

## **TOWN OF GROVER ORDINANCE NO. 2012-03**

### **AN ORDINANCE RELATING TO SALE AND REGULATION OF FIREWORKS**

**Purpose:** The purpose of this ordinance is to protect the health, welfare and property of Town of Grover residents and property owners and to ensure as much as possible all fireworks are used safely and in accordance with Wisconsin Statute (167.10).

#### **SALE AND USE OF FIREWORKS REGULATED.**

(1) **DEFINITION OF FIREWORKS.** The definition of "fireworks" stated in §167.10(1), Wis. Stats., is adopted for the purposes of this Ordinance. Wis. Stats. §167.10(1), defines "fireworks" as follows:

*"(1) 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:*

*(a) Fuel or a lubricant.*

*(b) A firearm cartridge or shotgun shell.*

*(c) A 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.*

*(d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.*

*(e) A cap containing not more than one-quarter 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.*

*(f) A toy snake which contains no mercury.*

*(g) A model rocket engine.*

*(h) Tobacco and a tobacco product.*

*(i) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.*

*(j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.*

*(k) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.*

*(L) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.*

*(m) A 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.*

*(n) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.*

*(p) A novelty device that spins or moves on the ground."*

(2) SALE REGULATED. 125lb net max allowance in any existing building – anything in excess of that would require a sprinkler system. No one is allowed to sell 1.3g fireworks in the Town of Grover. Except as provided in Wis. Stats., §167.10(2) and (4), Wis. Stats., no person shall sell, or possess with the intent to sell, fireworks, unless any of the following apply:

(a) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person holding a permit under Wis. Stats., §167.10 (3)(c).

(b) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a city, village or town.

(bg) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person who is not a resident of this state.

(c) The person sells the fireworks, or possesses the fireworks with intent to sell them, for a purpose specified under Wis. Stats., §167.10 (3)(b)2. to 6.

(3) USE REGULATED, USER'S PERMITS and BUYER'S PERMITS REQUIRED. (a) No person may possess or use fireworks without a user's permit from the Town Chairperson of the Town of Grover and provided further that such use is to occur in the Town of Grover. The Town Chairperson of the Town of Grover may designate such persons as he/she deems appropriate to issue a user's permits and buyer's permits. No person may use fireworks or a device listed under Wis. Stats., §167.10 (1)(e) to (g) or (i) to (n) while attending a fireworks display for which a permit has been issued to a person listed under par. (c)1. to 5. or under par. (c)6. if the display is open to the general public.

(b) Paragraph (a) above does not apply to:

1. The Town of Grover, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least 2 days in advance.

2. The possession or use of explosives in accordance with rules or general orders of the department of safety and professional services.

3. The disposal of hazardous substances in accordance with rules adopted by the department of natural resources.

4. The possession or use of explosive or combustible materials in any manufacturing process.

5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

6. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.



7. Except as provided in par. (bm), the possession of fireworks in any city, town or village while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance.

(bm) Paragraph (a) applies to a person transporting fireworks under par. (b)7. if, in the course of transporting the fireworks through a city, town or village, the person remains in that city, town or village for a period of at least 12 hours.

(c) A permit under this subsection may be issued only to the following persons:

1. A public authority.
2. A fair association.
3. An amusement park.
4. A park board.
5. A civic organization.
6. Any individual or group of individuals.
7. An agricultural producer for the protection of crops from predatory birds or animals.

(d) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(e) 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 of Grover wherein the fireworks are to be used, 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 clerk of the Town of Grover.

(f) A permit under this subsection shall specify all of the following:

1. The name and address of the permit holder.
2. The date on and after which fireworks may be purchased.
3. The general kind and approximate quantity of fireworks which may be purchased.
4. The date and location of permitted use.
5. A notification that no fireworks may be used after 11:00 p.m.
6. The bond requirements, if any, pursuant to paragraph (e) above.

(fm) The person issuing the user's permit must ensure that the user's permit is signed by the person who is authorized to issue the permit under par. (a) and the person who is authorized to sign the user's permit before the user's permit is issued rather than signing the user's permit at the time that it is issued.

(g) A copy of any permit under this subsection shall be given to the municipal fire or law enforcement official at least 2 days before the date of authorized use. This paragraph does not apply to a permit authorizing only the sale or possession of fireworks that are classified by the federal department of transportation as Division 1.4 explosives, as defined in 49 CFR 173.50.

(h) A permit under this subsection may not be issued to a minor.

(i) In the event the sale of fireworks to a single individual exceeds \$1,000.00, with the intent to light them off in the Town of Grover, the seller would be required to issue in addition to a user's permit a buyer's permit, which would require the disclosure of all information as set forth in applicable statutes and administrative rules.

(4) PERMIT FROM TOWN CHAIRPERSON OR HIS/HER DESIGNEE FOR SALE OR POSSESSION WITH INTENT TO SELL FIREWORKS REQUIRED. No group or individual, whether a resident or a nonresident, shall be permitted to sell, or possess with intent to sell, fireworks in the Town without a permit from the Town Chairperson or his/her designee. Permits issued by municipal officers of cities, villages or towns other than the Town of Grover shall not be valid permits, permitting the sale or possession with intent to sell fireworks in the Town of Grover. This subsection is enacted pursuant to the provisions of Wis. Stats., §167.10(5)(a)3.

(5) POSTING OF APPLICABLE TOWN RULES. The seller of fireworks within the Town of Grover shall post at the point of sale such rules and regulations as the Town Chairperson shall require in terms of a user's and buyer's permit being required to use and possess fireworks in the Town of Grover. In addition Sellers of fireworks shall display the permissible hours for the use of fireworks together with such other rules as the Town Chairperson may from time-to-time adopt by resolution at a properly noticed Town Board meeting.

(6) COSTS OF PERMITS. The seller of fireworks shall pay a fee of \$250.00 annually. There will be no fee for a User or Buyer's permit.

(7) SPECIAL CONDITIONS. User's and Buyer's Permit issued pursuant to this Ordinance are conditioned upon the following:

(a) The Fireworks not being detonated if weather conditions (e.g. wind, rain dryness of surrounding vegetation due to prolonged lack of precipitation, etc.) do not safely allow their detonation.

(b) No Fireworks being detonated after 11:00 p.m.

(c) The Fireworks being detonated at least 300 feet from the nearest spectator, public road or building and at least 50 feet from above ground power lines, cables, trees or other overhead objects. At a minimum, neighbors/households within that distance will be surveyed for reaction.

(d) The Fireworks being directed when detonated in as vertical a manner as safely possible.

(e) Adequate safety protections and firefighting equipment being in place at the permitted site.



(f) A certificate of liability insurance issued by an insurance company authorized to write such policies in Wisconsin in the amount of at least One Million Dollars for bodily injury/property damage that may arise by reason of use or discharge of fireworks under Permit, with the Town of Grover named, if possible, as an additional insured under such policy. The seller of fireworks within the Town of Grover shall post such rules and regulations as the Town Chairperson shall require in terms of a user's and buyer's permit being required to use fireworks in the Town of Grover. In addition Sellers of fireworks shall display hours for permissible use of fireworks together with such other rules as the Town Chairperson may from time-to-time adopt by resolution at a properly noticed Town Board meeting.

(8) STORAGE AND HANDLING. The following shall apply to the storage and handling of fireworks:

(a) Fire Extinguishers Required. No wholesaler, dealer or jobber may store or handle fireworks in premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.

(b) Smoking Prohibited. No person may smoke where fireworks are stored or handled.

(c) Fire Chief to be Notified. A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.


(d) Storage Distance. No wholesaler, dealer or jobber may store fireworks within fifty (50) feet of a dwelling.


(e) Restrictions on Storage. No person may store fireworks within fifty (50) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.

(9) PARENTAL LIABILITY. A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

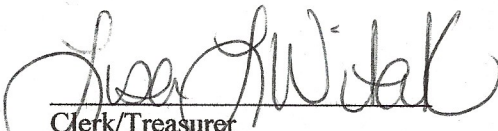
(10) PENALTY. Either the owner of or person in possession of illegal fireworks may be prosecuted under this Ordinance. Any person who shall violate any provision of this section may be subject to a forfeiture of not less than \$50 nor more than \$200, together with the costs of prosecution.

This Ordinance shall take effect upon passage and publication as required by law and county board approval.

  
Chairperson

  
Supervisor

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Supervisor

  
Clerk/Treasurer

Adopted: April 12, 2012



This ordinance replaces Resolution 2007-02 which changed Section 10.0511(D) of the Code of Ordinances.

The public hearing held by the plan commission for this ordinance change was March 22, 2012.

The plan commission recommended the town board change this ordinance on March 22, 2012.

The town board approved this ordinance on April 12, 2012.