

203.1 Fireworks Ordinance

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SECTION I - PURPOSE

The purpose of this ordinance is to regulate for public health and safety reasons the possession and use of fireworks in the town. Because portions of the Town of Berry are within the DNR fire permit zone for portions of the year, and the town is a largely rural community with numerous animal pastures as well as livestock and stable facilities, housing cows, sheep, goats, chickens and horses, which can be frightened, traumatized, or otherwise affected by detonation of fireworks nearby, the use of fireworks contrary to state law or this ordinance constitutes a nuisance to the public and a danger to public health and safety.

SECTION II - AUTHORITY

The Town Board has the specific authority under Wisconsin State Statutes 167.10(3) & (5) and Wisconsin State Statute Chapter 823, and general authority under its village powers under Wisconsin State Statute 60.22, to adopt this ordinance.

SECTION III - ADOPTION OF ORDINANCE AND STATE STATUTE

This ordinance, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation of the possession and use of fireworks in the Town of Berry and incorporates by reference the provisions of Wisconsin State Statute 167.10, and any revision or amendment thereof, as authorized to be enforced by town ordinance, which shall be part of the town ordinances of the Town of Berry.

SECTION IV - PERMIT TERMS AND CONDITIONS

- A. Permits will only be issued for individuals or organizations of individuals over the age of 18, for use and possession on real property owned or currently leased by the individual or organization applicant.
- B. All permits shall be issued in accordance with Wisconsin State Statute 167.10(3), and violation of any provision therein by the permittee shall render the fireworks permit void.
- C. A permit under this policy 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 and location of permitted use.
 - 5. The name and policy number for the liability insurance policy applicable to the subject property or permittee.
 - 6. Other special conditions prescribed in the permit.

- D. A permit shall be applied for at least 5 business days in advance of the date of the fireworks display to allow for notice to the neighbors, fire protection and law enforcement official at least 2 days before the date of authorized use. The town chairperson may waive this provision if all notice requirements are still met at least 2 days in advance of the fireworks display, notwithstanding late application.
- E. The town clerk shall provide copy of the permit to the applicable fire department, the Dane County Sheriff town liaison and adjacent community upon issuance.
- F. At least 2 days in advance of the anticipated fireworks display, the permittee shall inform a resident of each adjoining property and every proprietor of a livestock facility or stable within sight of the permittee's property of the date, time and general direction of the anticipated fireworks display.
- G. Between January 1 and May 31, the applicant must first obtain a burning permit from the DNR as a condition of issuance of a fireworks permit, and shall set off fireworks only in accordance with the DNR burning limitations then applicable; if burning is prohibited at the time the fireworks display is permitted for, the fireworks permit is void and no fireworks display is authorized.
- H. Fireworks displays undertaken without professional assistance will generally be limited to a 100 burst limit; the size and duration of a fireworks display put on by a licensed fireworks professional shall be at the discretion of the town chairperson.
- I. The applicant shall complete a permit application as set forth in attachment A.

SECTION V - ENFORCEMENT PROVISIONS

- A. A person who violates a court order issued upon petition of the town under Wisconsin State Statute 167.10(8)(a) shall be fined not more than \$10,000, and shall pay as costs the actual costs of enforcement, including the town's actual reasonable attorneys' fees.
- B. A person who violates Wisconsin State Statute 167.10(2), (3) or (6) or this ordinance shall forfeit not more than \$1,000, and shall pay as costs the actual costs of enforcement, including the town's actual reasonable attorneys' fees.
- 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, and shall pay as costs the actual costs of enforcement, including the town's actual reasonable attorneys' fees.

SECTION VI - SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION VII - EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Dated this 17th day of September, 2018

Published: September 27, 2018

Posted: September 20, 2018

Brenda Kahl, Clerk/Treasurer

Anthony Varda, Chairperson

Jeff Davis, Supervisor
Joe Kruchten, Supervisor

Michael Statz, Supervisor
Duane Haag, Supervisor