

## CHAPTER 11

### TOWN OF ELDORADO FOND DU LAC COUNTY, WISCONSIN

#### ORDINANCE REGULATING FIREWORKS

WHEREAS, the Town of Eldorado deems it in the public interest to protect Town residents against property damage and personal injury caused by fireworks as the same are defined herein; and

WHEREAS, the Town of Eldorado deems it necessary and proper to supplement existing State statutory provisions regulating fireworks;

NOW, THEREFORE, the Town Board of Supervisors of the Town of Eldorado, Fond du Lac County, does ordain as follows:

#### **Section 1. Statutory Authority.**

This Ordinance is adopted pursuant to the powers granted to Towns under sections 60.22, 66.052, and 167.10(5) of the Wisconsin Statutes. The provisions of this Ordinance are intended to supplement, not replace, the existing statutory requirements set forth in Chapter 167 of the Wisconsin Statutes.

#### **Section 2. Definitions.**

This Ordinance incorporates by reference the definition of "fireworks" as set forth in sec. 167.10 of the Wisconsin Statutes, as amended from time to time. At the time of the adoption of this ordinance, "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 or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
- (j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
- (k) 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 3 grams in total weight.
- (l) A device that emits smoke with no external flame and does not leave the ground.
- (m) A cylindrical fountain not exceeding 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.
- (n) A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.

### **Section 3. Regulation of Fireworks.**

The Town of Eldorado prohibits the following:

- (a) the sale, possession, or use of fireworks at all times, except as authorized by sec. 167.10 of the Wisconsin Statutes;
- (b) any person from allowing or permitting fireworks to be used or exploded on his or her premises under his or her control except as authorized by sec. 167.10 of the Wisconsin Statutes; or
- (c) the mishandling and misuse of fireworks. The following actions are mishandling and misuse of fireworks:
  - (i) the throwing by any person of ignited or non-ignited fireworks;

- (ii) the intentional igniting or discharging in any way of fireworks within 1,000 feet of a nursing home, library, hospital, jail, medical clinic, day care center, school, service station, or other premises where gasoline or other volatile materials are sold or stored; or
- (iii) the intentional igniting or discharging of fireworks from a motor vehicle or boat regardless if the motor vehicle or boat is moving.

#### **Section 4. Indemnity Bond/Insurance.**

Any person or entity applying for a users permit from the Town of Eldorado shall file an indemnity bond with good and sufficient sureties or a 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 of Eldorado 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 shall be in an amount of not less than \$100,000 for property damage, \$500,000 for injury to or death of one person and \$1,000,000 for all injuries or deaths arising out of or resulting from any occurrence. The Town shall be provided with a certificate of insurance issued by the applicant's insurance company showing such insurance to be in effect and naming the Town as an additional insured. The bond or policy shall require notice of cancellation to be sent to the Town at least 30 days prior to any cancellation or modification.

#### **Section 5. Exemptions.**

The following entities and organizations are exempt from this ordinance: a public authority, a fair association, a park board, a civic organization, or an agricultural producer who uses fireworks for the protection of crops from predatory birds or animals. A person using fireworks for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

**Section 6. Enforcement.**

Fireworks stored, handled, sold, possessed, or used by a person in violation of this ordinance may be seized by the Fond du Lac County Sheriff's Department. The fireworks shall be destroyed after conviction for a violation.

Any person who violates any provision of this ordinance shall forfeit not less than \$100 nor more than \$1,000, together with costs of prosecution, including reasonable attorneys' fees, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the Fond du Lac County Jail until said forfeiture and costs are paid, but not exceeding 6 months. Each day that a violation continues shall be considered a separate offense. If any section, subsection, sentence, or clause of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the balance of the ordinance. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships and all entities of any kind capable of being sued unless plainly inapplicable.


**Section 7. Effective Date.**

This Ordinance shall take effect upon passage and publication as required by law.

**Section 8. Continuing Applicability of State Statutes.**

Nothing in this local Ordinance is intended to modify or supersede the requirements of Chapter 167 of the Wisconsin Statutes unless expressly set forth herein.

Adopted at a regular meeting of the Town Board on the 10  
day of April, 1996.

  
Town Chairman

Attest:

  
Town Clerk

Published April 16, 1996