

Title 7 ► Chapter 6

Regulation and Licensing of Fireworks

7-6-1 Regulation of Fireworks

Sec. 7-6-1 Regulation of Fireworks.

- (a) **Regulation of Fireworks.** Except as otherwise allowed by this Chapter, no person may possess, sell or use fireworks in the Village of Elk Mound. This Chapter shall constitute a local regulation adopted pursuant to Sec. 167.10(5), Wis. Stats.
- (b) **Definitions.** 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.
 - (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 an audible or visible effect or audible and visible effects, and that contains less than one-quarter (1/4) grain of explosive mixture.
 - (12) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces an audible or visible effect or audible and visible effects.

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- (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.
 - (14) A cone fountain that is classified by the federal Department of Transportation as a Division .4 explosive as defined in 49 CFR 173.50.
- (c) **Use.**
- (1) **Permit Required.** No person may use fireworks without a user's permit from the Village President or from an official or employee of the Village as designated by the Village Board. No person may use fireworks or a device listed under Subsection (b)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subsection (c)(3) if the display is open to the general public. A fee as prescribed by Section 1-3-1 shall be paid at the time of application.
 - (2) **Permit Exceptions.** Subparagraph (c)(1) above does not apply to:
 - a. The Village, except that 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 Wisconsin 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 or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.
 - g. A possessor of fireworks within the Village while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance, if such person does not remain within the Village for a period of more than twelve (12) hours.
 - (3) **Who May Obtain Permit.** A permit under this Subsection may be issued only to the following:
 - a. A public authority.
 - b. A fair association.
 - c. An amusement park.
 - d. A park board.
 - e. A civic organization.
 - f. A group of resident or nonresident individuals.
 - g. An agricultural producer for the protection of crops from predatory birds or animals.

- (4) **Crop Protection Signs.** A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
 - (5) **Bond.** The Village President or other authorized party issuing a permit under this Subsection may 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 Village, 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 officer of the Village.
 - (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 fire and law enforcement officials 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) **Out of State.** This Section does not prohibit a resident wholesaler or jobber from selling fireworks to a person outside of this state or to person or group granted a permit under this Section. A resident wholesaler or jobber that ships the fireworks sold under this Subsection shall package and ship the fireworks in accordance with applicable state and federal law by, as defined in Sec. 194.01(1)(2) and (11), Wis. Stats., common motor carrier, contract motor carrier or private motor carrier.
 - (10) **Use Restrictions.** Permitted fireworks may only be used if such use is a minimum of twenty-five (25) feet away from any structure. Use of fireworks is prohibited after 12:30 a.m.
- (d) **Possession of Fireworks.**
- (1) **Limitations on Possession.** No person shall have within their possession, to own, hold on consignment or to otherwise be physically and/or legally in control of fireworks without a permit under this Subsection.
 - (2) **Possession Permit.** An authorized seller of fireworks may issue a possession permit to a person to possess fireworks within the Village for purposes of possessing the fireworks while transporting them through the Village. A possessor's permit does not authorize the holder of such permit to use fireworks within the Village. The holder of a possessor's permit may not use fireworks within the Village. The Village designates licensed sellers of fireworks as agents for the Village for the sale of

possession permits. The Village Clerk-Treasurer shall provide an appropriate permit form as approved by the Village Board. The holder of a seller's permit who issues a possessor's permit shall maintain adequate records of the permits issued.

- (3) **Possessor's Permit Fee.** The charge for each possession permit shall be as prescribed in Section 1-3-1.

(e) **Sale of Fireworks.**

- (1) **Limitations on Sale.** No person may sell or possess with intent to sell fireworks except:

- a. To a person holding a permit under Subsection (d)(2)-(3) or (e)(2);
- b. To a municipality; or
- c. For a purpose specified under this Section.

- (2) **Seller's Permit.** No person may sell or possess with intent to sell fireworks without a seller's permit from the Village Clerk-Treasurer. The fee for a seller's permit shall be as prescribed in Section 1-3-1 per calendar year.

- a. The entire permit fee shall be charged for every seller's permit for the whole or fraction of a year, and shall be paid when application is made for such permit.
- b. The Village Clerk-Treasurer shall provide an appropriate permit form as approved by the Village Board and shall maintain adequate records of the permits issued.
- c. The applicant shall particularly describe the address and structure where the permit will be used and shall at all times publicly and continuously display such permit at such location. Such permit may be transferred to a new location upon payment of a transfer fee as prescribed in Section 1-3-1.
- d. All holders of seller's permits shall comply with all local ordinances and federal and state regulations and statutes regarding the sale, transport or storage of flammable or explosive materials.

(f) **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 Fire Chief.
- (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 fifty (50) feet of a dwelling.
- (5) **Restrictions on Storage.** No person may store fireworks within fifty (50) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.

State Law Reference: Sec. 167.10, Wis. Stats.