

FIREWORKS
TOWNSHIP OF FRANKENLUST, MICHIGAN
Ord. no. 78 Effective October 12, 2019

An ordinance: to regulate the use of certain fireworks within Frankenlust Township; to provide for penalties; and, to repeal conflicting ordinances and parts of ordinances.

THE TOWNSHIP OF FRANKENLUST, BAY COUNTY, MICHIGAN, HEREBY ORDAINS:

SECTION 1. This ordinance shall be known and may be cited as the “Frankenlust Township Fireworks Ordinance”.

SECTION 2. Definitions. As used in this ordinance:

1. **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 the American Pyrotechnics Association (APA) standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)
2. **Display Fireworks** means large fireworks devices that are explosive material intended for use in fireworks displays and designed to produce visual 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.
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)
3. **Firework** or **Fireworks** means any composition or device, except for a starting pistol, a flare gun, or 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.
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)
4. **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.
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)
5. **Michigan Fireworks Safety Act** means Public Act 256 of the Michigan public acts of 2011, as amended (MCL28.451 et seq.).
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)

6. **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:
- (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.
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)
 - (b) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps are described in subparagraph 1 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.
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)
 - (c) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)
 - (d) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sales and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)

SECTION 3. Prohibition on Use of All Fireworks Except as Allowed:

Exception. No person shall ignite, discharge, or use any fireworks within Frankenlust Township except as specifically allowed by this ordinance.

SECTION 4. Prohibition on Use of Display Fireworks: Exception. No person shall ignite, discharge or use display fireworks within Frankenlust Township at any time without a permit issued by the Frankenlust Township Board.

1. Application for a permit shall be on a written form provided by the Michigan Department of Licensing and Regulatory Affairs. The permit application shall be accompanied by a fee set by resolution of the Frankenlust Township Board. The Frankenlust Township Board may grant a permit for display fireworks if applicable provisions of the *Michigan Fireworks Safety Act, 2011 P.A. 256* are complied with. After a permit has been granted, sales, possession, or transportation of fireworks for the purposes described in the permit only may be made. A permit granted under this subsection is nontransferable and shall not be issued to a minor.

2. Before a permit authorized by this section is granted, the applicant shall furnish proof of financial responsibility in the form of a bond, or insurance deemed sufficient by the township to satisfy damage claims against the applicant, and to protect the public.
3. A permit shall not be issued to a non-resident of Michigan applicant until the applicant has appointed in writing a member of the state bar, or a resident agent upon whom all process in an action against the applicant may be served.
4. The Frankenlust Township Board, shall rule on the competency and qualifications of display fireworks operators as required under *NFPA 1123* and safety aspects of the display based upon the information provided in the application form before any permit is granted.

SECTION 5. Prohibition on Use of Consumer Fireworks: Exception.

No person shall ignite, discharge or use consumer fireworks within Frankenlust Township, except as follows:

1. Consistent with the requirements of the Michigan Fireworks Safety Act, this prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks after 11:00 a.m. on the following days:
 - (a) December 31 until 1 a.m. on January 1.
 - (b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
 - (c) June 29 to July 4 until 11:45 p.m. on each of those days.
 - (d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
 - (e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
2. Consumer fireworks ignited, discharged, or used on the dates allowed by this section shall strictly conform to the definition of consumer fireworks in this ordinance and state statute by only creating visual, but not audible, effects by their combustion and if not conforming shall be prohibited at all times.
(Amended by ord. no. 78A)(eff. Oct. 12, 2019)

SECTION 6. Use of Low-Impact or Novelty Fireworks. Low-impact fireworks

shall be ignited, discharged, or used so as to not cause injury or damage to any person or property but shall not be ignited, discharged, or used inside any building or structure at any time without a license or permit issued by the Frankenlust Township Board. Novelty fireworks may be ignited, discharged, or used without restriction, but only in a manner so as to not cause injury or damage to any person or property.

SECTION 7. Violations and Penalties.

Consistent with the requirements of the Michigan Fireworks Safety Act, any person who violates or permits the violation of this ordinance shall be responsible for a municipal civil infraction and shall be subject to a fine of \$1,000.00 for each offense. A person who violates or permits the violation of this ordinance shall also be subject to the additional sanctions, remedies, injunctions, judicial orders, penalties, enforcement costs and expenses as provided for under Chapter 87 of the Revised Judicature Code, being MCL §600.8701, et. seq., as amended. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

(Amended by ord. no. 78A)(eff. Oct. 12, 2019)

SECTION 8. Enforcement. Any police officer with arrest powers in Frankenlust Township may enforce the provisions of this ordinance. Consistent with the requirements of the Michigan Fireworks Safety Act, a remittance of \$500.00 out of any \$1,000.00 fine collected or received by the Township under the ordinance shall be made by the Township Treasurer to the local law enforcement agency responsible for enforcing the ordinance.

(Amended by ord. no. 78A)(eff. Oct. 12, 2019)

SECTION 9. Severability. The provisions of this ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance which shall continue in full force and effect.

SECTION 10. Repealer. All ordinances, or parts of ordinances in conflict with this ordinance are hereby repealed and shall be of no further force and effect on the effective date of this ordinance.

SECTION 11. Effective Date Of Ordinance. The amendatory Ordinance No. 78-A shall become effective thirty (30) calendar days after publication of a Notice of Adoption in a newspaper of general circulation in the Township, following adoption by the Township Board of Trustees.

(Amended by ord. no. 78A)(eff. Oct. 12, 2019)