

**TOWN OF RICE LAKE
ORDINANCE NO 13-101
RE: REGULATION AND LICENSING OF FIREWORKS**

The Town Board for the Town of Rice Lake does ordain that the following Ordinance is hereby adopted:

Ordinance No 13-101
Re: Regulation and Licensing of Fireworks

SECTION 1.0 INTENT. The Town Board finds that the sale and/or possession of use of fireworks without comprehensive oversight constitutes an offensive industry if not carefully controlled. Fireworks by their nature are designed for exploding, emitting sparks or combustion. Accordingly, fireworks may be sold, possessed or used in the Town only if used under appropriate safeguards. This Ordinance is authorized pursuant to Wis. Stats. 167.10(5)(a).

SECTION 2.0 REPEAL. Ordinance #06-101 known as Ordinance Re: Regulation and Licensing of Fireworks for the Town of Rice Lake, Barron County, Wisconsin, is hereby repealed. All other ordinances or part of ordinances of the Township of Rice Lake, Barron County inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

SECTION 3.0 DEFINITIONS. In this Ordinance, “fireworks” means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use.

- (a) The definition of “fireworks” includes, but is not limited to the following:
 - (1) A device that is designed primarily to burn pyrotechnic smoke producing mixtures, at a controlled rate, and that produces audible or visible effect, or audible and visible effects;
 - (2) 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 C.F.R. 173.50;
 - (3) A cone fountain that is classified by the Federal Department of Transportation as a Division 1.4 explosive as defined in 49 C.F.R. 173.50; or
 - (4) Firecrackers, cherry bombs, M-80s and other similar devices containing gunpowder or TNT
- (b) The term “fireworks” does not include any of the following:
 - (1) Fuel or 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 or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
- (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 device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
- (12) A device that emits smoke with no external flame and does not leave the ground.
- (13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
- (14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.
- (15) Any other material exempted from the definition of fireworks as set forth in Wis. Stats. § 167.10(1).

SECTION 4.0 SALE AND DISCHARGE OF FIREWORKS RESTRICTED. No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Town unless such person shall be authorized by a fireworks permit as provided in this Ordinance.

SECTION 5.0 PERMIT REQUIRED

(a) Sale. No person may sell or possess with intent to sell fireworks, except:

- (1) To a person holding a permit issued pursuant to this Section 5.0;
- (2) To a City, Village, or Town; or
- (3) For a purpose specified in Section 5.0(h) below.

(b) Permit. (1) No person may possess or use fireworks without an appropriate permit from the Town Board Chairperson or from an official or employee of the Town as designated by the Town Board. Each application shall be accompanied by a fee. In order to obtain such permit, such person shall be at least eighteen (18) years of age and shall make written application therefor, directed to the Town Clerk, and specify:

- (1) Name, address and business telephone number of the applicant;
- (2) The proposed date(s) and time(s) on which the applicant wishes to commence the sale or use of fireworks;
- (3) The kind of fireworks which the applicant wishes to sell or use;
- (4) The proposed location for the storage of the fireworks in the Town.
- (5) A description of the fire safety equipment and precautions to be installed and maintained on the premises where the fireworks are to be sold, possesses or used;
- (6) The existing zoning of the proposed location;
- (7) A listing of any arrests and convictions of the applicant for crimes; and
- (8) Provide the name, address, and telephone number of the owner(s) of the property where fireworks will be sold, possessed, or used, along with a signed, written consent form completed by said property owner granting permission for the sale, possession, or use of fireworks on said property.

(2) Each application shall be accompanied with an application fee in the amount set forth in the Town of Rice Lake's fee schedule, in effect from time to time.

(c) Appeal. Any person aggrieved by a denial of a fireworks permit may appeal to the Town Board pursuant to Wis. Stats. § 68.08, *et seq.*

(d) Types of Permits. There shall be a fireworks sales permit and a fireworks display permit.

- (1) Fireworks Sales. A firework sales permit entitles the permittee to sell fireworks to the public in compliance with the federal, state, and local regulations applicable to the selling of fireworks. The application for such a permit shall be acted on by the Town Board Chairperson, or from an official or employee of the Town as designated by the Town Board, within thirty (30) days from the Town's receipt of the application.
- (2) Fireworks Display. A fireworks display permit entitles the permittee to stage a public or private display of fireworks in compliance with all federal, state and local regulations applicable to fireworks displays. The application for such a permit shall be submitted not less than ten days before the proposed display. The Town's fire and law enforcement officials shall be notified of the proposed display as soon as possible after the application and at least 48 hours before the proposed display.

(e) Term of Permit.

- (1) A Fireworks Sales Permit issued by the Town Board Chairperson shall be for a period of up to one calendar year. All fireworks sales permits shall expire no later than December 31 of each year.
- (2) A Fireworks Display Permit issued by the Town Board Chairperson shall be for a single occasion of not over two hours.

(f) Insurance. Prior to the issuance of any permit, the applicant shall furnish the Town Board Chairperson with a certificate of insurance showing public liability insurance for the proposed location of selling or using fireworks in an amount of not less than \$1,000,000 per person, \$3,000,000 per occurrence and \$500,000 in property damage.

(g) Operational Restrictions. No person shall be issued or reissued a permit under this Ordinance if the applicant or permittee:

- (1) Fails to install or maintain adequate fire safety equipment for the premises on which fireworks are being sold, possessed or used;
- (2) Fails to provide or maintain the policy of insurance as set forth above.
- (3) Fails to provide or maintain adequate physical structures, equipment and operational control as determined by the Town Board Chairperson to prevent trespassing;
- (4) Fails to provide or maintain adequate sanitary facilities at the location where the fireworks are to be sold, possessed or used;
- (5) Fails to allow physical access to the location where fireworks are sold, possessed or used by the Town Board Chairperson or designee for inspection purposes;

- (6) Fails to allow equip the structure where fireworks are sold, possessed or used with fire extinguishers approved by the Chief of the Rice Lake Fire Department;
 - (7) Seeks the permit for premises located within 50 feet of a dwelling or any public building, as defined in Wis. Stats. 101.01(12), or place where gasoline or other volatile liquid is kept or dispensed;
 - (8) Allows fireworks to be sold by a person who has not attained the age of eighteen.
- (h) Exemptions. No permit is required under this Ordinance as follows:
- (1) Persons possessing fireworks in the Town while transporting the fireworks to another municipality where the possession of the fireworks is authorized by permit or ordinance; however, the person must obtain a fireworks permit if the person stays in the Town for a period of at least 12 hours;
 - (2) The possession or use of explosives in accordance with rules or general orders of the State Department of Commerce;
 - (3) The disposal of hazardous substances in accordance with rules adopted by the State Department of Natural Resources;
 - (4) The possession of 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) The possession or manufacture of explosives by a person holding a permit under 18 U.S.C. 841-848 if the possession of the fireworks is authorized under the license or permit.

SECTION 6.0 PARENTAL LIABILITY. A 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 the fireworks.

SECTION 7.0 VIOLATIONS AND FORFEITURES. Any person violating any of the terms of this Ordinance shall, upon conviction thereof, be subject to penalty which shall be as follows:

(a) Offenses. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, forfeit not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00), together with the costs of prosecution and any applicable assessments; and in default of payment of such forfeiture, costs and assessments, shall be

imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.

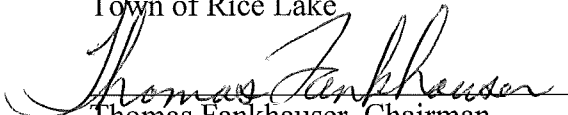
(b) Continued Violations. Each violation and each day a violation continues or occurs shall constitute as a separate offense. Nothing in this Ordinance shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Ordinance. Any continued violation of this Ordinance is declared to be a public nuisance.

SECTION 8.0 EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Adopted this 13th day of May, 2013

Voting in favor: 5 Voting opposed: 0


Town of Rice Lake


Thomas Fankhauser, Chairman

CERTIFICATION

The undersigned, Town Clerk for the Town of Rice Lake, does hereby certify that the foregoing Ordinance was duly adopted by the Town Board of the Town of Rice Lake at a meeting held on May 13, 2013, which meeting was properly noticed and conducted in the manner provided for by law, and at which a quorum of members of the Town Board were present.

Dated this 13th day of May, 2013.


Janet Tomesh, Clerk/Treasurer

Posted: May 14, 2013
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