

## FIREWORKS ORDINANCE SALE AND USE

**Section I. Title/Purpose.** This Ordinance is entitled “Fireworks Ordinance Sale and Use.” 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, except to the extent this Ordinance is more restrictive than the state statute.
- B. “APA 87-1” means the American pyrotechnics association standard 87-1, as published in December 2001.
- C. “Community Group” means a nonprofit entity that is open for membership to the general public which is exempt from federal income taxation pursuant to section 501(c) (3) of the Internal Revenue Code or a fraternal benefit society, as that term is defined in section 512B.3.
- D. 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:
  - 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 operations 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 for 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.

E. “First-class consumer fireworks” means the following consumer fireworks, as described in APA 87-1 chapter 3:

1. Aerial shell kits and reloadable tubes;
2. Chasers;
3. Helicopter and aerial spinners;
4. Firecrackers;
5. Mine and shell devices;
6. Missile-type rockets;
7. Roman candles;
8. Sky rockets and bottle rockets;
9. Multiple tube devices under this paragraph “c” that are manufactured in accordance with APA 87-1, section 3.5.

F. “Retailer” means as defined in section 423.1.

G. “Second-class consumer fireworks” means the following consumer fireworks, as described in APA 87-1, chapter 3:

1. Cone fountains;
2. Cylindrical fountains;
3. Flitter sparklers;
4. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5;
5. Ground spinners;
6. Illuminating torches;
7. Toy smoke devices that are not classified as novelties pursuant to APA 87-1 section 3.2;
8. Wheels;
9. Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.

**Section III. Coverage.** No person or group shall sell, possess, or use fireworks in the Town of Shelby unless first obtaining a firework permit from the Town of Shelby, unless exempt under this Ordinance. The permit fee for individuals or professional groups for special occasions or agricultural use shall be three hundred dollars (\$300.00). The fee for non-profit organizations or other similar groups for special event be waived. The permit shall be issued for the date established for the permitted use. Copies of the fireworks permit shall be filed with the town clerk and given to the Town of Shelby Fire Chief and law enforcement officials pursuant to Section 167.10 (3)(g) (1995-1996), Wisconsin Statutes.

Exception to the permit process is only during the 4 days prior and 4 days after July 4<sup>th</sup> Holiday. Permit fee is waived during this time only. In the event of a burn ban, no fireworks use is permitted.

**Section IV. Application for Fireworks Permit.** Shelby Ordinance 2.16 requires all Vendors with the intent to sell or purchase fireworks to apply for a permit to sell fireworks in the Town of Shelby. Applications must include the holder licenses name, address, contact information and location where the fireworks will be displayed. The application shall include kinds and quantities of fireworks and classification, safety precautions and safety equipment with a diagram of the grounds. Ignition area, public restraining area and where the public will be located on the applicant shall also be included on the application. Date of permitted sale or use shall be listed on the permit. The Township shall be indemnified on the, "Certificate of Insurance," during the period of fireworks sales and use in the amount of \$1,000,000 dollars; general commercial liability insurance with one million dollars per occurrence.

**Section V. Sales and Use of Fireworks in the Town of Shelby.**

- A. A person shall possess a consumer fireworks seller licenses under this section in order to sell consumer fireworks;
- B. The Town of Shelby shall establish a fee for the seller to sell consumer fireworks. The amount of said fee is \$1,000 dollars; which is nonrefundable;
- C. Sale of First-class consumer fireworks and Second-class consumer fireworks is permissible in the Town of Shelby;
- D. Any retailer or community group offering for sale at retail any consumer fireworks, as described in APA 87-1, chapter 3 shall do so in accordance with then nation fire protection association standard 1123, published in the code for the manufacture, transportation, storage and retail sales of fireworks and pyrotechnic articles, 2006 edition;
- E. A new license shall not be issued to a person whose license has been revoked, or to the business in control of the premises on which the violation occurred if it is established that the owner of the business had actual knowledge of the violation resulting in the license revocation, for the period of one year following the date of revocation;
- F. A person who violates a provision of this section or a rule adopted pursuant to this section is guilty of a simple misdemeanor.

**Section VI. Exemptions.** Certain persons are exempt from this permit requirement on the Town of Shelby. The permit requirement does not apply to:

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- A. Town of Shelby, but Town of Shelby fire and law enforcement officials shall be notified of the proposed use of the fireworks as least two (2) days in advance.
- B. Possession of or use of explosives or combustible materials in any manufactured process; and
- C. Possession of or use of explosives or combustible materials in connections with classes conducted by educational institutions.

**Section VII. Ordinance/Permit.**

- A. The person subject to this Ordinance shall comply with Section 167.10 (1995-1996), Wisconsin Statue, and this Ordinance.
- B. The Town Clerk of the Town of Shelby shall provide copies of this ordinance at no const to any applicant requesting copies under this Ordinance.
- C. No person shall be issued or reissued a firework permit in the Town of Shelby if the applicant:
- D. 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.

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

Date passed: May 21<sup>st</sup>, 2018

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Timothy Candahl, Town Chair

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Timothy Ehler, Town Supervisor

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Timothy Padesky, Town Supervisor

ATTEST:

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Michelle Kind, Town Clerk