

**VILLAGE OF PORT AUSTIN
HURON COUNTY, MICHIGAN**

ORDINANCE NO. 125 - 13

ADOPTED: June 10, 2013

An ordinance to protect the health, safety and general welfare of The Village of Port Austin through the regulation of use of fireworks, as provided in PA 256 of 2011 and to repeal all Ordinances or parts of Ordinances in conflict herewith.

**THE VILLAGE OF PORT AUSTIN
HURON COUNTY, MICHIGAN**

ORDAINS:

**SECTION I
NAME**

This Ordinance shall be known as the Village of Port Austin Fireworks Ordinance.

**SECTION II
PURPOSE**

In the interest of maintaining public health, safety and the general welfare and the comfort and repose of The Village of Port Austin residents, The Village of Port Austin hereby provides for the regulation and use of fireworks in The Village of Port Austin, as provided in PA 256 of 2011, as may be amended, (MCL 28.451, et seq) and repeals all Ordinances or parts of Ordinances in conflict herewith.

**SECTION III
DEFINITIONS**

For purposes of this Ordinance, the following definitions shall apply:

1. **Articles Pyrotechnic:** Pyrotechnic devices for professional use that are similar to consumer fireworks in the chemical composition and construction but not

intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101

2. **APA:** American Pyrotechnics Association.
3. **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 standard 87-1, 3.1.2, 3.1.3 or 3.5 Consumer fireworks does not include low-impact fireworks. (formerly known as Class B)
4. **Display Fireworks:** Large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effect by combustion, deflagration, or detonation as provided in 27 CFR 555.11, 49 CFR 162 and APA standard 87-1, 4.1.
5. **Firework or Fireworks:** 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 and special effects.
6. **Low-impact Fireworks:** Low-impact Fireworks means ground and handheld sparkling devices at that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5.
7. **Minor:** Individual is less than 18 years old.
8. **National Holiday:** A National Holiday is defined in 5 USC 6103 and includes: New Year's Day (January); Martin Luther King, Jr. Day (third Monday in January); Washington's Birthday (third Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Columbus Day (second Monday in October); Veteran's Day (November 11); Thanksgiving Day (fourth Thursday in November); Christmas Day (December 25).
9. **Novelties:** 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.

- b. Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in the above paragraph 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.
 - c. Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter, (formerly known as Class C)
10. **Person:** Individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.
11. **Special Effects:** A combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as in integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

SECTION IV **USE OF LOW IMPACT OR NOVELTY FIREWORKS**

Low Impact fireworks shall be ignited, discharged, or used so as not to cause injury or damage to any person or property, but shall not be ignited, discharged or used inside any building or structure of any kind.

Novelty Fireworks, Sky or Chinese Lanterns, may be ignited, discharged, or used without restriction, but such shall only occur in a manner so as to not cause injury or damage to any person or property, Sky or Chinese Lanterns are to be discharged so that the wind carries them over Lake Huron.

SECTION V **CONSUMER FIREWORKS**

1. **Consumer Fireworks:** May be used in The Village of Port Austin on the day proceeding, the day of and the day after a National Holiday as the law states..
2. At any time other than the day proceeding, the day of and/or the day after a National Holiday, Consumer Fireworks may be used in The Village of Port Austin subject to the following requirements and restrictions:
- a. Consumer fireworks shall not be used if a burn ban is in effect.

- b. 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 person or organization's express permission to use the Consumer Fireworks on those premises.
- c. A person shall not use Consumer Fireworks or Low Impact Fireworks while under the influence of alcoholic beverage, a controlled substance or a combination of alcoholic beverage and a controlled substance.
- d. Consumer Fireworks shall only be used in accordance with all applicable local, state and federal laws.
- e. Special effect fireworks, such as Sky Lanterns or Chinese Lanterns, are to be discharged so that the wind carries them over Lake Huron.
- f. Any person(s) using Consumer Fireworks is/are responsible for cleaning up any debris caused from the use of said fireworks.

SECTION VI
CONTRACTED SERVICES

Any contracted service that has been hired to perform Arial Displays using display fireworks as defined in Section 3, #4 of this ordinance, shall comply with all local, state and federal laws regarding the use of display fireworks.

SECTION VII
PENALTIES

Any person that violates any provision of this Ordinance shall be deemed responsible for a municipal civil infraction and fined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
---1 st offense within 2 year	\$100.00	\$500.00
---2 nd offense within 2 year	\$300.00	\$500.00
---3 rd or subsequent offense within 2 years	\$500.00	\$500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which The Village of Port Austin has been incurred connection with the municipal civil infraction. In no case, however, shall costs of less than \$100.00 nor more than \$500.00 be

ordered. In addition, the Village shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.

SECTION VIII
SEVERABILITY

Should any section, clause or provision of this Ordinance be declared to be invalid by a Court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid.

SECTION IX
REPEAL OF CONFLICTING ORDINANCES

The remaining paragraphs of the General Ordinances of The Village of Port Austin shall remain in full force and effect except as modified herein.

SECTION X
COMPLAINT

Whenever a violation of this section occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof, shall be filed with the Port Austin Police Department. The Department shall record properly such complaint, immediately investigate, and take action thereon as provided by this section. A record of the disposition of complaints shall be filed.

SECTION XI
EFFECTIVE DATE

This Ordinance shall take effect 20 days after its adoption by the Port Austin Village Council.

This Ordinance is hereby declared to have been adopted and passed by the Village of Port Austin, County of Huron, State of Michigan, at a regular meeting thereof duly called and held on the 10th day of June 2013.

Todd Murawski
Port Austin Village President

Thomas Rapson
Port Austin Village Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Village Council of The Village of Port Austin, County of Huron, State of Michigan, at a regular meeting held on the 10th day of June 2013, and 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 following Members were present at said meeting:

and that the following Members were absent:

I further certify that Member _____ moved adoption of said Ordinance, and that said motion was supported by Member _____.

I further certify that the following Members voted for adoption of said Ordinance:

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the President and the Village Clerk.

Dated: _____

Thomas Rapson, Village Clerk