

Also Sec
18-3

AN ORDINANCE TO PROHIBIT
THE SALE, PURCHASE, POSSESSION AND USE
OF FIREWORKS IN THE VILLAGE OF NORTH PRAIRIE

THE VILLAGE BOARD OF THE VILLAGE OF NORTH PRAIRIE DO
ORDAIN AS FOLLOWS:

SECTION 1. FIREWORKS PROHIBITED

No person shall sell, give, transfer, purchase, receive, possess, transport, use, discharge, ignite or cause to be ignited within the Village of North Prairie any devices that are prohibited for use in Wisconsin in Chapter 167, Wisconsin Statutes, as amended.

SECTION 2. PERMIT TO USE

The Village President, may, upon the filing of an insurance policy insuring the Village against liability, in an amount approved by the Village, grant special permits for fireworks displays under Section 167.10(2).

SECTION 3. PENALTIES

Any person, corporation or organization who shall violate the terms of this ordinance shall be subject to a penalty not less than \$25.00 nor more than \$50.00 for the first conviction, and not less than \$40.00 nor more than \$100.00 for the second and all subsequent violations. In the event any penalty legally imposed is not paid, a person may be sentenced to serve time in the County Jail for not more than 90 days or until said penalty is paid if sooner.

SECTION 4. SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section shall be declared by a decision of the court of competent jurisdiction to be invalid, such decision shall not effect the validity of the other provisions of the ordinance.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and posting as provided by law.

Passed and adopted by the Village of North Prairie,
Waukesha County, Wisconsin, this 11th day of September,
1980.

VILLAGE BOARD, VILLAGE OF NORTH PRAIRIE,
COUNTY OF WAUKESHA, WISCONSIN

GERALD AUSTIN, Village President

ATTEST: ~~JUDITH BERANEK, Village Clerk~~

167.10 Regulation of fireworks.

- (1) **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:
- (a) Fuel or a lubricant.
 - (b) A firearm cartridge or shotgun shell.
 - (c) 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.
 - (d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - (e) A cap containing not more than one-quarter 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.
 - (f) A toy snake which contains no mercury.
 - (g) A model rocket engine.
 - (h) Tobacco and a tobacco product.
 - (i) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.
 - (j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
 - (k) 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.
 - (L) 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.
 - (m) 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.
 - (n) 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.
 - (p) A novelty device that spins or moves on the ground.
- (2) **SALE.** No person may sell or possess with intent to sell fireworks, unless any of the following apply:
- (a) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person holding a permit under sub. (3) (c).
 - (b) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a city, village or town.
 - (bg) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person who is not a resident of this state.
 - (c) The person sells the fireworks, or possesses the fireworks with intent to sell them, for a purpose specified under sub. (3) (b) 2. to 6.
- (3) **USE.**
- (a) No person may possess or use fireworks without a user's permit from the mayor of the city, president of the village or chairperson of the town in which the possession or use is to occur or from a person designated by the mayor, president or chairperson to issue a user's permit. No person may use fireworks or a device listed under sub. (1) (e) to (g) or (i) to (n) while attending a fireworks display for which a permit has been issued to a person listed under par. (c) 1. to 5. or under par. (c) 6. if the display is open to the general public.
 - (b) Paragraph (a) does not apply to:
 - 1. The city, village or town, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least 2 days in advance.
 - 2. The possession or use of explosives in accordance with rules or general orders of the department of safety and professional services.
 - 3. The disposal of hazardous substances in accordance with rules adopted by the department of natural resources.
 - 4. The possession or use of explosive or combustible materials in any manufacturing process.

5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
 6. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.
 7. Except as provided in par. (bm), the possession of fireworks in any city, town or village while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance.
 8. The possession of fireworks by a person who is not a resident of this state if the person does not use the fireworks in this state.
- (bm) Paragraph (a) applies to a person transporting fireworks under par. (b) 7. if, in the course of transporting the fireworks through a city, town, or village, the person remains in that city, town, or village for a period of at least 72 hours.
- (c) A permit under this subsection may be issued only to the following persons:
1. A public authority.
 2. A fair association.
 3. An amusement park.
 4. A park board.
 5. A civic organization.
 6. Any individual or group of individuals. A permit issued to a group of individuals confers the privileges under the permit to each member of the group.
 7. An agricultural producer for the protection of crops from predatory birds or animals.
- (d) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (e) The person 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, if required, shall be taken in the name of the city, village or town wherein the fireworks are to be used, 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, if required, together with a copy of the permit shall be filed in the office of the clerk of the city, village or town.
- (f) A permit under this subsection shall specify all of the following:
1. The name and address of the permit holder.
 2. The date on and after which fireworks may be purchased.
 3. The general kind and approximate quantity of fireworks which may be purchased.
 4. The date or dates and location of permitted use.
 5. Other special conditions prescribed by ordinance.
- (fm) If a city, village, or town requires that a user's permit be signed or stamped, a person who is authorized to issue the permit under par. (a) may sign or stamp the permit before the permit is issued rather than signing or stamping the permit at the time that it is issued.
- (g) A copy of a permit under this subsection shall be given to the municipal fire or law enforcement official at least 2 days before the date of authorized use. This paragraph does not apply to a permit authorizing only the sale or possession of fireworks that are classified by the federal department of transportation as Division 1.4 explosives, as defined in 49 CFR 173.50.
- (h) A permit under this subsection may not be issued to a minor.
- (4) OUT-OF-STATE AND IN-STATE SHIPPING. 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. (3) (c) 1. to 7. A vendor that ships fireworks sold under this subsection shall package and ship the fireworks in accordance with applicable state and federal law.
- (5) LOCAL REGULATION.
- (a) Subject to pars. (b) to (e), a city, village, town or county may enact an ordinance for any of the following:

1. Defining "fireworks" to include all items included under sub. (1) (intro.) and anything under sub. (1) (e), (f), (i), (j), (k), (L), (m) and (n).
2. Prohibiting the sale, possession or use, as defined by ordinance, of fireworks.
3. Regulating the sale, possession or use, as defined by ordinance, of fireworks.
- (b) An ordinance under par. (a) may not be less restrictive in its coverage, prohibition or regulation than this section but may be more restrictive than this section.
- (d) A county ordinance enacted under par. (a) does not apply and may not be enforced within any city, village or town that has enacted or enacts an ordinance under par. (a).
- (e) Notwithstanding par. (a) or par. (b), no city, village, town or county may enact an ordinance that prohibits the possession of fireworks in that city, town, village or county while transporting the fireworks to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance.
- (6) STORAGE AND HANDLING.**
 - (a) No wholesaler, dealer or jobber may store or handle fireworks in premises unless the premises are equipped with fire extinguishers approved by the fire official of the municipality where the premises are located.
 - (b) No person may smoke where fireworks are stored or handled.
 - (c) A person who stores or handles fireworks shall notify the fire official of the municipality in which the fireworks are stored or handled of the location of the fireworks.
 - (d) No wholesaler, dealer or jobber may store fireworks within 50 feet of a dwelling.
 - (e) No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon.
- (6m) LICENSING AND INSPECTING MANUFACTURERS.**
 - (a) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) without a fireworks manufacturing license issued by the department of safety and professional services under par. (d).
 - (b) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) unless the person complies with the rules of the department of safety and professional services promulgated under par. (e).
 - (c) Any person who manufactures in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) shall provide the department of safety and professional services with a copy of each federal license issued under 18 USC 843 to that person.
 - (d) The department of safety and professional services shall issue a 4-year license to manufacture fireworks or devices listed under sub. (1) (e), (f), or (i) to (n) to a person who complies with the rules of the department promulgated under par. (e). The department may not issue a license to a person who does not comply with the rules promulgated under par. (e). The department may revoke a license under this subsection for the refusal to permit an inspection at reasonable times by the department or for a continuing violation of the rules promulgated under par. (e).
 - (e) The department of safety and professional services shall promulgate rules to establish safety standards for the manufacture in this state of fireworks and devices listed under sub. (1) (e), (f) or (i) to (n).
 - (f) The department of safety and professional services may inspect at reasonable times the premises on which each person licensed under this subsection manufactures fireworks or devices listed under sub. (1) (e), (f) or (i) to (n).
- (7) PARENTAL LIABILITY.** A parent, foster parent, legal guardian, or other out-of-home care provider, as defined in s. 48.02 (12r), of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.
- (7m) MUNICIPAL LIABILITY.** No city, village, or town, or committee, official, or employee of a city, village, or town, is civilly liable for damage to any person or property caused by fireworks for the sole reason that the city, village, or town issued a permit in accordance with the requirements of sub. (3) and any applicable requirements authorized under sub. (5), that authorized the purchase, possession, or use of the fireworks.
- (8) ENFORCEMENT.**
 - (a) A city, village or town may petition the circuit court for an order enjoining violations of sub. (2), (3) or (6) or an ordinance adopted under sub. (5).
 - (b) Fireworks stored, handled, sold, possessed or used by a person who violates this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be seized and held as evidence of the violation. Except as provided in s. 968.20 (4), only the fireworks that are the subject of a violation of this section, an ordinance

adopted under sub. (5) or a court order under par. (a) may be destroyed after conviction for a violation. Except as provided in s. 968.20 (4), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

(9) PENALTIES.

- (a) A person who violates a court order under sub. (8) (a) shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.
- (b) A person who violates sub. (2), (3) or (6) or an ordinance adopted under sub. (5) shall forfeit not more than \$1,000.
- (c) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.
- (g) Whoever violates sub. (6m) (a), (b) or (c) or a rule promulgated under sub. (6m) (e) is guilty of a Class G felony.

History: 1977 c. 260; 1983 a. 446, 538; 1985 a. 135; 1987 a. 377; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 258; 1993 a. 208, 446, 491; 1995 a. 27 ss. 4464 to 4469 and 9116 (5); 1995 a. 330; 1997 a. 3, 35, 283; 2001 a. 109; 2003 a. 298; 2007 a. 20; 2009 a. 28; 2011 a. 32; 2015 a. 128; 2017 a. 59.

NOTE: 2003 Wis. Act 298, which created sub. (7m), contains explanatory notes.

Cross-reference: See also ss. SPS 305.21, 307.50, and 307.51, Wis. adm. code.

Sub. (3) (b) lists those situations for which a permit is not needed to use or possess fireworks. *City of Wisconsin Dells v. Dells Fireworks, Inc.*, 197 Wis. 2d 1, 539 N.W.2d 916 (Ct. App. 1995), 94-1999.