

**VILLAGE OF ELLSWORTH  
CONSUMER FIREWORKS ORDINANCE  
Ordinance No. 0708 of 2019**

AN ORDINANCE PURSUANT TO ACT 256 OF THE PUBLIC ACTS OF 2011, AS AMENDED, AND PURSUANT TO ACT 3 OF THE PUBLIC ACTS OF 1895, AS AMENDED, TO PROHIBIT THE IGNITION, DISCHARGE, AND USE OF CONSUMER FIREWORKS WITHIN THE VILLAGE, EXCEPT AS PERMITTED BY STATE LAW, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

THE VILLAGE OF ELLSWORTH ORDAINS:

**Section 1. Findings.**

The Ellsworth Village Council makes the following findings: Public Act 3 of 1895 authorizes the Village of Ellsworth to enact ordinances that regulate the public health, safety and general welfare of persons and property. Public Act 256 of 2011, as amended (MCL 28.451, *et seq.*) authorizes the Village of Ellsworth to enact an ordinance regulating the ignition, discharge, and use of consumer fireworks. The Ellsworth Village Council hereby finds that an ordinance prohibiting the ignition, discharge, and use of consumer fireworks, to the extent allowed by Public Act 256 of 2011, as amended, is in the interest of public health, safety and general welfare of persons and property within the Village of Ellsworth.

**Section 2. Title.**

This Ordinance shall be known as the Village of Ellsworth Consumer Fireworks Ordinance.

**Section 3. Definitions.** As used in this Ordinance,

“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 APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

“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.

“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.

#### **Section 4. Ignition, Discharge, and Use of Consumer Fireworks.**

No person shall ignite, discharge, or use consumer fireworks within the Village of Ellsworth at any time, except during any of the following days and times:

- (a). After 11 a.m. on December 31 and until 1 a.m. on January 1.
- (b). After 11 a.m. and until 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day.
- (c). After 11 a.m. and until 11:45 p.m. on June 29 through July 4.
- (d). If July 5 falls on a Friday or Saturday, then after 11:00 a.m. and until 11:45 p.m. on July 5.
- (e). After 11 a.m. and until 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day.

#### **Section 5. Penalty/Civil Infraction.**

Any person who violates any provision of 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 civil fine of One Thousand and 00/100 (\$1,000.00) Dollars for each violation of the Ordinance and no other fine or sanction. Five Hundred and 00/100 Dollars of the fine collected under this Ordinance shall be remitted to the Antrim County Sheriff's Office, which is responsible for the enforcement of this Ordinance. Each day this Ordinance is violated shall be considered as a separate violation.

#### **Section 6. Enforcement.**

The Village President, other persons designated by the Village Council, and deputies of the Antrim 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 7. Nuisance.**

A violation of this Ordinance is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

**Section 8. Injunctive Relief.**

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

**Section 9. Validity.**

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

**Section 10. Effective Date.**

This Ordinance shall become effective twenty (20) days after its enactment.

Ordinance No. <sup>0708 of 2019</sup> ^ was adopted on the 8<sup>th</sup> day of July, 2019, by the Ellsworth Village Council