

FIREWORKS ORDINANCE

Section I. Title/Purpose. This Ordinance is entitled “Fireworks Ordinance.” The Purpose of this Ordinance is as follows:

To promote the safety, health and general welfare of the residents of the Town of Shelby by regulating the possession, manufacture, transportation, sales and use of fireworks in the Town of Shelby.

Section II. Adoption of Ordinance. The Town Board of the Town of Shelby hereby adopts the following:

A. Authority. The Town of Shelby adopts this Ordinance pursuant to Section 167.10 and 66.052 (1995-1996), Wisconsin Statutes. The Town of Shelby adopts by reference Section 167.10 (1995-1996), Wisconsin Statutes, except to the extent this Ordinance is more restrictive than the state statute.

B. Definition. In this Ordinance, “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. Firearm cartridge or shotgun shell;
3. 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. Match, cigarette lighter, stove, furnace, candle, lantern, or space heater;
5. Cap containing not more than one-quarter (1/4) 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. Toy snake, which does not contain any mercury;
7. Model rocket engine;

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8. Tobacco and a tobacco product;
9. Sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length that is designed to produce audible or visible effects;
10. Device designated to spray out paper confetti or streamers and which contains less than one-quarter ($\frac{1}{4}$) grain of explosive mixture;
11. Fuse-less device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter ($\frac{1}{4}$) grain of explosive mixture;
12. Device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects;
13. 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; and
14. Cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

C. Coverage. No person shall sell, possess, or use fireworks in the Town of Shelby unless first obtaining a fireworks permit from the Town of Shelby, unless exempt under this Ordinance. The permit fee shall be one thousand dollars (\$1,000.00). The permit may be issued for the date established for the permitted use. The permit may be issued by the Town of Shelby and a copy of the issued permit shall be given to the Town of Shelby Fire Chief and law enforcement officials pursuant to Section 167.10(3)(g) (1995-1996), Wisconsin Statutes, at least two (2) days before the date of authorized use in the Town of Shelby.

D. Application/Permit. The application shall be made to the Town of Shelby on a form promulgated by the Town of Shelby, and the Town of Shelby may issue or not issue the fireworks permit. The application shall include:

1. Name of the applicant;
2. Address of the applicant;

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3. Residential and business telephone number of the applicant;
 4. Age of the applicant;
 5. Date requested for purchase of fireworks and the date requested for the fireworks use;
 6. Time and location for the required use;
 7. Kind and quantities of fireworks and where purchased;
 8. Classification of the applicant as noted in Section 167.10(3)(c) (1995-1996), Wisconsin Statutes;
 9. Proposed location for the storage of the fireworks in the Town of Shelby;
 10. Description of the safety protections to be provided during the permitted use;
 11. Description of the fire safety equipment to be installed and maintained during the permitted use;
 12. Diagram of the ground demonstrating the fireworks ignition area, public restraining area and area where the public will be located;
 13. Type and amount of security and sanitation personnel to be provided and maintained for security and sanitary protections;
 14. Purpose of display, identifying group(s) involved;
 15. Listing of any arrests and convictions for crimes listed in the Ordinance; and
 16. Such other information, documentation and/or requirements deemed appropriate by the Town of Shelby.
- E. Exemptions. Certain persons are exempt from this permit requirement on the Town of Shelby.
The permit requirement does not apply to:
1. Town of Shelby, but Town of Shelby fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance;

2. Possession of or use of explosives in accordance with rules or general orders of the state Department of Industry, Labor and Human Relations;
3. Disposal of hazardous substances in accordance with rules adopted by the state Department of Natural Resources;
4. Possession of or use of explosives or combustible materials in any manufactured process; and
5. Possession of or use of explosives or combustible materials in connection with classes conducted by educational institutions.

Moreover, only certain persons may be issued a fireworks permit in the Town of Shelby. The persons who may be issued a permit are:

1. Public authority;
2. Fair association;
3. Amusement park;
4. Park board;
5. Civic organization;
6. Group of resident or nonresident individuals; and
7. Agricultural producer for the protection of crops from predatory birds or animals.

F. Ordinance/Permit.

1. The person subject to this Ordinance shall comply with Section 167.10 (1995-1996), Wisconsin Statutes, and this Ordinance.
2. The Town Clerk of the Town of Shelby shall provide copies of this ordinance at no cost to any applicant requesting copies under this Ordinance.
3. No person shall be issued or reissued a fireworks permit in the Town of Shelby if the applicant:

- a. Fails to create or maintain adequate safety protections during the requested or permitted use when established by the Town of Shelby as a condition of the permit;
- b. Fails to install or maintain adequate fire safety equipment during the requested or permitted use when established by the Town of Shelby as a permit condition;
- c. Fails to provide or maintain adequate indemnity bond as required by this Ordinance;
- d. Fails to prevent open fires intentionally ignited at the permitted use locations;
- e. Fails to provide or maintain adequate security personnel as determined by the Town of Shelby at the requested or permitted use location;
- f. Fails to provide or maintain adequate physical structures, equipment and operational control as determined by the Town of Shelby to prevent trespassing and littering and to prevent private nuisances on private and public land adjacent to the requested or permitted use location;
- g. Fails to provide or maintain adequate sanitation facilities as determined by the Town of Shelby for the location on the application;
- h. Fails to provide for or to keep the requested or permitted use location free of trash, papers or other debris during and after the requested or permitted use;
- or
- j. Fails to allow physical access to the requested or permitted use location by the Town of Shelby or designee for inspection purposes upon request.

G. Bond. Prior to being issued a permit pursuant to this Ordinance, a person applying for the permit shall provide the Town of Shelby with an indemnity bond with good and sufficient sureties in the amount of One Million Dollars (\$1,000,000.00). The bond shall be taken in the name of the Town of Shelby. The bond shall be filed in the office of the Town of Shelby.

Section III. Enforcement and Penalties. Any person violating any provision of this Ordinance shall be subject to a forfeiture of One Hundred Dollars (\$100.00) per offense. A parent, foster parent, treatment foster parent, family-operated group home or legal guardian of a minor who consents to the use of fireworks by the minor is liable for the damages caused by the minor's use of the fireworks and for the forfeiture, if any, associated with the minor's violation of the Ordinance.

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Section IV. Severability. The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town Board would have passed the provisions of the Ordinance irrespective of whether one or more provisions may be declared invalid, and if any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section V. Effective Date. This Ordinance shall take effect upon passage and publication. The provisions of this Ordinance shall prevail over any previous Ordinances of the Town of Shelby that are or may be in conflict therewith.

Date passed: March 22, 2010

Lynnetta P. Kopp, Town Chair

Randy Knapp, Town Supervisor

John Zahn, Town Supervisor

ATTEST:

Cathy Brott, Town Clerk