

## Title 7 – Chapter 6

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# Regulation and Licensing of Fireworks

### 7-6-1 Regulation and Licensing of Fireworks

#### Sec. 7-6-1 Regulation of Fireworks.

- (a) **Definition.** In this Section, “fireworks” means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
- (1) Fuel or a lubricant.
  - (2) A firearm cartridge or shotgun shell.
  - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
  - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
  - (5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
  - (6) A toy snake which contains no mercury.
  - (7) A model rocket engine.
  - (8) Tobacco and a tobacco product.
  - (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length that is designed to produce audible or visible effects or to produce audible and visible effects..
  - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
  - (11) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture
  - (12) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
  - (13) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50, as amended.
  - (14) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50, as amended.
  - (15) A novelty device that spins or moves on the ground

- (b) **Sale. Seller's Permit Required.** No person may sell, or possess with the intent to sell, fireworks without a seller's permit from the Town obtained in accordance with this subsection.
- (1) Sellers permits issued hereunder shall be for a term of not more than one year and shall expire on October 1st of each year. The Town shall charge a regulating fee for each seller's permit and the regulating fee charged for each permit shall be set by resolution of the Town Board from time-to-time. The regulating fee shall be based upon the Town's cost of inspecting and regulating fireworks sales at the site permitted within the Town and the cost incurred reviewing the permit application. Upon the passage of this ordinance, the Town shall be limited to issuing one seller's permit. The Town will be entitled to issue an additional permit (for a total of two) once the population of the Town reaches 3,000. The Town will be entitled to an additional permit for every 3,000 resident increase in population thereafter. The unadjusted ten-year U.S. Constitutional Census number for the Town shall be used for determining the number of available permits. The permit limit is intended to promote public safety and welfare, alleviate the burden of inspecting and regulating firework places of business, and improve property values through the slow, orderly development of fireworks permitted businesses.
- (2) Applicants for a seller's permit shall apply for each site in writing. Decisions on applications shall be made by the Town within 31 days of the date the application is filed. The application shall include the following information, in addition to the regulating fee:
- (a) Name, address, telephone number, and email address of the applicant;
  - (b) Itemization of the specific fireworks the applicant intends to sell;
  - (c) Address at which the applicant intends to sell the enumerated fireworks and description of the structure to be used for the storage and sale of the fireworks;
  - (d) Names, addresses, and consents of the owners of the real estate upon which the enumerated fireworks will be sold;
  - (e) The proposed days and hours of operation for in-season and off-season sales; and
  - (f) A site plan and description of the signage to be used in promoting and advertising the sale of fireworks.
- (3) If a seller's permit is granted, the permit shall impose the following conditions:
- (a) The name and address of the permit holder;
  - (b) The Location of permitted operations and a description of the structure to be used for the storage and sale of fireworks;

- (c) The kind and quantity of fireworks that may be sold under the permit;
  - (d) The days and hours of operations at the permitted location;
  - (e) Any other conditions required by the Town, including a certificate of insurance proving a policy for the payment of all claims that may arise by reason of injury to persons or property from the handling, use, or discharge of fireworks under the permit. The policy shall name the Town as an additional insured and shall be in an amount of not less than \$1 million General Aggregate. Such insurance shall be maintained by the applicant so long as it holds a seller's permit.
- (4) Notwithstanding the ownership of a seller's permit, no person may sell or possess with intent to sell fireworks, except:
  - (1) To a person holding a permit under Subsection (c);
  - (2) To a municipality; or
  - (3) To a person who is not a resident of the State of Wisconsin
  - (4) For a purpose specified under Subsection (c)(2)b-f.
- (c) **Use.**
  - (1) ***Users Permit Required.*** No person may possess or use fireworks without a user's permit from the Town Chairperson or from an official or employee of the Town as designated by the Town Board. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.
  - (2) ***Permit Exceptions.*** Subparagraph (c)(1) above does not apply to:
    - (a) The Town, except that Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
    - (b) The possession or use of explosives in accordance with rules or general orders of the department of commerce.
    - (c) The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
    - (d) The possession or use of explosive or combustible materials in any manufacturing process.
    - (e) The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
    - (f) A possessor of manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848, as amended, if the possession of the fireworks is authorized under the license or permit.
  - (3) ***Who May Obtain Permit.*** A permit under this Subsection may be issued only to the following:
    - i. A public authority.
    - ii. A fair association.

- iii. An amusement park.
  - iv. A park board.
  - v. A civic organization
  - vi. Any individual or group of individuals.
  - vii. An agricultural producer for the protection of crops from predatory birds or animals.
- (4) **Crop Protection Signs.** A person issued a permit or crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (5) **Bond.** The Town Chairperson issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Town, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Town Clerk.
- (6) **Required Information for Permit.** A permit under this Subsection shall specify all of the following:
  - (a) The name and address of the permit holder.
  - (b) The date on and after which fireworks may be purchased.
  - (c) The kind and quantity of fireworks which may be purchased.
  - (d) The date and location of permitted use.
- (7) **Copy of Permit.** A copy of a permit under this Subsection shall be given to the fire inspector at least two (2) days before the date of authorized use.
- (8) **Minors Prohibited.** A permit under this Subsection may not be issued to a minor.
- (9) **Possession While Transporting.** Possession of fireworks in the Town is not prohibited while the fireworks are being transported to a city, town, village, or county where the possession of the fireworks is authorized by permit or ordinance, unless in the course of transporting the fireworks through the Town, the person remains in the Town for a period of at least 12 hours.
- (d) **Wholesaler or Jobber; Out-of-State and In-State Shipping.**
  - (1) This section does not prohibit a vendor from selling fireworks to a nonresident person or to a person or group granted a permit under sub. (c). A vendor that ships the fireworks sold under this subsection shall package and ship the fireworks in accordance with applicable state and federal law.

- (e) **Storage and Handling.**
- (1) ***Fire Extinguishers Required.*** No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the town fire inspector.
  - (2) ***Smoking Prohibited.*** No person may smoke where fireworks are stored or handled.
  - (3) ***Fire Chief to be Notified.*** A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
  - (4) ***Storage Distance.*** No wholesaler, dealer or jobber may store fireworks within one hundred (100) feet or sell fireworks within fifty (50) feet of a residential dwelling.
  - (5) ***Restrictions on Storage.*** No person may store or sell fireworks within one hundred (100) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.
- (f) **Parental Liability.** A parent, foster parent, treatment foster parent, family-operated group home parent, or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of fireworks.