

TOWN OF MOSEL

ORDINANCE NO. 2014-3

**AN ORDINANCE CREATING SECTION 4.11 OF
THE TOWN OF MOSEL MUNICIPAL CODE
REGULATING THE USE AND PROHIBITING THE SALE OF FIREWORKS**

WHEREAS, Wisconsin Statutes §167.10 authorizes local regulation of fireworks; and

WHEREAS, the Town Board of the Town of Mosel had determined that regulating fireworks as set forth below will promote the health, safety and welfare of the Town and its residents; and

NOW, THEREFORE, the Board of Supervisors of the Town of Mosel does hereby ordain as follows:

SECTION 1. Creating Code Section. Section 4.11 of the Municipal Code of the Town of Mosel is hereby created to read as follows:

4.11 REGULATION OF FIREWORKS

- A. State Statute Adopted.** The definitions, restrictions, requirements, and other provisions of § 167.10, Wis. Stats., as amended, are adopted and shall apply to the regulation of fireworks in the Town, except as specifically set forth herein.
- B. Sale.** No person may sell, or possess with intent to sell, fireworks, except:
- (1) To the Town; or
 - (2) For a purpose specified under sub C(2)(b) to (f).
- C. Use.**
- (1) No person may possess or use fireworks without a user's permit from the Chairperson of the Town, or the Chairperson's designee.
 - (2) Paragraph (a) does not apply to the following:
 - (a) The Town, but the Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
 - (b) The possession or use of explosives in accordance with rules or general orders of the Department of Safety and Professional Services.
 - (c) The disposal of hazardous substances in accordance with rules adopted by the Department of Natural Resources.
 - (d) The possession or use of combustible materials in any manufacturing process.
 - (e) The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
 - (f) A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. §§ 841 to 848 if the possession of the fireworks is authorized under the license or permit.
 - (g) The possession of fireworks in the Town while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance. This exception only applies to a person who, in the course of transporting fireworks through the Town, remains in the Town for a period of less than twelve (12) hours.

- (3) A permit under this subsection may be issued only to the following:
 - (a) An individual or group of individuals at least 18 years old.
 - (b) A public authority.
 - (c) A fair association.
 - (d) An amusement park.
 - (e) A park board.
 - (f) A civic organization.
 - (g) An agricultural producer for the protection of crops from predatory birds or animals.
- (4) A person issued a permit for crop protection shall erect appropriate signs disclosing the use of fireworks for crop protection.
- (5) Fee. Permit applicants shall pay the fee indicated in the Town's Fee Schedule (§ 11.05); applications are not complete and will not be considered until such fee is paid.
- (6) The person issuing a permit under this subsection may require an indemnity bond with good and sufficient sureties or policy of liability insurance 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. The bond or policy, if required, shall be taken in the name of the Town, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the Town Clerk.
- (7) A permit under this subsection shall specify all of the following:
 - (a) The name and address of the permit holder.
 - (b) The date on and after which fireworks may be purchased.
 - (c) The kind and quantity of fireworks which may be purchased.
 - (d) The date, time and specific location of permitted use.
- (8) A copy of a permit issued under this subsection shall be given to Town fire or law enforcement officials at least forty-eight (48) hours before the time of authorized use.
- (9) The Haven Fire Chief may suspend or revoke a fireworks permit if in the Chief's sole discretion dry, windy or other conditions would cause the use of fireworks to endanger persons or property.

D. Local Regulation.

- (1) No person may smoke where fireworks are stored or handled.
- (2) A person who stores or handles fireworks shall notify the Fire Chief of the Town Fire Department of the location of the fireworks.
- (3) No wholesaler, dealer or jobber may store fireworks within fifty feet (50') of a dwelling.
- (4) No person may store fireworks within fifty feet (50') of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon.

E. Parental Liability. A parent, legal guardian or other person who consents to the use of fireworks by a minor is liable for any damages caused by the minor's use of the fireworks.

F. Enforcement.

- (1) The Town may petition the Circuit Court for an order enjoining violations of subsections B. or C.
- (2) Fireworks stored, handled, sold, possessed or used in violation of this section or a court order under paragraph 1. may be seized and held as evidence of the violation. Except as provided in Wis. Stats. § 968.20(4), the fireworks that are the subject of a

violation of this section or a court order under paragraph 1. may be destroyed after conviction for a violation; fireworks that are seized as evidence but for which no conviction results shall be returned to the owner.

G. Penalties.

- (1) A person who violates a court order under F.1. shall be fined not more than \$10,000.00, together with costs, and in default of payment thereof, be imprisoned in the county jail until such forfeiture and costs are paid, but not to exceed sixty (60) days.
- (2) The forfeiture for all other violations of this section shall be not more than \$1,000.00, together with costs, and in default of payment thereof, be imprisoned in the county jail until such forfeiture and costs are paid, but not to exceed sixty (60) days.

SECITON 2. Severability. Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.

SECTION 3. Effective Date. This Ordinance shall take effect the day after publication or posting.

Enacted on: **August 14, 2014.**

TOWN OF MOSEL

By: _____
DIRK J. ZYLMAN, Chairperson

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing Ordinance was duly enacted by the Board of Supervisors of the Town of Mosel on the date indicated above.

Dated: _____, 2014

RACHEL REHBEIN, Clerk/Treasurer