

## **PART III GENERAL LEGISLATION**

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#### **36.01 Fire department organization.**

A. The Delton Fire and Ambulance Commission, comprised of the Village of Lake Delton and the Town of Delton, created pursuant to agreement between the Village and the Town as authorized by s. 66.0301, Wis. Stats., is responsible for the operation and maintenance of the Delton Fire Department. The Delton Fire and Ambulance Commission is responsible for the program of fire defense for the citizens and property within the Village. The Delton Fire Department is officially recognized as the fire department serving the Village, and the duties of firefighting and fire prevention in the Village are delegated to such department.

B. The Village shall appropriate funds for operations and for such apparatus and equipment for the use of the fire department as it may deem expedient and necessary to maintain efficiency and to properly protect life and property from fire.

#### **36.02 Village fire chief.**

A. Appointment of Fire chief. The Village Board shall appoint as village fire chief the fire chief appointed by the Delton Fire and Ambulance Commission. At all times the fire chief shall be an employee of the Delton Fire and Ambulance Commission. The Delton Fire and Ambulance Commission shall appoint all other members of the fire department in accordance with the Commission rules and procedures.

B. Duties of the Fire chief.

1. The fire chief shall have full authority over all fire department operations and apparatus and shall establish such rules and regulations for the Delton Fire Department as may be necessary and proper for the best efficiency and service of the department and the caring for and management of the fire apparatus and equipment and fire station of the Delton Fire and Ambulance Commission.
2. The Fire Chief shall be responsible for the review and approval of any plans for development, redevelopment or improvements within the village in order to ensure that they comply with the Village Fire Code.
3. The Fire Chief shall be responsible for all fire inspections as required by federal, state and village laws, rules or regulations.
4. The Fire Chief shall advise the Village Board of matters subject to this code and the operation of the Fire Department.
5. The Village Fire Chief shall serve as the Village Emergency Management Director.

**36.03 Fire inspection duties.**

A. The Village Board may enter into an agreement with the Delton Fire and Ambulance Commission to provide fire inspection services for the Village. In the alternative, the Village Fire Chief shall supervise fire inspections in the Village of Lake Delton and shall have the power to appoint one or more deputy fire inspectors and shall perform all duties required of the fire inspectors by the laws of the State and rules of the Department of Safety and Protective Services. While acting as fire inspector pursuant to s. 101.14(2), Wis. Stats., the Fire Chief, or any officer of the Delton Fire Department designated by the Fire Chief, or any officer, agents or contractor of or with the Village or the Delton Fire and Ambulance Commission, shall have the right and authority to enter any commercial, multi-family or other building open to the public, or upon any premises in the Village of Lake Delton at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of the Fire Code, he/she may deem necessary. All inspections shall be with the permission of the owner or tenant, or in case inspection is refused, pursuant to a Special Inspection warrant as provided under s. 66.0119, Wis. Stats. Such inspections shall be made at least once in each year provided that inspections shall not be more than 15 months apart. Written reports of inspections shall be made and kept on file in the inspection office of the fire department in accordance with the regulations of the Department of Safety and Professional Licensing.

B. The Fire chief, or his/her designee, shall investigate the origin, cause and circumstances of every fire occurring in the Village of Lake Delton. The Fire Chief shall take steps to obtain physical evidence, notify the proper law enforcement authorities and cooperate with other agencies as required in the prosecution of the case.

C. In the event of a structure fire, prior to returning control of the structure to the owner or occupants thereof, the Fire Chief, or his designee, shall inspect the structure and shall determine whether or not it is safe for occupancy or use. If in the judgment of the Fire Chief, or his designee, the structure is not safe, the Fire Chief, or his designee, shall issue an order prohibiting occupancy or use of the structure until issuance of an occupancy permit by the Village building inspector. The Fire Chief, or his designee, shall also affix a notice of such order in a conspicuous place on the outside wall of the building and no person shall remove or deface such notice. Any person who fails to comply with any such order shall be guilty of a violation of this chapter.

### **36.04 Fire/rescue scene control and safety.**

A. Police Authority. The Fire chief or Officer in Command at any fire or rescue is hereby vested with full police authority at the scene. Any officer of the fire department may cause the arrest of any person failing to give the right-of-way to the fire department in responding to a fire or rescue.

B. Fire Scene Safety. The Fire chief or Officer in Command may prescribe certain limits in the vicinity of any fire or rescue within which no persons, excepting firefighters and those admitted by order of any officer of the department, shall be permitted to come.

C. Removal of Property. The Fire Chief or Officer in Command shall have the power to cause the removal of any vehicles, other private or public property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and, during the progress of any fire, he/she shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the fire department during the progress of a fire or rescue.

D. Driving Over Fire Hoses. No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the Village of Lake Delton, and no vehicle shall be driven over any unprotected hose of the fire department when laid on any street, private driveway or other place, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

E. Parking Vehicles near Hydrants. It shall be unlawful for any person to park any vehicle or leave any object within ten (10) feet of any fire hydrant at any time.

F. No Parking near a Fire or Rescue. It shall be unlawful for any person, in case of fire, to drive or park any vehicle within three hundred (300) feet from the fire/rescue scene without the consent and authority of the Fire Chief or person in command.

G. Entering Adjacent Property. It shall be lawful for any firefighter, while acting under the direction of the Fire Chief or Officer in Command, to enter upon the premises adjacent to or in the vicinity of a building or other property, then on fire, for the purpose of extinguishing such fire and no person shall hinder, resist or obstruct any firefighter in the discharge of this duty.

H. Destruction of Property to Prevent the Spread of Fire. During the progress of any fire, the Fire Chief or the Officer in Command shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire, provided that it is inevitable that, unless such property is removed, other property is in danger of being destroyed by fire.

I. Interference with Emergency Equipment Prohibited. No person shall drive or operate any motorized or other vehicle over any portion of any street or alley occupied by the engines, auto trucks or other vehicles or apparatus of the Fire Department when engaged in responding to an emergency unless precaution is taken so as not to do any injury to any property or apparatus of the Fire Department or interfere with the operation of the same.

J. Hindering firefighters. No person shall willfully offer any hindrance or resistance to a firefighter in the discharge of his/her duty.

K. Police Authority of Fire Chief. The Fire Chief and the Officer in Command shall have the same powers and authority as a police officer of the Village of Lake Delton while performing the duties of Fire Chief under this ordinance.

### **36.05 Fire and safety regulations.**

A. Adoption of National and State Codes.

1. The Fire Prevention Code of the National Fire Protection Association (NFPA 1), as modified by the Wisconsin Department Safety and Protective Services, Wisconsin Administrative Code section SBS 314 and as amended is hereby adopted.

2. The following orders, rules and regulations of the Department of Safety and Protective Services, all of which are set forth in the Wisconsin Administrative Code as from time to time amended, are incorporated herein by reference and adopted as part of this Chapter:

<b>SBS 305</b>	Licenses, Certifications and Registrations
<b>SBS 307</b>	Explosive Materials
<b>SBS 309</b>	Manufacture of Fireworks
<b>SBS 310</b>	Flammable and Combustible Liquids
<b>SBS 314</b>	Fire Prevention
<b>SBS 316</b>	Electrical
<b>SBS 318</b>	Elevators, Escalators and Lift Devices
<b>SBS 323</b>	Heating, Ventilating and Air Conditioning
<b>SBS 328</b>	Smoke Detectors
<b>SBS 330</b>	Fire Department Safety and Health Standards
<b>SBS 340</b>	Gas Systems
<b>SBS 343</b>	Anhydrous Ammonia
<b>SBS 362</b>	Buildings and Structures
<b>SBS 366</b>	Existing Buildings
<b>SBS 370</b>	Historic Buildings
<b>SBS 375-79</b>	Existing Buildings
<b>SBS 381-87</b>	Plumbing

B. Access for Fire Apparatus Required. All premises, public or private, shall be provided with suitable access roads and fire lanes so that all buildings on the premises are accessible to fire apparatus and/or firefighters. The Fire Chief shall determine accessibility. Fire lanes shall be established on public or private property devoted to public use where the parking of motor vehicles or other obstructions may interfere with the ingress and egress of Fire Department vehicles, personnel and equipment for the protection of persons and property. Access roads to commercial or multi-family developments must be at least twenty-two (22) feet wide to provide access for emergency vehicles entering or leaving the property. Any dead-end street in excess of three hundred (300) feet shall provide a turn around area for emergency vehicles. Turn around areas shall be T-type, or cul-de sac, with a turning radius of at least fifty (50) feet. Any multi-family building, or any commercial building exceeding 50,000 cubic feet in volume and not served by a sprinkler system shall provide access to at least two (2) exterior walls of each building. For buildings equipped with fire department connections, fire hydrants must be located within one hundred fifty (150) feet of the fire department connection. In the event of unique circumstances applying to a property which makes it impractical or unduly burdensome to provide access to two (2) sides of a building, the Village Board may conditionally waive compliance with this subsection provided that the waiver does not unduly jeopardize public safety. The Fire Chief shall review any waiver request and advise the Board on the alternative designs that ensure adequate access for fire apparatus, equipment and personnel.

1. Designation, Marking and Maintenance of Fire Lanes. The designation, marking and maintenance of fire lanes shall be accomplished as specified by the Fire Chief. The current Wisconsin Department of Transportation standards for highway marking shall be used as guidelines in designating and marking any fire lanes. Fire lanes shall be at least twenty (20) feet wide and thirty (30) feet long and unobstructed.

2. Obstructing Fire Lanes. Obstructing fire lanes shall be prohibited at all times, including the accumulation of snow. In the event it becomes necessary for a property owner to obstruct a designated fire lane, he/she must first obtain written permission from the Fire Chief.

3. Required Access Within Construction Areas. Every building under construction shall be accessible to fire department apparatus by way of an access roadway. Prior to the delivery of any combustible materials, an access roadway shall be in place and accessible to fire equipment. A driving surface of at least road base quality gravel shall be maintained at all times in order that all-weather integrity is assured. The roadway shall be capable of supporting the imposed loads of fire apparatus. During the winter months, the roads shall be maintained to include proper and timely snow removal. Failure to comply with these requirements shall result in revocation of building permits and/or refusal to issue permits.

4. Citations. Any person who violates any provision of this subsection or fails to comply with any of its requirements shall upon conviction thereof forfeit not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00).

C. Elevators. All buildings constructed after the effective date of this ordinance that are equipped with elevators shall provide at least one (1) elevator with an interior car measuring at least five (5) feet by eight (8) feet in order to accommodate emergency equipment.

D. Manufacture of biofuels. No person may store, produce bio-fuels in any residential building or any structure attached to or within ten (10) feet of any residential building.

### **36.06 Open Burning.**

A. Purpose. This section is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Village of Lake Delton due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

B. Definitions. The terms used in this section are defined as follows:

“**Bonfire**” means the open burning of combustible materials, whose products of combustion are emitted directly into the open air and are not directed through a stack or chimney that is greater than four (4) feet in diameter.

“**Campfire**” means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.

“**Clean Wood**” means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

“**Confidential papers**” means printed material containing personal identification or financial information that the owner wishes to destroy.

“**Control devise of structure**” means structures or devices capable of containing the fire including but not limited to a fire ring, fire pit, or barrel.

“**Fire Chief**” means the Village Fire Chief or other person authorized by the Fire Chief.

“**Open Burning**” means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

“**Refuse**” means any waste material except clean wood.

C. Prohibition on Open Burning. Open burning, outdoor burning and refuse burning are prohibited in the Village of Lake Delton unless the burning is allowed under subsection 36.06 D, or permitted by the Fire Chief.

D. Open Burning Allowed. Subject to the Fire Safety requirements set forth in subsection E, the following types of Open Burning are allowed:

1. Outdoor cooking over a fire contained in a device or structure designed for such use, except for outdoor cooking on balconies, patios and decks in non-owner occupied buildings, which is prohibited.

2. Campfires provided that they are not more than four (4) feet in diameter and contained within a control device or structure.

3. Outdoor fires that are fueled by gas or LP provided that all devices are approved by Underwriter's Laboratory. All wood burning bonfires and campfires must comply with the following: Clean and dry wood or dimensional lumber is allowed.

4. All Open Burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways.

5. Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when the Fire Chief or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the area.

6. Except for barbecue, gas and charcoal grills, no open burning may be conducted on days when the Department of Natural Resources has declared an Air Quality Watch or Air Quality Advisory for ozone or fine particle pollution applicable to the Village of Lake Delton.

(MODIFYING AND AMENDING 36.06 (D) BY ORDINANCE 16-002 Passed: March 28, 2016 Published: April 2, 2016)

E. Open burning permits. The following types of open burning require a permit issued by the Village Fire Chief:

1. Open burning conducted by a commercial enterprise for agricultural or silvicultural purposes.

2. Ceremonial and or recreational bonfires.

F. Fire Safety requirements:

1. Campfires must be at least ten (10) feet from the nearest building.

2. Bonfires must be at least twenty (20) feet from any structure

3. Campfires and bonfires shall be constantly attended and supervised by a competent person until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

4. All bonfires must have an improved perimeter of fire resistant material so as to prevent the spread of fire as well as prevent bystanders from falling into the fire. The perimeter must be constructed to an elevation of at least twenty-four (24) inches above the ground. A diagram of the proposed location must be submitted with the permit application

5. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.

6. No burning shall be undertaken within ten (10) feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit.

G. Application for permit. In order to qualify for a permit required by this section the following information shall be submitted to the Fire Chief:

1. The name of the applicant and the location of the proposed fire.

2. Identify the responsible adult or adults supervising the fire.

3. Specify the amount of wood to be burned.

4. Specify the means to control the fire.

5. Identify and describe the non-combustible device or structure to surround the fire.

6. The dates and times for the bonfire.

7. A diagram of the bonfire showing the device or structure used to contain the fire and a description of the ground vegetation immediately around the bonfire, the presence of overhanging trees above the bonfire if any, the availability of water to suppress the fire, the maximum allowable wind conditions at the time of fires, and the proximity to structures and other flammable materials.

8. The management plan for controlling the fire including the identification and training of all employee(s) tasked with igniting, supervising, and extinguishing the bonfires.

9. Proof of liability insurance must be filed with the permit application.

10. Clean and dry wood or dimensional lumber is allowed.

H. Materials that may not be burned.

1. Unless a specific written approval has been obtained from the Department of Natural Resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device. The Fire Chief will not issue a permit for burning any of the following materials without air pollution control devices and a written copy of an approval by the Department of Natural Resources.

- a. Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
- b. Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.
- c. Asphalt and products containing asphalt.
- d. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- e. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- f. Rubber including tires and synthetic rubber-like products.
- g. Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the provisions of Village Municipal Code Chapter 37 except as provided in Subsection 36.06 (D).

I. Exemption for burning certain papers. Notwithstanding the prohibitions set forth in Section 36.06 (C), paper and cardboard products may be used as a starter fuel for a fire that is allowed under this Chapter. Small quantities of confidential papers from a residence may be burned if necessary to prevent the theft of financial records, identification or other confidential information. Confidential papers from a commercial enterprise may not be burned and shall be shredded or destroyed in a manner other than burning.

(MODIFYING AND AMENDING 36.06 BY ORDINANCE 14-021 Passed: August 25, 2014 Published: September 17, 2014)

### **36.065 Outdoor Furnaces.**

No person shall install, use or maintain an outdoor wood-fired furnace in the village without a permit issued by the Village Board. The applicant shall submit an application for an outdoor wood-fired furnace to the Village Clerk on a form prepared by the Village Building Inspector. Upon review of the application and approval by the building inspector, the clerk shall put the application on the agenda for the next Village Board meeting.

### **36.066 Standards for operating outdoor furnaces.**

An outdoor wood-fired furnace may be installed and used only in accordance with the following provisions:

A. The outdoor wood-fired furnace shall be commercially manufactured in accordance with all federal and state regulations and installed and used only in an area where smoke emission will not adversely impact neighboring properties.

B. The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in section 36.067.

C. The outdoor wood-fired furnace shall be located at least five hundred (500) feet from the nearest building, which is not on the same property as the outdoor wood-fired furnace.

D. The outdoor wood-fired furnace shall have a chimney that extends at least eighteen (18) feet above the ground surface. If there are any residences within five hundred (500) feet of the chimney, the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The village building inspector may recommend approval of a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

### **36.067 Materials that may not be burned.**

The following materials may not be burned in outdoor furnaces unless a specific written approval has been obtained from the Department of Natural Resources and the village fire chief:

- A. Petroleum products.
- B. Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris, other household or business wastes or any chemicals and asbestos.
- C. Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.
- D. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- E. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers.
- F. Rubber including tires and synthetic rubber-like products.
- G. Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance except as provided in Section 11 of this ordinance.
- H. Violation of this section may result in the termination of the permit.

### **36.07 Fire Protection Systems.**

- A. Wisconsin Administrative Code Chapter SPS 379 regulating apartment houses and hotels is hereby adopted and incorporated herein.
- B. The owner, operator, landlord, manager or condominium association of every commercial and multi-family building with an electronic fire alarm system shall operate and maintain the system in accordance with the requirements of SPS 375.29. Wis. Admin. Code.
- C. The owner, operator, landlord, manager or condominium association of every commercial and multi-family building with an automatic sprinkler system shall operate and maintain the system in accordance with the requirements of SPS 375.28. Wis. Admin. Code.
- D. The owner, operator, landlord, manager or condominium association of every commercial and multi-family building shall maintain records demonstrating compliance with the requirements of sections SPS 375.28 and 29. Wis. Admin. Code.
- E. Every owner, landlord, manager or condominium association of a commercial and/or multi-family building with an electronic fire alarm system and or automatic sprinkler system shall file a certification from a fire inspector, that an inspection of the fire alarm and or sprinkler systems has been conducted and that said inspection found that the systems were operating in accordance with the manufacturer's specifications and in compliance with the applicable state code.

F. The inspections and reports required under s. 36.07 shall be conducted and filed with the Village Fire Chief in accordance with the requirements of s. 101.14, Wis. Stats., and as further directed by the Village Fire Chief. The inspection report and certification filed under this section shall be in such form as required by the State of Wisconsin and as modified by the Village Fire Chief.

G. For purposes of this section fire inspector means a person licensed by the state of Wisconsin, Department of Safety and Professional Services under Wisconsin Administrative Code Chapter SPS 305.

H. Smoke alarms are subject to the following requirements:

- (1) No smoke alarm, including an alarm that exists on September 1, 2011, may remain in service for more than that specified by the manufacturer. No smoke alarm that uses a battery as its primary power source shall be used in multi-family or commercial buildings after April 1, 2014
- (2) The replacement of a smoke alarm that uses a battery as its primary power source shall be a new smoke alarm that complies with UL 217 and either of the following:
  - (a) The alarm is hardwired in accordance with IBC section 907.2.11.4 and has backup power in accordance with that section.
  - (b) The alarm uses, as its primary power source, a non-replaceable, non-removable battery that is capable of powering the alarm for at least 10 years.

### **36.08 Fire Hydrants.**

A. Fire hydrant location. No portion of a commercial, industrial public building may be more than three hundred (300) feet from a fire hydrant. Distances from a building to a fire hydrant shall be measured using the travel distance from the hydrant, along the centerline of a municipal street or private road suitable for travel by fire apparatus. Additional hydrants shall be provided around the perimeter of the building or complex so that no hydrant is more than four hundred (400) feet from any other approved hydrant.

B. New construction. For new construction, hydrants required by this chapter shall be installed and made operable prior to permitting construction to progress beyond the footing and foundation stages. All water mains and hydrants shall be installed in compliance with the standards of the Village of Lake Delton specifications. For all subdivisions and condominium plats or other land developments occurring after the enactment of this ordinance the hydrants shall be installed so that no building is more than three hundred (300) feet from a fire hydrant.

C. Marking of Fire Hydrants. Fire hydrants installed adjacent to a public right of way or private road with a curb shall be marked with the curb painted yellow. The curb shall be painted to produce a twenty (20) foot stripe extending ten (10) feet to each side of the hydrant. Striping on private roads shall be the responsibility of the owner.

D. Blocking of Fire Hydrants Prohibited. No person shall park any vehicle within ten (10) feet of any fire hydrant or otherwise interfere with the accessibility of any fire hydrant by piling, dumping or placing any other obstructive material or object within ten (10) feet of a fire hydrant. Every day during which such interference continues shall constitute a separate offense.

### **36.09 False alarms.**

A. False Alarms. No person shall in the Village of Lake Delton activate or cause to be activated a false fire alarm or fail to promptly repair an improperly functioning fire alarm system on premises for which such person is the owner or responsible party. The fire department shall notify the owner of, or responsible party for, any premises, in writing, of a false fire alarm. For purposes of this section a false fire alarm shall mean any report received by the Fire Department from any source resulting in a response by the fire department to the premises on which an alarm system is located, where an emergency situation does not exist.

B. Inspection and Reporting Requirements. After a second false fire alarm has occurred on any premises, the responsible party shall file with the Fire Chief a written explanation by a certified alarm technician as to why the false fire alarm occurred; and a certificate of a certified alarm technician of the repairs or other measures which will be required to prevent future false alarms by the fire alarm system.

C. Excessive False Alarms. Each responsible party of the premises in which a violation of subsection (B) has occurred shall upon conviction be subject to the following forfeitures: No forfeiture for the first two (2) false alarms in any year; for the third (3<sup>rd</sup>) false alarm in any year, a forfeiture of not less than two hundred fifty dollars (\$250) plus the costs of prosecution; and the forfeiture is doubled for each false alarm thereafter, plus applicable assessments, penalty surcharge and court costs.

### **36.10 Fireworks.**

The Statutory provisions of s. 167.10, Wis. Stats. describing and defining regulations with respect to fireworks are hereby adopted and by reference made a part of this Ordinance as if set forth in full herein except for those provisions that are expressly modified herein. The definition of "fireworks" shall be as stated in s. 167.10(1), Wis. Stats. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this ordinance.

### **36.11 Future amendments, revision or modifications.**

Any future amendments, revisions or modifications of the statutes and regulations incorporated herein are made part of this Ordinance. In the event of a conflict between the provisions of this ordinance and any state code, law or village ordinance, the more restrictive provision shall apply.

### **36.12 Prohibitions, unlawful acts.**

Except as provided in s. 167.10(2), Wis. Stats., no person, agent, firm or corporation may sell, display, offer to sell, possess or possess with intent to sell, store, give away or use fireworks within the Village of Lake Delton. No person shall allow or permit fireworks to be used or exploded on his/her premises or on premises he/she controls in violation of this ordinance.

### **36.13 Exceptions.**

Except as provided in s. 167.10(3) or (5)(e), Wis. Stats., no person shall possess or use fireworks without a user's permit, issued by the Village board under Section 36.16.

### **36.14. Public exhibitions.**

A. Public exhibit permit. No person, company, or association may conduct a public fireworks exhibition without a permit. This includes any person, company, or association licensed under Chapter 21 conducting a fireworks display, for viewing customers, guests and visitors on the licensed premises.

B. Public exhibition permit applications. An applicant for a permit for a public exhibition or display of fireworks shall file with the Village Clerk a written application with the following information:

1. The name, address, email address, telephone number and fax number of the association, organization, or corporation sponsoring the display, the date and time at which the display is to be held and the name(s) of the person(s) to be in charge of the display.
2. The name, address, email address, telephone number and fax number of the operator of the display along with the name of the person in charge of the display.
3. A copy of the federal fireworks display permit required by 18 USC 840.

4. A description of the proposed display identifying the size, type and specifications of the fireworks used in the display. The proposed display shall meet all state and federal regulations and the NFPA Code section 1123.
5. Identification of the date and time of the display, and proposed alternate date and time.
6. The location of the display and a detailed site plan of the property including a scale diagram of the grounds on which the display is to be held, showing the point at which the fireworks are to be discharged, and a clear zone seventy (70) feet in diameter for each inch of the largest shell to be used in the display. For example, a 6-inch (6") mortar would require four hundred twenty (420) feet separation from any building, streets, highways parking lots, and gathering places for people observing the display.
7. The exact number and sizes of fireworks to be discharged.
8. The manner and place of storage of such fireworks prior to delivery to the display site.
9. A traffic control plan.
10. A crowd control plan.
11. Identification of all public and private services providing security, emergency medical care and fire suppression.
12. Proof of insurance for personal injury and property damage of not less than one million dollars (\$1,000,000).
13. Disclosure of any incidents involving the operator of the display involving property damage or personal injury as well as any civil claim, or municipal, state or federal action brought against the operator of the display.

### **36.15. Filing and review of applications.**

- A. An application for a permit for a public exhibition or display of fireworks shall be filed with the Village Clerk at least forty-five (45) days before the date set for the display. A copy of such application shall be sent to the village fire chief, who shall make or cause to be made, an investigation of the site of the proposed display and investigate the competence and skill of the persons in charge of the firing and discharge of the fireworks. The Fire Chief shall advise the Village Board whether or not he/she approves of the application and he/she shall so advise the Village Clerk within thirty (30) days, who shall forward the application to the Village board for action. The Police Chief shall advise the Village Board on the adequacy of the traffic control plan. The applicant shall pay an application fee of two hundred fifty dollars (\$250). The Village Board may by resolution modify the application fee. Upon approval of the application by the Village Board, the Village Clerk shall issue the permit.
- B. The Village Board may grant or deny a permit after consideration of the application upon finding that the proposed display would not unduly interfere with the rights of others, cause unsafe traffic conditions or would be contrary to the health, safety and welfare of the public. The Village Board may deny a permit if the proposed display would unduly interfere with the rights of others, cause unsafe traffic conditions or would be contrary to the health, safety and welfare of the public.
- C. In the event the application for a exhibition or display of fireworks permit is not filed at least 45 days before the date set for the display, an applicant may apply for a permit upon payment of double the application fee.
- D. In addition to the provisions of paragraph B above, the Village Board may consider the applicant's compliance with previously issued permits and whether or not the applicant is in compliance with all other village ordinances in determining whether or not to issue a permit.

### **36.16 Issuance of a license; regulations.**

- A. Upon approval of the application by the village board, filing of certificate of insurance and payment of the fee, the Village Clerk shall issue the permit.
- B. The fee shall be five hundred dollars (\$500).
- C. The maximum allowable display time shall be forty-five (45) minutes and all displays must end before 11:00 p.m.
- D. No display may be commenced without the prior inspection and approval of the Fire chief or his designee. In event of unsafe conditions, the Fire Chief, or his designee, may prohibit or suspend any display. Unsafe conditions include but are not limited to wind speed in excess of 10 miles per hour, conditions presenting a fire hazard, weather, safety issues, crowd control, non-compliance with the approved fireworks permit.
- E. Any change in the plans for the display must be approved by the Fire Chief.
- F. No display shall occur outside of the allotted time period as authorized in the permit.

### **36.17 Key boxes.**

- A. Key boxes required. Commercial or industrial structures protected by an automatic alarm system, automatic suppression system, or secured in a manner that restricts access during an emergency shall be equipped with a key lock box at or near the main entrance or such location required by the Fire chief. The owner or operator of a structure required to have a lock box shall, at all times, keep key(s) in the locked box that will allow for access to the structure. The owner or operator of a structure required to have a key system shall provide to the Delton Fire Department the emergency contacts in case of an emergency. The key box shall be a type approved by the Fire Chief and shall contain those keys found to be necessary to provide emergency access.
- B. Separate units. When a structure includes separate and distinct stores, offices or other commercial or industrial uses not owned or operated by the owner of the structure, each separate unit is required to provide a key lock box and is subject to the provisions of this section.
- C. Property owner's responsibility. The property owner is responsible to ensure that keys maintained within a key box are those of the current type. When the property owner directs changes of locks within the building, the property owner shall notify the fire department prior to changing the locks so that new keys may be placed in the key box.
- D. Removal of key prohibited. Removal of any key from a key box by anyone other than the owner, or his agent, the Delton Fire department, the Village Police Department or emergency medical service personnel is prohibited.

### **36.18 Appeals.**

- A. Except for citations issued by the Fire Chief or his designee, or the Village Police Department for violations of this ordinance, any person affected by a decision of the Fire chief, or his designee, may request and shall be granted a hearing on the matter before the Village Housing and Property Maintenance Committee. Such person shall file with the Fire chief a written petition requesting such a hearing, setting forth a brief statement of the grounds thereof within ten (10) days of the day the notice was served. Upon receipt of such petition, and upon payment of two hundred dollars (\$200) payable to the Village, the Fire Chief shall advise the Village Clerk, who shall set a time and place for such a hearing, which shall be within ten (10) days, and shall give the petitioner written notice thereof. At such a hearing the petitioner shall be given an opportunity to be heard and to show why such notice or decision should be modified or withdrawn.
- B. After such hearing, the Village Housing and Property Maintenance Committee may sustain, modify or withdraw the decision, depending upon its finding as to whether this Ordinance and the rules and regulations adopted pursuant thereto have been violated.

C. Any person aggrieved by the decision of the Village Housing and Property Maintenance Committee may appeal to the Village Board.

**36.19 Penalties; enforcement.**

A. The Fire Code hereby adopted shall be enforced by the Village Fire Chief and, where applicable, by the Village Police Department. The Fire Chief is hereby authorized to issue citations with respect to ordinance violations for ordinances hereby directly related to the chief's official responsibilities in the implementation of the fire prevention code. The chief is hereby further authorized to delegate this issuance of citation authority to such fire department personnel who assist the chief in the enforcement of the Fire Prevention Codes. The Fire Chief may delegate any authority under this chapter to other department members. The provisions of the Village of Lake Delton Ordinance relative to uniform citation are hereby incorporated by reference as to the form of citation and the information to be contained therein.

B. Unless another penalty is specifically provided for elsewhere in this ordinance, any person violating any of the provisions of the Ordinance shall, upon conviction, be subject to a forfeiture of not less than twenty five dollars (\$25) nor more than five hundred dollars (\$500), together with the costs of prosecution, and upon default of payment of such forfeiture and costs, shall be subject to penalty as ordered by the court. Each day of violation of any provision of this ordinance shall be deemed to constitute a separate offense.

C. Except as hereinafter provided, any person, agent, firm or corporation violating 36.06 and/or 36.067 of this ordinance shall, upon conviction thereof, forfeit not more than five hundred dollars (\$500) for the first (1<sup>st</sup>) offense, plus costs of prosecution; and not more than one thousand dollars (\$1,000) for the second (2<sup>nd</sup>) offense, plus the costs of prosecution. Any person using or possessing fireworks for personal use in violation of the provisions of 36.12 of this ordinance shall, upon conviction thereof, forfeit not more than thirty dollars (\$30) for the first (1<sup>st</sup>) offense, plus the costs of prosecution and not more than sixty dollars (\$60) for the second (2<sup>nd</sup>) or subsequent offenses, plus the costs of prosecution.

D. In addition to penalties specifically set forth in this chapter 36, any person, agent, firm or corporation violating section 36.10 or 36.16 shall upon conviction thereof, forfeit not more than one thousand dollars (\$1,000), plus costs of prosecution.

E. Fireworks stored, handled, sold, possessed or used by a person who violates this Ordinance shall be seized. The fireworks shall be destroyed after conviction for a violation, or otherwise returned to the owner.

**36.20 Conflict of ordinances; effect of partial invalidity.**

A. If any provision of this Ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or Ordinance of the Village of Lake Delton existing on the effective date of this Ordinance, the provision which established the higher standard for the promotion and protection of the health and safety of the people shall prevail. Where a provision of this Ordinance is in conflict with a provision of any other Ordinance of the village, existing on the effective date of this Ordinance which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Ordinance shall be deemed to prevail, and such other ordinances or Ordinances are hereby declared to be repealed to the extent that they may be found in conflict with this Ordinance.

B. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect; and to this end the provisions of this Ordinance are hereby declared to be severable.

### **36.21 Repeal of Village fire code; effect of partial invalidity.**

Village Ordinance 07-005 entitled The Village Fire Code is hereby repealed.

### **36.22 Effective Date.**

This Ordinance shall be effective upon passage and publication as provided by law.

(Repealed and Recreated by Ordinance 12-005 Passed 3/26/2012 Published 4/4/2012)

(Creation of Section 36.02(5) by Ordinance 13-008 Passed: 8/12/2013 Published: 8/17/2013)

(MODIFYING AND AMENDING 36.06 BY ORDINANCE 14-021 Passed: August 25, 2014 Published: September 17, 2014)

(MODIFYING AND AMENDING 36.06 (D) BY ORDINANCE 16-002 Passed: March 28, 2016 Published: April 2, 2016)