

**TOWN OF GIBRALTAR  
ORDINANCE 2022-25  
SALE AND DISCHARGE OF FIREWORKS**

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**Ordinance 2022-25 Identified in the code of ordinances as 10.04 shall repeal and replace any previous ordinance(s) in whole or part, or any other ordinances contradicting to this new ordinance.**

The Town Board of Gibraltar, in the County of Door, State of Wisconsin, does hereby ordain as follows:

**Purpose**

The Town hereby elects under Wis. Stats. § 167.10(5) to regulate the sale, possession and use of fireworks.

**State Statutes Adopted – Authority**

The Board of Supervisors of the Town of Gibraltar is granted authority for adopting this ordinance under its general 60.10(2)(c) and 60.22(3), Wisconsin Statutes. The Town Board Adopts this Ordinance under its general village powers authority and 66.1014 of the Wisconsin Statutes, 2917 Act 59.

**Definitions**

Wis. Stats. § 167.10(1), which defines "fireworks", together with any existing or future amendments thereto, is hereby adopted and incorporated by reference and made part of this chapter, as if fully set forth herein.

**General Provisions**

The Town hereby elects under Wis. Stats. § 167.10(5) to regulate the sale, possession, and use of fireworks.

**State law adopted by reference.**

Except as herein specifically provided, Wis. Stats. § 167.10 regulating the sale and use of fireworks, including the definition of fireworks in Wis. Stats. § 167.10(1), exclusive of any penalty imposed thereby, is adopted by reference, and made part of this article as if fully set forth.

**National fire protection association standards adopted by reference.**

NFPA 1123, "Fireworks Display" and NFPA 1124, "Fireworks and Pyrotechnic Articles" are adopted by reference and made part of this article as if fully set forth herein. Wherever the provisions of state law conflict with NFPA 1123 or 1124, the more restrictive provision shall apply.

### **Sale, possession and use restricted.**

No person may sell fireworks, or possess fireworks with intent to sell, or use fireworks, except as allowed in this article.

### **Exclusions.**

This section shall not apply to:

(1) Explosives, ammunition and blasting agents handled and used in accordance with construction or mining purposes, in which such action is in accordance with other ordinances and statues.

(2) The use of or sale of blank cartridges for circus or theatrical purposes, or signal purposes in athletic contest or sport events, or use by militia, police or military organizations, nor the use or sale of colored flares or torpedoes for railway, aircraft, or highway signal purposes.

(3) Pyrotechnic display approved by the Gibraltar Town Board.

(4) Any person who, without the intent to sell the fireworks in the Town, is in the possession of fireworks while transporting the fireworks to a municipality where the possession of the fireworks is authorized by permit or ordinance, provided, however, that this exclusion does not apply if the person remains within the Town for a period of more than 12 hours.

### **Parental liability**

A parent, foster, or family-operated group home parent or legal guardian of a minor who consents to the use of fireworks by the minor who is under the age of 18 years of age is liable for damages caused by the minor's use of fireworks, and in addition shall be subject to the penalty provided in the fee schedule.

**State Law reference**— Parental liability for acts of minor child, Wis. Stats. § 895.035.

### **Seizure**

The fire chief or police chief shall seize, at the expense of the owner, all fireworks stored, handled, sold, possessed or used by any person who violates this section. Such seized fireworks shall be destroyed after conviction for a violation.

### **Public displays, permits and fees.**

This section shall not prohibit the use of fireworks for pyrotechnic displays sponsored by public authorities, fair associations, amusement parks, park boards or civic organizations if a permit for such display is issued by the Town.

(1) Application for permits. An application for a fireworks permit shall be made in writing to the Town at least 30 days in advance of the date of the display. The application shall be reviewed by the fire chief or his/her designee.

(2) Fee. An application for permit shall be accompanied by a fee in the amount established by the Town Board. In the event the application is denied, the permit fee shall be refunded; provided, however, that the Town Board may by ordinance establish a nonrefundable administrative fee for processing of denied application in which event the administrative fee shall be withheld upon refund of the permit fee.

(3) Sponsor. The sponsor of the event shall provide the following information to the Town in the application: Name and qualifications of operators (operators must be at least 18 years of age), proof of insurance (minimum of \$1,000,000.00 bodily injury/property damage) location of event and proposed method of spectator control and protection.

(4) Display conditions. The operator shall provide the Town at the time the application for permit is submitted with details concerning the display of the fireworks. These details shall be used to evaluate the safety precautions planned for the display. The department will base its evaluation upon the NFPA standards. Such conditions shall be submitted to the permit holder and the operator in writing. The operator shall comply with all conditions found to be required for the display. The Town may impose conditions on the display.

(5) Day of display requirements. At least four hours prior to the start of the display, the operator shall make contact with the fire chief or his/her designee to obtain conditional approval for the display to occur. The fire chief or his/her designee may prohibit or terminate the use or display of fireworks or pyrotechnic special effects material when in the opinion of the fire chief or his/her designee atmospheric conditions or local circumstances make such use or display a fire or other hazard or otherwise endangers the safety of the public.

### **Penalty**

a. Any person found guilty of violating this ordinance or any part of this ordinance, shall be subject to a forfeiture of not less than \$50.00 or more than \$500.00 Together with the costs of prosecution and in rueful default of payment of such forfeiture and cost of prosecution, shall be imprisoned in the county jail until said forfeiture is paid, but not exceeding 60 days.

b. Any person, firm, or corporation, violating any of the sub-sections of this ordinance may stipulate to the guilt or no contest and may pay to the Clerk of Court a bond according to a schedule prescribed by the Circuit Court of Door County. Such stipulation will make it unnecessary for the subject charged to appear in court and will act as a basis for the court to enter judgment and order forfeiture of the bond. Forfeitures, penalty assessments, costs and fees shall be disbursed as provided in Wisconsin Statutes, Section 66.12.

### **Enforcement**

a. Enforcement shall be by citation

b. Schedule of Deposits. Deposits shall be made in cash, money orders, or certified check to the Clerk of Door County Circuit Court, who shall provide a receipt to the other office and the amount of the

forfeiture schedule shall be stated above or such amount that the Circuit Court of Door County hereafter affixes.

**Reference to Statutes**

Reference to specific statutory sections whenever used in this ordinance, shall mean Wisconsin Statutes as amended, modified, repealed or otherwise altered by the State Legislature.

**Severability**

If any of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such a decision shall not affect the validity of any other provisions of this ordinance.