

## ORDINANCE NO. 633

### AN ORDINANCE AMENDING SECTION 9.04 OF THE MUNICIPAL CODE OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, RELATED TO FIREWORKS

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THE COMMON COUNCIL OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, DOES ORDAIN AS FOLLOWS:

**SECTION 1: Section 9.04 is repealed and recreated to read as follows:**

**9.04 Fireworks Prohibited.**

- (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 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 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 or audible and visible effects, and that 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) Possession and use, state statutes adopted. Possession and use of fireworks shall be regulated according to the provisions of § 167.10, Wis. Stats., as the same are from time to time amended, which are hereby adopted and incorporated by reference herein.
- (3) User's Permit.
- (a) No person may possess or use fireworks without a User's Permit which may be issued by the Mayor of the City of Delafield. A User's Permit, if issued, shall authorize the holder of the User's Permit to use fireworks for public or private celebrations as identified in the User's Permit. Application for issuance of a User's Permit shall be submitted to the City Clerk, on forms provided by the Clerk, together with a User's Permit fee as determined by resolution by the Common Council from time to time.
  - (b) All applications for a User's Permit shall be referred to the Fire Chief for investigation, and no User's Permit shall be granted unless the Mayor, from the report of the Fire Chief, determines that the applicant will use the fireworks in a public or private exhibition, that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons, and that the display will be handled by a competent operator and conducted in a suitable, safe place and manner. Before granting any fireworks permit, the applicant shall file with the City Clerk, a certificate of liability insurance issued by the insurance company issuing liability and property damage insurance coverage for the property, or any insurance company authorized to write such policies in the State of Wisconsin in the amount of one million (\$1,000,000.00) dollars for bodily injury to any one person, and in the amount of one million (\$1,000,000.00) dollars for damage to property that may arise by reason of use or discharge of the fireworks under the User's Permit. The City of Delafield shall be named as an additional insured under the terms of those policies.
  - (c) Any User's Permit under this section 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, time and location of permitted use.
    - 5. Such other information as may be required by the City, from time to time.
  - (d) Notice of issuance of a User's Permit shall be given to the Fire Department and Police Department at least 48 hours before the date of authorized use.
- (4) Enforcement.
- (a) In addition to other penalties prescribed under this section, the City may petition the circuit court for an order enjoining any violation of this section or § 167.10, Wis. Stats.

(b) Any fireworks stored, handled, sold, possessed or used by the person who violates any provision of this section shall be seized. The fireworks shall be destroyed after conviction for a violation or otherwise returned to the owner.

(5) Penalties. Any person who shall violate any provision of this section shall upon conviction pay a forfeiture of not less than \$100 nor more than \$500, together with the costs of the action, and upon default of payment thereof, shall be imprisoned in the county jail for a period not to exceed 90 days or until such forfeiture and costs are paid. Each day during which a violation of this section is permitted to exist shall be deemed to be a separate violation.

**SECTION 2:**

All ordinances or parts of this ordinance conflicting or contravening the provisions of this ordinance are hereby repealed.

**SECTION 3:**

This Ordinance shall become effective upon passage and publication as required by law.

Dated this 3<sup>rd</sup> day of May, 2010.

CITY OF DELAFIELD

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Ed McAleer, Mayor

ATTEST:

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Gina C. Gresch, MMC/WCPC  
City of Delafield Clerk-Treasurer  
Waukesha County

Date Adopted: May 3, 2010  
Date Published: May 11, 2010  
Effective Date: May 12, 2010



## APPLICATION & PERMIT TO DISPLAY FIREWORKS FOR ENTERTAINMENT PURPOSES\*

Organization: \_\_\_\_\_

Permit Holder's Name: \_\_\_\_\_

Permit Holder's Address: \_\_\_\_\_  
(City State ZIP)

Phone Number: \_\_\_\_\_ Cell: \_\_\_\_\_

Date on and after which fireworks may be purchased: \_\_\_\_\_

Type and quantity of fireworks which may be purchased: \_\_\_\_\_

Date(s) of Event: \_\_\_\_\_

Location of Event \_\_\_\_\_

Time of Event (beginning to end) \_\_\_\_\_

\*The fireworks display will be authorized by the Lake Country Fire & Rescue Department, Delafield Police Department and Mayor, and based on the following criteria:

1. The Lake Country Fire & Rescue Department Fire Chief or his/her designee will inspect the location/display/detonation area and grounds prior to the display of fireworks.
2. Proof of indemnity bond and/or adequate liability insurance shall be provided, \$1,000,000. A true copy of the Certificate of Insurance is attached indicating that the Municipality, Lake Country Fire & Rescue Department and applicable associations, recreations or committees formed by the municipality to organize the "Event" named as additional insured on all liability policies.
3. I, \_\_\_\_\_ agree to release, indemnify, and hold harmless the City of Delafield from and against any loss, damage of liability, including attorney's fees and expenses, incurred by the latter and their respective employees, agents, volunteers, or other representatives arising out of or in any manner relating to the manufacture, installation, firing or disassembly of any pyrotechnic equipment or device and/or the supervision and presentation thereof.

\_\_\_\_\_  
Permit Holder Signature Date

\_\_\_\_\_  
L.C.F.R Fire Chief, Jack Edwards Date

\_\_\_\_\_  
Police Chief, Scott Taubel Date

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Mayor, Ed McAleer Date