

NEW BUFFALO TOWNSHIP
BERRIEN COUNTY, MICHIGAN

FIREWORKS ORDINANCE

Ordinance No. 20130520

Adopted: May 20, 2013
Effective: July 4, 2013

An ordinance to regulate the use of fireworks pursuant to the Michigan Fireworks Safety Act, Act 256 of 2011, and to promote the public health, safety and general welfare of the residents and visitors of New Buffalo Township.

THE TOWNSHIP OF NEW BUFFALO, BERRIEN COUNTY, MICHIGAN, ORDAINS:

SECTION 1. DEFINITIONS.

A. **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 26 CFR parts 1500 and 1507, and that are listed in APA (American Pyrotechnics Association) standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does 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** 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, articles pyrotechnic, display fireworks, and special effects.

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. **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 cap.
- (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 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.

F. **National holidays** means those days defined in 5 USC 6103, as amended, presently being:

New Year's Day, January 1
Martin Luther King, Jr., the third Monday in January
Washington's Birthday, the third Monday in February
Memorial Day, the last Monday in May
Independence Day, July 4
Labor Day, the first Monday in October
Columbus Day, the second Monday in October
Veterans Day, November 11
Thanksgiving Day, the fourth Thursday in November
Christmas Day, December 25

SECTION 2. PROHIBITION ON USE OF CONSUMER FIREWORKS.

No person shall ignite, discharge or use consumer fireworks within New Buffalo Township:

A. Except as provided in B below, this prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks between 11:00 A.M. and 11:00 P.M. any day, and

B. This prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks on the day preceding, the day of, or the day after a national holiday consistent with Sec. 7 (2) of Public Act 256 of 2011 (MCL 28.457).

SECTION 3. ENFORCEMENT.

Sworn law enforcement officers are authorized to enforce the provisions of this ordinance.

SECTION 4. VIOLATIONS, FINES AND PENALTIES.

Any person, firm, or corporation violating the provisions of this ordinance shall be responsible for a municipal civil infraction punishable by the payment of the following fines in addition to court costs and other costs imposed by the court:

1 st violation within a 3-year period from a prior violation	min. \$100 up to \$500
2 nd violation within a 3-year period	min. \$200 up to \$500
3 rd violation within a 3-year period	min. \$300 up to \$500

The foregoing penalties are in addition to all other rights and powers of the Township to proceed at law or equity with any other and additional appropriate remedies.

SECTION 5. SAVINGS CLAUSE.

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 enforced when they are commenced.

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.

SECTION 8. EFFECTIVE DATE; PUBLICATION.

This ordinance shall become effective 30 days after publication of this ordinance or a summary in a newspaper circulated in the Township.

A motion that said Fireworks Ordinance be adopted was made by Dudiak and supported by Dudiak Heit at a regular meeting of the New Buffalo Township Board on the 20 day of May, 2013.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Rose Dudiak	<u>X</u>	_____
Paul Oselka	<u>X</u>	_____
Jack Rogers	<u>X</u>	_____
Peter Rahm	<u>X</u>	_____
Robert Heit	<u>X</u>	_____

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the New Buffalo Township Board at a meeting held on the 20, day of May, 2013, the original of which is on file in my office and available to the public. Public

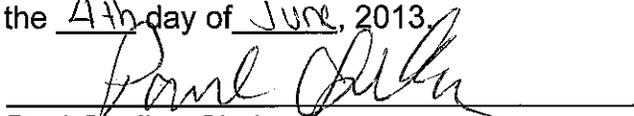
notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: 7/4, 2013



Paul Oselka, Clerk

I hereby certify that the foregoing Ordinance was published in the The News Dispatch Michigan, on the 4th day of June, 2013.



Paul Oselka, Clerk