

ORDINANCE #3-2016
FIREWORKS ORDINANCE

AN ORDINANCE TO REGULATE THE USE OF FIREWORKS WITHIN TOWNSHIP BOUNDARIES.

The Holland Town Board, Township of Holland, La Crosse County does ordain as follows:

SECTION 1.0 INTRODUCTION

1.01 Purpose

The purpose of this ordinance is to provide safe and healthful conditions for the use of fireworks and to protect the interests and property of the residents of the Town of Holland. The Town Board of the Town of Holland has determined that it is necessary for the general welfare and safety of the Town that all use of fireworks shall require a permit to allow for a uniform and safe manner of use as prescribed in this ordinance.

1.02 Authority

The Town Board of the Town of Holland is granted authority for adopting this ordinance under Wis. Stats §60.22 and §167.10. These statutes are hereby incorporated by reference as published by the most recent revision of the Wisconsin Statutes. Any amendments, which are from time to time made in the statutes, shall automatically be made in this ordinance. In the case of any conflict between Wis. Stat. §167.10 and this Ordinance, whichever provision is more strict shall apply.

1.03 Applicability

The provisions of Wisconsin Statutes Section 167.10 relating to the regulation of fireworks are hereby adopted by reference. Any person or business that displays fireworks must comply with all of the local building and fire codes, in addition to the State Statutes.

1.04 Definition

Fireworks are defined under Wisconsin Statutes 167.10(1). 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 directly 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.
- (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
- (O) A novelty device that spins or moves on the ground.

1.05 Sale

No person may sell or possess with intent to sell fireworks in the Town of Holland.

1.06 Use

No person may possess or use fireworks without first having secured a user's permit from the Town of Holland. The use of fireworks on State or Federal land is prohibited.

1.07 Severability

This ordinance and its individual provisions are declared to be severable. If any section, clause, provision, or portion of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, this decision shall not affect the validity of the ordinance as a whole. All parts of the ordinance not declared invalid or unconstitutional shall remain in full force and effect.

1.08 Conflict.

If any part of this Ordinance is found to be in conflict with any other Ordinance or with any other part of this Ordinance, the most restrictive or highest standard shall prevail. If any part of this Ordinance is explicitly prohibited by federal or state statute that part shall not be enforced.

SECTION 2.0 FIREWORKS PERMIT

Pursuant to Wisconsin Statute 167.10(3), no person may possess or use fireworks without first having secured a user's permit issued by the Town Chair or designee. Applications for a fireworks permit shall be made and shall include the pertinent and necessary information for proper review. A copy of all approved permits shall be provided to the

Holmen Area Fire Department and the La Crosse County Sheriff's Department at least two (2) days before the date of the authorized use.

(A) Personal (residential) use permit: Any individual or group of individuals who use fireworks for personal entertainment, and farmers who use fireworks for the protection of crops from predatory birds or animals, may request a "personal use" permit. However, permits may not be issued to minors [Wis. Statutes 167.10(3)(h)].

1. An applicant shall provide their contact information, the type and quantity of fireworks, the date and location and discharge hours.
2. The application shall be completed and returned at least 5 days prior to date of display.
3. Applicant must be at least 18 years of age to apply.
4. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection [Wis. Statutes 167.10(3)(d)].
5. Section 167.10(7m) Wisconsin Statutes, creates a civil liability exemption for the Town of Holland. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the Town of Holland for any and all loss resulting from the fireworks display as described under the permit application.

(B) Public Display (commercial) use permit: Any public authorities, fair associations, amusement parks, park boards, civic organizations or fireworks contractor/operator who use fireworks as a public display, may request a "commercial or public use" permit.

1. All displays must be compliant with all regulations set for by NFPA 1123 Fireworks Display Standard, NFPA 1124 Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles Standard, NFPA 1126 Use of Pyrotechnics Before a Proximate Audience Standard, CFR Title 49 Transportation, and Wisconsin Statutes 167.10 Regulation of Fireworks.
2. The application must be completed and returned at least 10 days prior to date of display.
3. Applicant must be at least 21 years of age to apply.
4. A permit fee shall be required for processing. Fees are established annually by the Town Board and are made a part of the Town of Holland Fee Schedule.
5. The applicant shall complete the permit application in full, including the manner and place of storage of fireworks prior to display.
6. A proof of a bond or certificate of insurance with expiration date in the amount of at least five hundred thousand dollars (\$500,000) shall be provided at the time of application.
7. Section 167.10(7m) Wisconsin Statutes, creates a civil liability exemption for the Town of Holland. To the fullest extent permitted by law, the fireworks contractor/operator shall indemnify, defend and hold harmless the Town of Holland for any and all loss resulting from the fireworks and/or performance of the display required under the contract and the permit application.

SECTION 3.0 ENFORCEMENT & PENALTIES

3.01 Enforcement

Fireworks stored, handled, sold, possessed or used by a person who violates this ordinance or a court order may be seized and held as evidence of the violation. Except as provided in Section 968.20(4) Wisconsin Statutes, only the fireworks that are the subject of a violation of this ordinance or a court order may be destroyed after conviction for a violation. Except as provided in Section 968.20(4) Wisconsin Statutes, 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.

3.02 Penalties

- (A) Any person violating any provisions of this ordinance shall be subject to a forfeiture of not less than one hundred dollars (\$100) and the cost of prosecution and, in default of payment of such forfeiture and cost of prosecution, shall be imprisoned in the county jail until the forfeiture and cost of prosecution are paid, but not exceeding five days.
- (B) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than one hundred dollars (\$100).
- (C) In addition to any penalty imposed, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parents of any unemancipated minor child may also be held liable for the cost of replacing or repairing damaged or destroyed property in accordance with Section 895.035, Wisconsin Statutes.
- (D) A person holding any permit issued under this ordinance who violates this ordinance shall immediately forfeit such permit and shall be ineligible to obtain any permit under this ordinance for one (1) year from the date of such forfeiture.

SECTION 4.0 EFFECTIVE DATE

Following passage by the Town Board, this ordinance shall take effect the day after the date of publication or posting as provided by sec. 60.80, Wis. Stats.

Adopted by the Holland Town Board of the Township of Holland, La Crosse County, Wisconsin, this 11th day of January, 2017.

By:
Katherine Warzynski, Town Chair

Attest:
Marilyn Pedretti, Town Clerk

Posted: 1/12/17