

ORDINANCE NO. 05-2014

**AN ORDINANCE AMENDING ARTICLE VIII ENTITLED FIREWORKS
WITHIN CHAPTER 14 - BUSINESSES AND AMENDING DIVISION 3
ENTITLED FIREWORKS OF ARTICLE II - CRIMES AGAINST PUBLIC
SAFETY WITHIN CHAPTER 30 -MISCELLANEOUS OFFENSES OF
THE TOWN OF YORKVILLE CODE OF ORDINANCES**

The Town Board of the Town of Yorkville, Racine County, Wisconsin, do ordain as follows:

1. That Article VIII entitled Fireworks under Chapter 14 of the Town of Yorkville Code of Ordinances regarding Fireworks be, and hereby is, amended to read as follows:

“Sec. 14-431. Definitions.

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:

- (1) Fuel or a lubricant.
- (2) A firearm cartridge or shotgun shell.
- (3) 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.
- (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- (5) 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.
- (6) A toy snake which contains no mercury.
- (7) A model rocket engine.
- (8) Tobacco and a tobacco product.
- (9) 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.
- (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
- (11) 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.
- (12) 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.
- (13) 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.

- (14) 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.
- (15) A novelty device that spins or moves on the ground.

Sec. 14-432. Sale and Use.

- (a) **Sale Prohibited.** No person may sell or possess with intent to sell any fireworks or those devices described in Sec. 14-431 (5), (6), (9) through (14) within the limits of the Town.
- (b) **Permit Required for Use.** No person may use or possess fireworks as described in Sec. 14-431 (5), (6), (9) through (14) within the Town without a user's permit from the Town. Fireworks, other than those prohibited by the laws of the state, may be used and displayed in open fields, public parks, private parks or rivers, lakes, and ponds.
- (c) **Application.** All permit applications shall be filed with the clerk-treasurer in writing upon payment of an application fee in an amount set from time-to-time by the Town Board. All applications shall be on a form prepared by the Town Clerk and shall include at a minimum the following:
 - (1) The name and address of the permit holder;
 - (2) The kind and quantity of fireworks which will be used; and
 - (3) The date and location of permitted use.
- (d) **Referral and Approval.** The Town Clerk shall refer complete applications to the town board for review and approval following review and recommendation by the chief of the fire department and the Code Enforcement Officer. A user's permit may be issued by the town chairperson or his designee to a person listed under subsection (e)(1) through (e)(7) of this section upon receiving approval by the Town Board. The issuance of any such permit shall not be deemed a guarantee by the Town or any of its officers or designees that the use of any fireworks shall be safe. Permits issues shall contain all of the following information:
 - (1) The name and address of the permit holder;
 - (2) The general kind and approximate quantity of fireworks which have been approved for use;
 - (3) The date and location of permitted use; and
 - (4) Other special conditions prescribed by ordinance.
- (e) **Authorized Permittees.** A permit under this section may be issued only to the following:
 - (1) A public authority.
 - (2) A fair association.
 - (3) An amusement park.
 - (4) A park board.

- (5) A civic organization.
- (6) An individual or a group of resident or nonresident individuals.
- (7) An agricultural producer for the protection of crops from predatory birds or animals.

(e) **Miscellaneous Prohibitions.**

- (1) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (2) No person may use a device listed under Section 14-431 (5), (6), (9) through (14) within the town, except upon private property with the owner's consent.
- (3) No person may possess or use fireworks or a device listed under Section 14-431 (5), (6), (9) through (14) while attending any permitted fireworks display.
- (4) No permit shall be granted for the display or use of any fireworks within 100 feet of any gasoline pump, gasoline filling station or bulk station or any building in which gasoline or volatile liquid is sold in quantities in excess of one gallon.
- (5) A permit under this section may not be issued to a minor.

Sec. 14-433. Liability Insurance Required.

The person issuing a permit under this Article shall require a policy of liability insurance showing evidence of fireworks liability, 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 granted under this Article, in the amount of no less than \$1,000,000, with the Town of Yorkville named as an additional insured. Any person injured thereby may bring an action on the policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the insurer to all persons shall not exceed the amount of the bond or policy. The policy and documentation showing the Town as an additional insured shall be filed in the office of the clerk-treasurer prior to permit issuance.

Sec. 14-434. Permit to be Provided to Fire Chief and Code Enforcement Officer.

A copy of a permit under this section shall be given to municipal fire chief and code enforcement officer at least two days before the date of authorized use.

Sec. 14-435. Parental Liability.

A parent or legal guardian of a minor who consents to the use of fireworks by a minor is liable for damages caused by the minor's use of the fireworks.

Sec. 14-436. Enforcement.

Fireworks stored, handled, sold, possessed or used by a person in violation of this Article, shall be seized. The fireworks shall be destroyed after conviction for a violation; and if not convicted shall be otherwise returned to the owner.

Sec. 14-437. Penalty.

A person, or a parent or legal guardian of a minor who consents to the use of fireworks by the minor, who violates this Article shall forfeit not more than \$1,000.00.

Sec. 14-438-14-460. Reserved.”

2. That Division 3 entitled Fireworks of Article II - Crimes Against Public Safety within Chapter 30 - Miscellaneous Offenses of the Town of Yorkville Code of Ordinances regarding Fireworks be, and hereby is, amended to read as follows:

“Sec. 30-71. Fireworks Prohibited.

No person shall sell, use, keep, discharge or explode any fireworks, except as provided in Section 14-431 et seq.

Sec. 30-72. Penalty.

A person, or a parent or legal guardian of a minor who consents to the use of fireworks by the minor, who violates this Division shall forfeit not more than \$1,000.00.

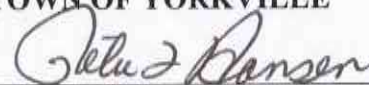
Sec. 30-73 – 30.90. Reserved.”

3. That this ordinance shall become effective upon adoption and publication as provided by law.

Adopted by the Town Board of the Town of Yorkville, Racine County, Wisconsin, this 9th day of June, 2014.

Ayes: 2
Nays: 0
Abstentions: 0

TOWN OF YORKVILLE

By: 
Peter L. Hansen, Chairperson

Attest: 
Michael McKinney, Clerk-Treasurer