

**VILLAGE OF BERRIEN SPRINGS
ORDINANCE NUMBER 381**

AN ORDINANCE TO AMEND AND RESTATE THE CODE OF ORDINANCE, VILLAGE OF BERRIEN SPRINGS, CHAPTER 24, ENTITLED "OFFENSES", ARTICLE VI, ENTITLED "OFFENSES AGAINST PUBLIC SAFETY", DIVISION 1, ENTITLED "GENERALLY", SECTION 24-267, ENTITLED, "POSSESSION, SALE OR USE OF FIREWORKS".

NOW THEREFORE, The Village of Berrien Springs ordains:

SECTION 1. Ordinance No, 338, under Chapter 24, entitled "Offenses". Article VI, entitled, "Offenses Against Public Safety", Division 1, entitled, "Generally", Section 24-267, entitled, "Possession, Sale of Use of Fireworks", shall be amended and restated in its entirety to read as follows:

Section 24-267. Possession, sale or use of fireworks.

- A. Short Title. This ordinance shall be known as and may be cited as the "2021 Amendment to the Fireworks Ordinance."
- B. Statement of Purpose. This is an ordinance to amend Chapter 24 of the Village Code, Division 1, Generally, Section 24-267 entitled, "Possession, sale or use of fireworks", "Fireworks," to the extent permitted by the Michigan Fireworks Safety Act, MCL Section 28.451 et seq., as has been amended by Public Acts 634, 635 and 636 of 2018.
- C. Definitions. As used in this section, the following terms shall be defined as follows:
 - 1. APA standard 87-1 means 2001 APA standards 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties and Theatrical Pyrotechnics, published by the American Pyrotechnics Association of Bethesda, MD
 - 2. Consumer fireworks means fireworks devices that are designed to comply with the construction, chemical composition and labeling promulgated by the United States Consumer Protection 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 do not include low-impact fireworks.
 - 3. 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.
 - 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.
 - 5. Minor means an individual who is less than 18 years of age.

D. Ignition, Discharge or Use of Consumer Fireworks.

1. Except as provided in the Section, a person shall not ignite, discharge, or use consumer firework at any time.
2. A person may ignite, discharge, or use consumer fireworks on the following days during the following hours:
 1. Between 11:00 a.m. on December 31 and 1:00 a.m. on the immediately following January 1.
 2. Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Memorial Day.
 3. Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Memorial Day.
 4. Between 11:00 a.m. and 11:45 p.m. on June 29, June 30, July 1, July 2, July 3 and July 4.
 5. Between 11:00 a.m. and 11:45 p.m. on July 5, if that date is a Friday or Saturday.
 6. Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Labor Day.
 7. Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Labor Day.
3. A minor shall not possess consumer fireworks.
4. Each violation of this Section is a civil infraction, punishable by a fine of \$1,000.00. Of that fine, \$500.00 must be remitted to the Berrien Springs Oronoko Township Police Department.

E. Ignition, Discharge or Use of Consumer Fireworks on Public Property, School Property, Church Property or the Property of Another Person.

1. A Person shall not ignite, discharge or use consumer fireworks on public property, school property, church property, or another person without that organization's or person's express permission to use those fireworks on those premises.
2. A violation of this Section is a civil infraction, punishable by a fine of not more than \$500.00.

F. Ignition, Discharge or Use of Consumer Fireworks While Under the Influence.

1. A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.
2. As used in this Section, "alcoholic liquor" means that term as defined in Section 1d of the Michigan Vehicle Code, MCL 257.1d, as may be amended, and "controlled substance" means that term as defined in Section 8b of the Michigan Vehicle Code, MCL 257.8b, as may be amended.

3. A violation of this Section is a civil infraction, punishable by a fine of not more than \$1,000.00.

G. Determination of Violation; Seizure; Destruction; Storage Costs.

1. If a police officer determines that a violation of this Article has occurred, the Department may seize the firework as evidence of the violation. The Department shall store, or cause to be stored, the evidence seized under this Section pending disposition of any proceedings arising from the violation.
2. Following final disposition of an appeal of a finding of responsibility under the Article that affirms the finding, the Department may dispose of or destroy any fireworks retained as evidence in that proceeding.
3. A person from whom fireworks are seized under this Article shall pay the actual costs of storage and disposal of the seized fireworks if found responsible for a violation of this Article.

SECTION 2. SEVERABILITY.

This Ordinance and each of the various parts, sections, subsections, sentences, phrases, and clauses hereof are declared to be severable. If any part, section, subsection, sentence, phrase, or clause is determined to be invalid or unenforceable by a court of competent jurisdiction, it is hereby provided that the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION 3. REPEAL OF ORDINANCES IN CONFLICT HEREWITH.

Any and all Ordinances of the Village of Berrien Springs or any parts or provisions thereof, to the extent that they are contrary to or inconsistent with the provisions of the within Ordinances, are hereby expressly repealed.

SECTION 4. RATIFICATION.

All other provisions of the code or Ordinances of the Village of Berrien Springs, Michigan except herein modified or amended are hereby expressly ratified and affirmed.

SECTION 5. PUBLICATION.

This Ordinance shall be published in accordance with the terms, provisions, and requirements of the General Law Village Act, and in accordance with and to the extent required by the statutes of the State of Michigan.

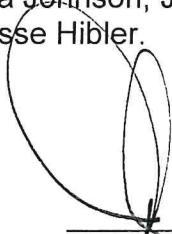
SECTION 6. EFFECTIVE DATE.

This Ordinance shall take immediate effect upon publication in accordance with the provisions and requirements of the Village of Berrien Springs and the General Law Village Act.

YEAS: Roll call vote: Sandy Swartz, Lonna Johnson, Jack Davis, Barry Gravitt, Sheila Snyder, Kristin von Maur and President Jesse Hibler.

NAYS: None

Dated: July 19, 2021



Jesse Hibler, Village President

Ordinance declared adopted:



Sheri Kesterke, Village Clerk

I hereby certify that the above and foregoing Ordinance was duly adopted by the Village Council of Berrien Springs and published in the *Journal Era*, a weekly newspaper published in the Village of Berrien Springs, in the issue of said newspaper dated and published on the 21st day of July, 2021.



Sheri Kesterke, Village Clerk