

PEAINE TOWNSHIP
COUNTY OF CHARLEVOIX, STATE OF MICHIGAN

ORDINANCE NO. 2023- 01

ADOPTED: 8-15, 2023

EFFECTIVE: 9-24, 2023

Title: Sky Lanterns and Fireworks

Peaine Township ordains:

Section 1. Sky Lanterns.

No person shall utilize a sky lantern within the Township. A "sky lantern" means an unmanned hot air balloon made of paper or other material with an opening where a small fire is suspended.

Section 2. Fireworks.

A. Definitions.

"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.

"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" means any composition or device, except for a starting pistol, a flare gun, or a flare, designed 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, homemade fireworks, and special effects.

"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.

"Private Property" means property other than Township property, public property, school property, church property, or the property of another person without that organization's or person's express permission

B. Fireworks Prohibited.

Except for Low Impact Fireworks and as set forth in this Ordinance, Fireworks within the Township are prohibited.

C. Display Fireworks.

Display fireworks may be permitted by the Township pursuant to a permit and upon the conditions as set forth in Section 16 of the Michigan Fireworks Safety Act, as amended.

D. Consumer Fireworks.

No person shall ignite, discharge, or use Consumer Fireworks within the Township.

This prohibition shall not apply to igniting, discharging, or using Consumer Fireworks on the following days after 11:00 a.m. on Private Property and in compliance with the Michigan Fireworks Safety Act, Act 256 of 2011:

- a. December 31 until 1 am 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.

A person who violates this subsection 2.D shall be responsible for a civil infraction, the sanction for which shall be a civil fine of \$1,000.00 for each violation of the ordinance, \$500.00 of which shall be remitted by the Township to the Charlevoix County Sheriff Department for enforcement of the ordinance.

E. Fire Ban.

Notwithstanding subsection 2.D, no person shall ignite, discharge, or use Consumer Fireworks within the Township when prohibited pursuant to Section 7d of the Michigan Fire Prevention Code (MCL 29.7d), which provides that

- a. The governor, the state fire marshal, or the head of the Department of Natural Resources may impose a statewide no burning restriction, including a ban on the ignition, discharge, and use of Consumer Fireworks; or
- b. The commanding officer of the Beaver Island Emergency Services Authority fire department, in consultation with the department of natural resources, may impose a no burning restriction that includes a ban on the ignition, discharge, and use of Consumer Fireworks within the Township

where the environmental concerns based on the department of natural resources fire division criteria are elevated to extreme fire conditions or if the environmental concerns based on the department of natural resources fire division criteria are elevated to very high for 72 consecutive hours

The commanding officer of the Beaver Island Emergency Services Authority fire department shall provide adequate notice of any restriction under this Section and Section 7d of the Michigan Fire Prevention Code to the public.

No later than 24 hours after the fire conditions are downgraded from "extreme" or "very high" conditions, the commanding officer of the Beaver Island Emergency Services Authority fire department 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 commanding officer initiated the ban.

This subsection 2.E may be enforced by the commanding officer of the Beaver Island Emergency Services Authority fire department or designee, the Charlevoix County Sheriff Department, or any other law enforcement officer.

Section 3. Penalty.

- a. Unless otherwise set forth herein or in the Michigan Fireworks Safety Act, Act 256 of 2011, or the Michigan Fire Prevention Code, Act 207 of 1941, if a law enforcement officer or other enforcing official as set forth herein determines that a violation of 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, the person so adjudged shall be required to pay all associated storage expenses.
- b. Unless otherwise set forth herein or in the Michigan Fireworks Safety Act, Act 256 of 2011, or the Michigan Fire Prevention Code, Act 207 of 1941, a person who violates this Ordinance shall be responsible for a municipal civil infraction, the sanction for which shall be a civil fine for each violation of \$50.00 for the first offense, \$100.00 for the second offense, and \$150.00 for the third offense.

Section 4. Publication and Recording.

This Ordinance shall be published once in a newspaper of general circulation within the boundaries Township and qualified under State law to publish legal notices immediately after its adoption, and the same shall be recorded in the minutes of the Township of the meeting at which this Ordinance was adopted and, in addition, shall be recorded in the Ordinance Book of the Township.

SECTION VII **SEVERABILITY**

If any any section, clause or paragraph of this Ordinance is declared by a court of competent jurisdiction to be invalid, the same will not affect the validity of the Ordinance as a whole or part thereof other than the part declared invalid.

SECTION VIII
EFFECTIVE DATE

This ordinance shall take effect 30 days after the first publication of the ordinance, which publication shall occur within 30 days after the passage of the ordinance.

Ayes: *T. Martin, Smith, E. Martin, C. Martin, Dal Pra*
Nays: *None*
Absent: *None*

ORDINANCE DECLARED ADOPTED.

Maria Y. Dal Pra
By: *Maria Dal Pra*, Township Supervisor
Date: *8-15*, 2023

Carla Martin
By: *Carla Martin*, Clerk
Date: *8-15*, 2023

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of Peaine Township, County of Charlevoix, State of Michigan, at a regular meeting held on *8-15-*, 2023, that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act. I further certify that the foregoing Ordinance was published on *8-25-23* in the following newspaper: *Petostkey*

News Review
Carla Martin, Clerk