

**TOWN OF LAFAYETTE**  
**REGULATION OF FIREWORKS**  
**ORDINANCE 10 - 07**

The Town Board of the Town of LaFayette, Walworth County, Wisconsin does hereby ordain as follows:

**SECTION 1.0            PURPOSE**

The Town has determined that the public health, safety and welfare will be promoted by adopting ordinances regulating the safe and orderly sale, possession and use of fireworks.

**SECTION 2.0            AUTHORITY**

This ordinance is enacted pursuant to the authority set forth in § 167.10, WI Statutes.

**SECTION 3.0            DEFINITIONS**

A. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. 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 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 operation 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 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. A toy snake which contains no mercury
7. A model rocket engine
8. Tobacco and a tobacco product
9. A sparkler on a wire or wood stick not exceeding thirty-six inches (36") in length or one-fourth inch (1/4") in outside diameter, which does not contain magnesium, chlorate or perchlorate
10. A device designed to spray out paper confetti or streamers and contains less than one-quarter (1/4) grain of explosive mixture

11. A device designed to produce an audible sound, but not explode, spark, move or emit an external flame after ignition and does not exceed three (3) grams in total weight
  12. A device that emits smoke with no external flame and does not leave the ground
  13. A cylindrical fountain not exceeding one hundred (100) grams in total weight, with an inside tube diameter not exceeding three-fourths inch (3/4") and designed to sit on the ground and emit only sparks and smoke
  14. A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke
- B. Town. The Town of LaFayette, County of Walworth, State of Wisconsin.
- C. Seller. The individual, group of individuals, family, partnership, business, proprietorship or corporation issued the Seller's Permit, or their designated representative.
- D. Designated Use Site. An approved fireworks use site within the legal boundaries of the Town of LaFayette, approved by the Town Board annually by resolution prior to the issuance of a Seller's Permit; also to be printed on the User's Permit.
- E. Designated Day. Approved day(s) including Time (hours to be open) that fireworks can be used at the Designated Use Site as approved by the Town Board approved annually by resolution.

#### **SECTION 4.0 SELLER**

- A. Seller's Permit Required.
1. Required. No person may sell, or possess with the intent to sell, fireworks or items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance, without a Seller's Permit from the Town obtained in accordance with this ordinance. The Seller's Permit is to promote public safety and the perception of public safety held by the public and governmental agencies of the Town and other neighboring communities.
  2. Application. Applicants for a Seller's Permit shall apply for each site in writing on forms provided by the Town Clerk. Applications for a Seller's Permit shall be filed not later than thirty (30) days prior to the granting of a Seller's Permit. A non-refundable application fee for each site shall accompany each application, in an amount which shall be determined from time-to-time by resolution of the Town Board. The Town shall conduct a background check on each applicant. The application for Seller's Permits shall include, without limitation, the following information:
    - a) Name, address, telephone number(s), date of birth, Social Security number, Driver's License number and e-mail address of the applicant
    - b) Name and address of the business under which the applicant will be operating
    - c) Itemization of the specific fireworks the applicant intends to sell
    - d) Address at which the applicant intends to sell the fireworks and items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance, and description of the structure(s) to be used for the storage and sale of the fireworks
    - e) Name(s), addresses, phone number and consent of the owner of the real estate upon which

the fireworks and items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance will be sold

- f) A site plan, including the proposed days and hours of operation and any other relevant information related to the Plan of Operation
  - g) Applicant shall include a copy of current Wisconsin Seller's Permit with the application
  - h) Proposed Designated Use Site and Proposed Designated Day(s) including Time (hours to be open) associated with fireworks to be sold under the Seller's Permit
  - i) Name, address, phone number and consent of the owner of the real estate of the proposed Designated Use Site
3. Consideration. The Town Board shall consider the application for Seller's Permits hereunder and shall approve or deny each application.
4. Seller's Permit Contents and Conditions. If approved, the Town Clerk shall issue the Seller's Permit as provided below with conditions imposed noted on the Seller's Permit.
- a) At a minimum, the Seller's Permit shall specify the following:
    - i. The name and address of the permit holder
    - ii. Location of permitted operations and a description of the structure(s) to be used for the storage and sale of the fireworks
    - iii. The kind and quantity of fireworks which may be sold under the permit
    - iv. The dates and hours of operations of permitted sales
    - v. Special conditions prescribed by ordinance or deemed necessary by the Town Board to ensure public safety including, at a minimum, the following conditions:
      - I) Prior to issuing the Seller's Permit, the applicant shall provide the Town with a Certificate of Insurance proving a policy of liability insurance in the amount of \$1,000,000.00 per person and \$2,000,000.00 in the aggregate for the payment of all claims that may arise by reason of injury to persons or property from the handling, use or discharge of fireworks under the permit. The liability policy shall name the Town as an additional insured. Such insurance shall be maintained by the applicant so long as it holds a Seller's Permit under this ordinance.
      - II) Prior to issuing the Seller's Permit, the applicant shall pay the regulating fee as set forth in a resolution adopted by the Town Board.
  - b) The Seller's Permit holder shall be assumed the applicant named on the permit. If the business operation or location is leased, owned or controlled by a third party, disclosure of such information must be included on the permit application.

B. Sale. No person may sell, or possess with the intent to sell fireworks, except:

- 1. To a person holding a permit under Section 4.0, A., 1.

2. To a person exempted under Section 6.0, A.
  3. To a city, village or town
  4. For a purpose specified under Section 6.0, C., 1 through 6
- C. Hours of Sale. No person may sell fireworks before 9:00 am or after 9:00 pm.
- D. Restrictions. Employees or any other individual selling fireworks must be at least eighteen (18) years of age.
- E. Number of Permits Limited. Only one Seller's Permit shall be issued to any individual, group of individuals, family, partnership, business, proprietorship or corporation.
- F. Permit Transferability. All Seller's Permits are issued at the pleasure of the Town Board and may not be transferred, bartered, sold, given or assigned to another individual, group of individuals, family, partnership, business, proprietorship or corporation.
- G. Each location at which the Seller's Permit has been issued must have a copy of this ordinance on-site and available to the public upon request.
- H. Permits Issued With Electronic Signatures. The Seller is solely responsible for all costs associated with the implementation, equipment, programming, websites and maintenance of any User's Permit issued with an electronic signature. The Town has no authority over any agreement made between more than one (1) party issued a Seller's Permit regarding the sharing of costs associated with the requirements of this paragraph.

## **SECTION 5.0 DESIGNATED USE SITE**

- A. No person may use fireworks or a device listed under Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance, while attending a fireworks display open to the general public, other than the individual or person named on the User's Permit which has been issued under this ordinance for the specific public display.
- B. No person may use fireworks in the Town except at an approved firework Use Site established by the Town Board, located within the legal boundaries of the Town of LaFayette, known as the Designated Use Site, and on Designated Day(s) and Time (hours to be open) established by the Town Board. The Designated Use Site(s) and Designated Day(s), including Time shall be set by Town Board Resolution which may be amended from time-to-time by the Town Board. If the use is for a display event to which the public will be invited, such User Permit shall only be issued in person by the Town Chair, or designee, and such use then may occur at a site other than the Designated Use Site and such Use Permit shall specify the location, date and time for the intended use.
- C. The Town shall notify the Town Fire Chief responsible for providing services to the approved Use Site at least seventy two (72) hours before the Designated Day for inspection of the site. The Designated Day may be rescheduled on the recommendation of the Fire Chief, or his designee, due to safety concerns at the site. The Town Chair, or his designee, can approve the date change, based upon the recommendation of the Fire Chief, or his designee.
- D. The Seller must staff the Designated Use Site on the Designated Days. If any Designated Day and Time is rescheduled on recommendation of the Fire Chief, or his designee, the Seller must also staff the Designated Use Site on subsequently approved Designated Days. Staffing shall include providing proper instructions to the Users on safe and appropriate handling and use of all items permitted to be

sold under a Seller's Permit within the Town. If the applicant named on the Seller's Permit will not be at the Designated Use Site on the Designated Day, they must notify the Town of their designee in writing, within fourteen (14) days prior to the Designated Day. A background check may be conducted on the designee.

- E. The Seller is solely responsible for any costs that may be associated with the procurement of the Designated Use Site. The Seller is also solely responsible for any costs related to clean-up of the Designated Use Site after an event. The Town has no authority over any agreement made between more than one Seller regarding sharing of costs associated with anything relating to the Designated Use Site.

**SECTION 6.0            USE**

- A. Permit Required. No person may possess or use fireworks in the Town without a User's Permit from the Town, obtained in accordance with the provisions of this ordinance except for a person transporting fireworks under § 167.10(3)(b)(7), WI Statutes, through the Town to another town, city or village where the possession and use of the fireworks is authorized by permit or ordinance so long as the person remains in the Town less than twelve (12) hours.
- B. Permit Exceptions. Subsection A. of this Section does not apply to:
  - 1. The Town, except that Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least seventy-two (72) hours in advance.
  - 2. The possession or use of explosives in accordance with rules or general orders of the State of Wisconsin Department of Commerce.
  - 3. The disposal of hazardous substances in accordance with rules adopted by the State of Wisconsin 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 material 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 841-848 if the possession of the fireworks is authorized under the license or permit.
- C. Each Use's Permit issued shall be for a single transaction.
- D. Permit Issuance. The Town Chair, or an official or employee of the Town designated by the Town Chair, may issue permits in compliance with this ordinance, in person or electronically, and such Use Permits may be issued only to the following:
  - 1. A public authority
  - 2. A fair association
  - 3. An amusement park
  - 4. A park board
  - 5. A civic organization

6. Any individual or a group of individuals
  7. An agricultural producer for the protection of crops from predatory birds or animals
- E. User's Permit Application. An applicant for a User's Permit shall include, at a minimum, the following information:
1. The name, address and date of birth of the person applying for the User's Permit. Applicant shall present a driver's license or other legal proof of identity.
  2. Whether the permit is for an individual or on behalf of an organization.
  3. The kind and quantity of fireworks that may be purchased.
  4. The date, time and location of the intended use of the fireworks.
  5. If the use will be for the general public or private use.
- F. User's Permit.
1. A User's Permit that is issued by the Town, either in person or electronically, shall specify the following:
    - a) The name, address and date of birth of the person authorized to use fireworks under the permit
    - b) The date of the fireworks purchase
    - c) The kind and quantity of fireworks that may be purchased
    - d) Designation of the date, time and location for which the permit authorizes the use of fireworks
    - e) The event for which the fireworks will be used, private use or public display
    - f) Statements of limitation of liability for the Town and indemnification of the Town
    - g) Number of the User's Permit, which shall be issued in numerical order
  2. Access to User Permits.
    - a) Access to all User Permits issued under this ordinance shall be provided to the Town, whether in paper or electronic format. All costs related to the accessibility are the sole responsibility of the Seller.
    - b) Access to all User Permits issued under this ordinance shall be provided to any of the Town's Fire Chiefs and Law Enforcement Officials at least forty eight (48) hours before the day of the authorized use at the Designated Use Site or any other site approved by the Town Board. All costs related to the accessibility are the sole responsibility of the Seller.
- G. User's Permit Fee. At the time of filing the permit application for the use of fireworks, a nonrefundable permit fee shall be paid to the Town to cover the costs of processing the application. The fee shall be

established by resolution of the Town Board and may be revised by a Town Board resolution from time-to-time. The Town may conduct a background check on applicants for User's Permits.

- H. Indemnity. The Town 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 any User's 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.
- I. Cancel and Rescheduling. A User's Permit may be cancelled and rescheduled by the Town Chair or any of the Towns' Fire Chiefs in which the permit is issued for, if the weather or other situations make it unsafe for the use to be conducted or if it is determined that the User Permit was issued based on fraud or misrepresentation. Upon cancellation, the Town Chair, or designee, shall set the rescheduled date and the Town Clerk shall post the notice of rescheduled date at the Town Hall, Designated Use Site and such other locations the Town Clerk deems necessary to provide notice to the public and permittees.

#### **SECTION 6.1 USE - PROPERTY OWNERS OF REAL PROPERTY WITHIN THE TOWN**

- A. A User's Permit may be issued for a location other than the Designated Use Site when the following conditions are met:
  - 1. Property owners of real estate within the legal boundaries of the Town of LaFayette apply for a User's Permit
  - 2. The location to be listed on the User's Permit is the real property owned by the individual applying for the Permit
  - 3. Town officials will verify applicant ownership of real property
  - 4. For non-commercial, personal use only. The holder of the User's Permit understands that this type of Permit is issued with the understanding that they will personally control the storage and use of fireworks.
  - 5. All other requirements and restrictions as set forth in this ordinance shall apply
- B. These User Permits will only be issued through the office of the Town and issued by the Chair, or designee. All other information necessary to issue the User's Permit, as required by this ordinance, will apply. All fees shall apply.
- C. The purchaser of the User's Permit shall accept full responsibility and liability hereby releasing, indemnifying and holding harmless the Town of LaFayette and all its appointed and elected officials and employees from any and all liability and damages relating to the possession, storage and use of all fireworks purchased.
- D. A Commercial Display would not be issued under this section. A commercial display would require the approval of the Town Board for a Designated Use Site, Designated Day and Time and set by Resolution as required in this ordinance; other requirements and restrictions may also apply.

**SECTION 7.0 SALES TO MINORS**

User Permits for fireworks under this ordinance shall *not* be issued to a minor, nor shall the holder of the permit, sell or provide fireworks to a minor. The sale of items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance, is not permissible to anyone under the age of thirteen (13).

**SECTION 8.0 LIMITATION OF LIABILITY**

A party requesting a User's Permit and/or a Seller's Permit has the ultimate responsibility for their own safety and for the safety of all persons who may be affected by their activity. The issuance of a User's Permit or a Seller's Permit shall not be interpreted as endorsing or condoning the activity or as ensuring that the activity will be safe. An applicant for a User's Permit and/or a Seller's Permit individually and on behalf of any entity for which the applicant submits the application, and also on behalf of the property owner where the activity will be conducted, accepts all risks and agrees to indemnify, defend and hold harmless the Town of LaFayette, its officers, employees and agents, from any and all claims arising out of the use, sale or possession of the fireworks.

**SECTION 9.0 PAYMENT TO TOWN FOR USER'S PERMITS ISSUED**

The Town shall invoice the Seller minimally once every three months for all User's Permit fees collected by the Seller. Payment on invoices issued by the Town shall be paid within thirty (30) days of the date of the invoice. Seller shall maintain a current mailing or email address on file with the Town Clerk.

**SECTION 10.0 PERMIT SUSPENSION AND REVOCATION**

Any Seller's or User's Permit issued under this ordinance may be suspended or revoked, in writing, by the Town Board for any of the following reasons:

- A. Fraud, misrepresentation or a false statement contained in the application for the permit
- B. Any violation of this ordinance
- C. Conviction of a crime or misdemeanor involving the illegal use of fireworks
- D. In the case of a Seller's Permit, conducting the business of fireworks sales in an unlawful manner or in such a manner as to constitute a breach of the peace or general health, safety and welfare of the public
- E. In the case of a Seller's Permit, verification by any of the Towns' Fire Chiefs or Town Building Inspector that the premises, means of storage, methods of sale or other operation related to the sale, storage or handling of fireworks or product covered under the Seller's Permit is unsafe or does not meet any applicable governmental regulations

**SECTION 11.0 PERMIT EXPIRATION**

No permit shall be issued under this ordinance for a longer period than one year. All Seller Permits issued under the provisions of this ordinance shall expire at 12:00 midnight on December 31st. All User Permits issued under this ordinance shall expire as specifically set forth in the application for the Designated Day of use allowed by the permit.

**SECTION 12.0 APPEALS**

Any applicant aggrieved by the action of the Town in the denial, suspension or revocation of a permit under this ordinance may appeal to the Town Board. Such appeal shall be taken by filing with the Town Clerk,



within fourteen (14) days after notice of the action complained of, a written statement fully setting forth the grounds of the appeal. The Town Board shall set a time and place for a hearing on such an appeal and notice shall be mailed by the Town Clerk to the appellant at the last known address at least five (5) days prior to the date set for the hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for the hearing.

### **SECTION 13.0 FIREWORKS DISPLAY SITE, PRODUCT STORAGE AND HANDLING**

- A. Fire Extinguishers Required. No wholesaler, dealer or jobber may store or handle fireworks in a premise unless the premise is equipped with two (2) five pound (5#) ABC fire extinguishers mounted in plain view.
- B. Smoking prohibited. No person may smoke where fireworks are stored or handled. Signs with the words, "NO SMOKING" in letters not less than four inches (4") high shall be posted at all entrances/exits and shall be plainly visible.
- C. Notification of Fire Official. A person who stores or handles fireworks shall notify the fire official of the municipality in which the fireworks are stored or handled of the location of the fireworks.
- D. Storage Distance. No wholesaler, dealer or jobber may store fireworks within fifty feet (50') of a dwelling or storage facility lot line.
- E. Flammable Liquids. The storage of flammable liquids on-site is prohibited.
- F. Storage Restriction. No person may store fireworks within fifty feet (50') of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon unless otherwise approved under a Seller's Permit, or in the case of a public assemblage, the Town Board Resolution designating the fireworks Designated Use Site under Section 5.0, B.
- G. Storage in Vehicles Prohibited. No person may store fireworks within any motor vehicle for a period of time greater than twenty four (24) hours.
- H. The area where fireworks are sold or stored shall be clear of brush, dried vegetation, leaves and similar combustibles for a distance of at least twenty five feet (25').
- I. Inspections. An annual inspection of every premise where fireworks and items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance are sold and/or stored will be conducted by any of the Towns' Fire Chiefs, or their designee, and the Town Building Inspector prior to obtaining a valid Seller's Permit issued under this ordinance. Corrections may be ordered as deemed necessary and any failure to make corrections shall be in violation of this ordinance. Display operators shall adhere to National Fire Protection Association (NFPA) Standards 1123 and 1126 and a copy of such standards shall be maintained on-site. Seller shall be responsible for all costs related to copies of NFPA Standards 1123 and 1126 and obtaining such copies.
- J. Sites, Structures and Signage. All sites, structures and signs must conform to the regulations under the Walworth County Zoning Ordinance. It is the responsibility of the applicant to obtain any necessary permits required under the County ordinance and all related costs.

### **SECTION 14.0 PARENTAL LIABILITY**

A parent or legal guardian of a minor who consents to the use of fireworks and other items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance by the minor is liable for damages caused by the minor's use of product.

**SECTION 15.0            FAILURE TO COMPLY; PENALTIES**

Any person who fails to comply with the provisions of this ordinance, or any permit issued in accordance with this ordinance, shall, upon conviction, forfeit not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) for each day of violation for each separate offense and costs of prosecution for each violation, and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding ninety (90) days. Each day a violation exists or continues shall constitute a separate offense.

**SECTION 16.0            SEVERABILITY**

If any provision of any ordinance included in this Code of Ordinances is invalid or unconstitutional, or if the application of any ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of any ordinance which can be given affect without the invalid or unconstitutional provision or application.

**SECTION 17.0            EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication.

This Ordinance adopted by the Town Board of the Town of LaFayette on this 12th day of May 2010.

---

Daniel Cooper, Chair  
Passed this day: May 12, 2010

---

Barbara A Fischer, Town Clerk-Treasurer  
Filed this day: May 12, 2010

Published this day: May 20, 2010