

Proposed Ordinance

To be voted on at Oct. 13, 2009 Regular Board Meeting

TOWN OF BELL

FIREWORKS ORDINANCE

ORDINANCE NO. 09-XX

WHEREAS, Wisconsin State Statute Chapter 167 assigns responsibility to Towns for Safeguards of Persons and Property

And WHEREAS, Wis. Stat. Section 167.10 regulates fireworks stating in paragraph 167.10 (3) "Use. (a) No person may possess or use fireworks without a user's permit from the ...chairperson of the town in which the possession or use is to occur or from an official or employee of that municipality designated by the ..chairperson."

BE IT RESOLVED, that the Town Board of the Town of Bell, being duly assembled at a Regular Town Board Meeting on Tuesday, **XXXXXXXXXX** at the Community Center Meeting Room, does hereby ordain as follows:

Section 1. Title: This ordinance is entitled the Town of Bell Fireworks Ordinance.

Section 2. Purpose: The purpose of this ordinance is to promote public safety by establishing provisions for possession and use of fireworks within the Town of Bell. The permit requirements of this ordinance do not apply to a person transporting fireworks through the Town of Bell to another city, town, village or county where the possession of fireworks is authorized by permit or ordinance. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision of application, and to this end, the provisions of this Ordinance are severable.

Section 3. Definitions: When used in this ordinance, the following terms are defined as follows:

- a. Fireworks—**Definition.** In this section, 'fireworks' means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use."
 - (1) Town of Bell allows the sale, possession and use, without a permit, of sparklers, stationary cones and fountains, toy snakes, smoke bombs and caps, noisemakers and confetti poppers with less than 1/4 of a grain of explosive mixture.
 - (2) A commonly used rule of thumb for judging the nature of fireworks is that if it explodes or leaves the ground e.g., firecrackers, roman candles, bottle rockets, mortars, then a permit is required.
- b. Person - shall mean and refer to an individual person as well as a partnership, corporation, limited liability company, as well as any other group or entity established for the purpose of possession or use of fireworks under the provisions of this ordinance.

Section 4. Qualifying: In order to receive a permit for the possession or use of fireworks in the Town of Bell, the following minimum requirements must be met:

- a. A permit request must be accompanied with a valid Certificate of Insurance for liability insurance covering Bodily Injury and Property Damage caused by or arising from use of the fireworks permitted. Amount of coverage will be no less than \$1,000,000 each occurrence and in the aggregate.
- b. A list specifying the type and quantity of all fireworks to be possessed in the Town of Bell.

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- c. The request will specify the date, time, location and will name the responsible individual for the fireworks possession.

Section 5. The Permit: A copy of a blank permit is attached hereto. The sample permit may be amended or added to for the purpose of making provision for site specific considerations, in particular for allowance of emergency vehicle access. The issued permit must be with the person possessing the fireworks at all times. Failure to produce the permit on demand will be considered a violation of the ordinance.

Section 6. Permit Bond: The request for permit must include a posting of a \$300 bond with the Town of Bell, said bond to be returned to the requestor within 10 days following the permitted date if the conditions of the permit are met in full. Forfeiture of any portion of the bond will be considered at the next routinely scheduled meeting of the Town Board of the Town of Bell.

Section 7. Penalty:

- a. A person who possesses or uses fireworks without a valid permit or who sells fireworks to a person who does not have a valid permit, is subject to a fine of up to \$1,000 per violation. Each firework illegally possessed, used or sold may be a separate violation.
- b. A parent or guardian who allows a minor to possess or use fireworks is subject to a fine of up to \$1,000 per violation.

Section 8. Enforcement: In addition to enforcement by the Bayfield County Sheriff, this ordinance is enforceable by any duly elected official of the Town of Bell, an Officer of the Cornucopia Volunteer Fire Department and anyone so designated by the Chairman of the Town of Bell Board of Supervisors.

Section 9. Public Warning: Not later than 15 June each year and lasting until 15 July each year, signs will be posted on each highway approach, at Town designated bulletin boards and on the premises of businesses and facilities who so desire that inform the public of the general nature of this ordinance to wit: *Town of Bell requires a permit for possession or use of fireworks---violators will be prosecuted.*

Section 10. Municipal Liability: Municipal Liability. The Town of Bell or any officer, agent, employee, agency, or subdivision thereof shall not be liable for any injury to person or property, including death, nor any other claim for damages, including special, indirect, incidental, or consequential damages arising out of the issuance of a permit authorized under this Ordinance.

Section 11. Effective Date: This ordinance shall be effective upon its passage and publication. Adopted this XX day of XXXXX in the year XXXX.

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