

8.23 Sale and Use 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 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 an 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 any tobacco products.
- (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 and 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.

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

- (a) To a person holding a permit under 8.23(4).
- (b) To a city, village or town; or
- (c) For a purpose specified under 8.23(4).

(3) USE.

- (a) No person may possess or use fireworks without a user’s permit from the president of the Village or from an official or employee designated by the president. No person may use fireworks or a device listed under sub. (1)(a) to (n) while attending a fireworks display for which a permit has been issued to a person listed under 8.23(4).

(b) Any person who knowingly permits any person under the age of 18 years of age to violate the provisions of this subsection or who is present while such person violates the provisions of this subsection, is subject to the penalties set forth in Subsection (5).

(c) Paragraph (a) and (b) do not apply to:

1. The Village or its agents, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least two days in advance;
2. The possession or use of explosives in accordance with rules or general orders of the department of industry, labor, and human relations;
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. The possession of fireworks in the Village while transporting the fireworks to a city, town, or village where the possession of the fireworks is authorized by permit or ordinance.

a. Paragraph (a) applies to a person transporting fireworks under par. (b)7. if, in the course of transporting the fireworks through the Village, the person remains in the Village for a period of at least 12 hours.

(4) EXCEPTIONS. Section 8.23(1) to (3) does not apply to:

(a) A permit issued to the following:

1. A public authority.
2. A fair association.
3. An amusement park.
4. A park board.
5. A civic organization.
6. A group of residents or nonresident individuals.
7. An agricultural producer for the protection of crops from predatory birds or animals.

(b) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(c) 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 Village 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 Village.

(d) 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 kind and quantity of fireworks which may be purchased.
4. The date and location of permitted use.
5. Other special conditions prescribed by the Village.

(e) 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.

(f) A permit under this subsection may not be issued to a minor.

(5) PENALTIES

(a) Any fireworks used or possessed in violation of this ordinance shall be seized and forfeited to the Village of Elkhart Lake.

(b) Any person who violates subsections (2) or (3) of Section 8.23 shall forfeit not more than \$250.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.