

Sent to News Review
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Ordinance 75-40 of 2018

DISCHARGE OF FIREWORKS WITHIN VILLAGE LIMITS.

- (A) *Purpose and Intent.* This section is adopted so that the Village Council may promote the public health, safety and general welfare within the Village through the regulation of the discharge of consumer fireworks. By regulating the discharge of fireworks, the Village Council seeks to prevent bodily injury, property damage, and other nuisances within the Village limits.
- (B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only and shall not be used in the interpretation of this section.

CONSUMER FIREWORK. A firework device that are designed to produce visible efforts 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 American Pyrotechnics Association (“APA”) standard 87-1, 3.1.2, 3.3.3, or 3.5. Consumer fireworks do not include low-impact fireworks.

- (1) **DISPLAY FIREWORK.** A large firework device that is explosive material 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.
- (2) **FIREWORK OR FIREWORKS.** 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.
- (3) **LOW-IMPACT FIREWORK.** 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.
- (4) **NATIONAL HOLIDAY.** The following legal public holidays:
 - A. New Year’s Day, January 1.
 - B. Birthday of Martin Luther King, Jr., the third Monday in January.
 - C. Washington’s Birthday, the third Monday in February.
 - D. Memorial Day, the last Monday in May.
 - E. Independence Day, July 4.
 - F. Labor Day, the first Monday in September.
 - G. Columbus Day, the second Monday in October.
 - H. Veteran’s Day, November 11.

- I. Thanksgiving Day, the fourth Thursday in November.
- J. Christmas Day, December 25.

(5) **NOVELTIES.** A 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.
- B. Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subsection A. above 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 projectile or missile by the explosion.
- C. Filter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- D. Toy snakes not containing mercury, if packed in cardboard boxes with not more than twelve 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.

(6) **OCCUPANT.** Any person having immediate control of private or public premises and/or real property.

(7) **OWNER.** Any person holding legal or equitable title to a property or to real improvements upon a property.

(8) **PREMESIS.** Any dwelling, building or other structure designed or used wholly or in part for residential purposes, whether inhabited or vacant, and its curtilage or part thereof.

(9) **PROPERTY.** Anything of value which is subject to ownership, including real property and fixtures.

(10) **REAL PROPERTY.** Land and whatever is erected upon, growing upon or affixed to it.

(C) *Prohibition on use of consumer fireworks.*

- (1) No person shall ignite, discharge or use consumer fireworks within the Village, except 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, during the hours of 1:00A.M. and 8:00A.M. Further, no owner or occupant shall permit a person to ignite, discharge or use consumer fireworks on their property within the Village, except during the hours permitted on the day preceding, the day of, or the day after a national holiday. A Village resident may apply for prior permission to discharge fireworks during the prohibited time. Approval of said discharge will be at the discretion of an approved Village ordinance enforcement officer.

(D) *Low Impact and Novelty Fireworks*

- (1) The use, ignition or discharge of low impact and novelty fireworks is prohibited during the hours defined in 75-40 (C)(1), except on the day before, the day after and the day of a National Holiday when time periods for consumer fireworks set forth in 75-40 (C)(1).

(E) *Minors*

- (1) A Minor shall not use, discharge, or ignite any consumer fireworks at any time, including those times defined in 75-40 (C)(1).
- (2) A Minor shall not use, discharge, or ignite any low impact fireworks or novelty fireworks, unless under the supervision of a parent or guardian, and the use, discharge and ignition is within permitted house defined in 75-40 (C)(1), and does not violate the provisions of this ordinance.

(F) *Enforcement.*

- (1) The Village President, his/her designees and sworn law enforcement officers are authorized to enforce the provisions of this section.

(G) *Violations, fines, penalties and seizure.*

- (1) Any person, firm, corporation or entity violating the provisions of this section shall be guilty of a civil infraction, punishable by a fine up to one hundred dollars (\$100.00).
- (2) If the Village President, his/her designee, or a sworn law enforcement officer determines that a violation of this section has occurred, he or she may seize the consumer fireworks as evidence of the violation.
- (3) Following the final disposition of a finding of responsibility for violating this section, the Village may dispose of or destroy any consumer firework retained as evidence in that prosecution.
- (4) In addition to any other penalty, a person, firm, corporation, or entity that is found responsible for a violation of this section shall be required to reimburse the City for the costs of storing, disposing of, or destroying the consumer fireworks that were confiscated for a violation of this section.

First Reading and Adoption: October 8, 2018

Ayes: 5

Nays: 0

Chris Adams
Chris Adams, Village Clerk

Greg Babcock
Greg Babcock, Village President