

**BANKS TOWNSHIP
COUNTY OF ANTRIM
STATE OF MICHIGAN
ORDINANCE NUMBER 4 of 2021**

An Ordinance to secure the public health, safety and general welfare of the citizens of Banks Township, Antrim County, Michigan, by regulating the use of Consumer Fireworks in the Township, as provided in Public Act 256 of 2011, as amended (MCL 28.451, *et seq.*) and pursuant to Public Act 246 of 1945 (MCL 41.181 *et seq.*), and to amend any Ordinances of the township which conflict with the provisions hereof.

Banks Township ORDAINS:

Section 1: Findings

The Township Board makes the following findings:

Public Act 246 of 1945 (MCL 41.181, *et seq.*) authorizes Banks Township 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 Banks Township to enact an ordinance regulating the ignition, discharge, and use of Consumer Fireworks.

The Township Board believes 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.

Section 2: Title

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

Section 3: Definitions for the purpose of this Ordinance

The American Pyrotechnic Association (APA) is a primary national industry association for manufacturers, importers, wholesalers, distributors, and retailers of consumer fireworks, display fireworks, and entertainment industry and technical pyrotechnic devices. The U.S. Consumer Product Safety Commission (CPSC) has jurisdiction in the United States over devices intended for use by consumers. The regulations for consumer fireworks are found in Title 16, CFR.

- A. Consumer Fireworks: 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 87-1A 2018. Consumer fireworks do not include novelties or low-impact fireworks.
- B. Low-Impact Fireworks: 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.
- C. Sky Lantern: An unmanned device with a combustible fuel source that incorporates an open flame in order to make the device airborne.

Section 4: Ignition, Discharge, and Use of Consumer Fireworks

As authorized by State law (MCL 28.451, *et seq.*), the ignition, discharge, and use of Consumer Fireworks in Banks Township is prohibited, except after 11 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.

A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises.

Section 5: Sky Lanterns

No person shall at any time release or cause to be released an untethered sky lantern.

Section 6: Penalty for Violation of Section 4 and 5 - Consumer Fireworks and Sky Lanterns

A violation of any provision concerning Consumer Fireworks or Sky Lanterns is a civil infraction subject to a fine of \$1,000.00 for each violation and court costs, if any. \$500.00 of the fine collected shall be remitted to the local law enforcement agency responsible for enforcement. MCL 28.457.

Each act or violation and every day upon which any such violation shall occur shall constitute a separate offense.

Section 7: Enforcement

The Antrim County Sheriff and his deputies are authorized as local enforcement officers of this Ordinance.

Section 8: Severability

This Ordinance shall be deemed severable and if any word, sentence, clause, section, or provision is declared invalid or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any other portion of this Ordinance and the remaining portions of this Ordinance shall remain valid and enforceable.

Section 9: Superseding other Township Rules, Regulations and Ordinances

This Ordinance is intended to repeal, amend, update and replace any existing, duly adopted rule, regulation or Township Ordinance on the subject of fireworks, specifically Ordinance Number 4 of 2011 and Ordinance Number 3 of 2020. In all respects, this Ordinance shall be interpreted consistent with State Law. If there is any conflict between this Ordinance and State Law, State Law shall control.

Section 10: Effective Date

This Ordinance shall take effect 30 days following publication.

The above Ordinance is adopted on this date of Monday, May 17, 2021, following a motion by Trustee Rasmussen and support by Treasurer Postmus. Roll Call Vote:

Ayes: Cooper, Rasmussen, Postmus, Heeres, Busman.

Nays: None. Abstain: None. Absent: None.

Ordinance declared adopted by Supervisor Alex Busman.

I, the undersigned, the Clerk of the Township of Banks, Antrim County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Banks Township Board of said County at its regular meeting held on Monday, May 17, 2021, relative to the adoption of the ordinance therein set forth; 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 made available as required by said Act; this ordinance was published in the Antrim County News on June 3, 2021, and was filed with the County Clerk on May 27, 2021.

Date: June 3, 2021.

Donna L. Heeres, Banks Township Clerk

State Law reference— Authority, MCL 117.3(k); Michigan Fireworks Safety Act, MCL 28.451, *et seq.*)

