STATE OF WISCONSIN
TOWN OF NAMAKAGON
COUNTY OF BAYFIELD

Fireworks Control Ordinance No. 27
Amended September 8, 2020

SECTION I-TITLE/ PURPOSE
The title of this Ordinance is the Town of Namakagon Fireworks Control Ordinance. The purpose of this ordinance is to regulate, prohibit and provide penalties for the possession and use of specific fireworks on the land in the Town of Namakagon.

SECTION II-AUTHORITY
The Town Board of the Town of Namakagon has the specific authority under ss.167.10 Wis Stats and general authority under Village Powers s. 60.22 (3) Wis. Stats. to adopt the Ordinance.

SECTION III-ADOPTION OF ORDINANCE
The Town Board of the Town of Namakagon, by this Ordinance, adopted with a quorum and a roll call vote by a majority of the Town Board present and voting, provides the authority for the Town Board of the Town of Namakagon to regulate, prohibit and penalize the use and possession of certain fireworks in the Town of Namakagon.

SECTION IV-DEFINITIONS
A. "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 operation of a rail way, 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 explosives.
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 36 inches in length that is designed to produce audible or viable effects and audio and visual effects..
10. A device designed to spray out paper confetti or steamers and which contains less than one quarter grain of explosive mixture.
11. A fuseless device that is designed to produce audible or viable effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.

12. A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or viable effects, or audible and visual effects.
13. A cylindrical fountain that contains 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.
14. 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.

SECTION V-COVERAGE

A. No person in the Town of Namakagon may sell or possess in the Town of Namakagon with intent to sell fireworks, except:

1. To a person holding a permit under this Ordinance.
2. To a city, village or town; or
3. For a purpose specified under this Ordinance.

B. No person may possess or use fireworks in the Town of Namakagon without a Town User's Permit issued by the chairperson of the Town of Namakagon or his or her designee.

1. No permits will be issued for the use of fireworks on the Town of Namakagon property except by an approved licensed provider.
2. If applying for a permit on someone else's property- rental, homeowners, resort, etc. - a copy of insurance policy, must be provided by the property owner and a signed application saying the owners of the property give permission to the applicant to possess fireworks on the owners property.

C. Provision B does not apply to:

1. The Town, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
2. The possession or use of explosives in accordance with rules or general orders of the Department of Commerce.
3. The disposal of hazardous substances in accordance with rules adopted by 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 Paragraph C, the possession of fireworks in the Town of Namakagon while transporting the fireworks to a City, Town or Village where the possession of the fireworks is authorized by permit or ordinance.

D. Paragraph B applies to a person transporting fireworks under Paragraph C (7), if, in the course of transporting the fireworks through the Town of Namakagon, the person remains in the Town of Namakagon for a period of at least twelve (12) hours.

E. A permit under this Ordinance 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. A group of resident or nonresident individuals.
7. An agricultural producer for the protection of crops from predatory birds or animals.

F. A person issued a permit for crop protection in the Town of Namakagon shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

G. The person issuing permit for the Town of Namakagon under this subsection may require an indemnity bond with good and sufficient sureties or a 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 shall be taken in the name of the Town and any person injured thereby may bring an action on the bond on 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, together with a copy of the permit, shall be filed in the Office of the Clerk of the town.

H. A permit under this Ordinance shall specify all of the following:

1. The name and address of the permit holder.
2. The date on which fireworks may be purchased.
3. The date and location of permitted use.
4. Other special conditions prescribed by the Town Chair, Town Board or their designee.

The use of fireworks is permitted only between the hours of 9:00 AM and 11:59 PM on the date indicated on the permit

I. A copy of a permit under this subsection shall be given to the Town of Namakagon fire or law enforcement official at least two (2) days before the date of authorized use.

J. A permit under this Ordinance may not be issued to a minor.

SECTION VI-STORAGE, HANDLING AND IGNITING

A. No wholesaler, dealer or jobber may store or handle fireworks in premises in the Town of Namakagon unless the premises are equipped with fire extinguishers approved by the Fire Chief or his or her designee of the Town of Namakagon where the premises are located.

B. No person may smoke where fireworks are stored or handled.

C. A person who stores or handles fireworks shall notify the Fire Chief of the Town of Namakagon the location of the fireworks.

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

E. No person may store fireworks within fifty (50) feet of a dwelling where gasoline or volatile liquid is dispensed in quantities exceeding one (1) gallon.

SECTION VII-PARENTAL/GUARDIAN LIABILITY
A parent, foster parent, treatment foster parent, family-operated group home parent or legal guardian of a minor who consents to the use of fireworks by a minor is liable for damages caused by the minor's use of the fireworks. A parent or guardian who allows a minor to possess or use fireworks (excluding those for which no permits are required, see above) is subject to a forfeiture of up to $1,000 per violation. Wis. Stat. 167.10(9) (a).

SECTION VIII-MUNICIPAL LIABILITY
The Town or any committee, official or employee of the Town of Namakagon is not civilly liable for damage to any person or property caused by fireworks for the sole reason that the Town of Namakagon issued by its Town Chair or his or her designees a permit in accordance with the use requirements and conditions established and any applicable requirements authorized under the Ordinance that authorized that purchase, possession or use of the fireworks in the Town of Namakagon.

SECTION IX-PENALTIES
The first offense will require a late Fireworks Application to be rendered to the Town Clerk of the Town of Namakagon, which consists of a $35 application fee and a $15 late fee. The second offense will be turned over to Bayfield County and fined accordingly. Failure to clean up discharged fireworks will result in fines of $200 for first offense, $400 for the second offense and $1000 for third and any offense after.

SECTION X-SEVERABILITY
If any provision of this Ordinance of 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 XI-EFFECTIVE DATE
This Ordinance is effective upon publication.
This Ordinance repeals and replaces Ordinance 27 dated May 10, 1988, amended August 10, 1999, amended May 5, 2008,amended June 12, 2011.

The Town Clerk shall properly post or publish this ordinance as required under ss. 60.80, Wis Stats.
Adopted this 11th day of September, 2018

Robert Rasmussen
Town of Namakagon Chairperson

Town of Namakagon Supervisor

Town of Namakagon Supervisor

Attest:
Clerk, Town of Namakagon

Date: 9-8-2020

TOWN OF NAMAKAGON
TOWN SEAL
BAYFIELD COUNTY, WIS.

9/23/20