the location of the spectator viewing area and the parking area in relationship to the location of area where the devices will be discharged, and the discharge fallout area are reasonably safe for the general public, for the property owners and residents in the immediate area, and for the individuals assisting with the use of the articles pyrotechnic, display fireworks, or special effects.

- i. The time, duration, location of the associated with the use of the articles pyrotechnic, display fireworks, or special effects will not, due to noise and other factors, unreasonably disturb the peace of persons residing within the vicinity or otherwise violate the Almira Township Nuisance Abatement Ordinance.
5. The township board may impose reasonable conditions on a permit issued under this Ordinance which are reasonably necessary to ensure compliance with the standards for approval provided in **Section VI.4.**

SECTION VII
PENALTY

Any person who violates any provision of this Ordinance or who violates the terms and conditions of a permit issued under this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of up to Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered a separate violation.

SECTION VIII
ENFORCEMENT

The Township Supervisor, other persons designated by the Township Board, and deputies of the Benzie County Sheriff are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

SECTION IX
SEVERABILITY

Should any section, clause or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid.

SECTION X
REPEAL OF CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION XI
EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its publication in a newspaper of general circulation within the township.

TOWNSHIP OF ALMIRA

By: _____
Mark E. Roper, Supervisor

By: _____
Tammy Clous, Clerk