

AN ORDINANCE AMENDING CHAPTER 4 OF THE VILLAGE OF CENTERTOWN CODE ENTITLED "FIRE PROTECTION" BY ADDING A NEW SECTION REGARDING THE USE OF FIREWORKS WITHIN THE VILLAGE LIMITS OF CENTERTOWN, MISSOURI, AND PRESCRIBING REGULATIONS RELATING THERETO.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF CENTERTOWN, MISSOURI, AS FOLLOWS:

Section 1: Chapter 4 of the Village Code of the Village of Centertown, Missouri, is hereby amended to include the following::

4.40. Discharging of Fireworks Prohibited Within Village Limits; Exception.

(A) Except as provided in subsection (B) of this Section, it shall be unlawful for any person to willfully set off, use, burn, explode or fire off any firecrackers, fireworks, torpedoes, bombs, rockets, pin wheels, fire balloons, Roman candles, toy cannons, toy pistols or other fireworks of a like kind within the Village limits; provided, however, that this section shall not apply to parks or other public places when under the charge of competent persons and under a permit issued by the Village Board of Trustees.

(B) It shall be lawful for any person to set off, use, burn, explode or fire off any firecrackers, fireworks, torpedoes, bombs, rockets, pin wheels, fire balloons, Roman candles, toy cannons, toy pistols or other fireworks of a like kind within the Village limits of each year between the hours of 11:00 a.m. and 11:00 p.m. on July 1, 2, 3 and 5, and between the hours of 10:00 a.m. and midnight on July 4.

(C) It shall be unlawful for any person under the age of sixteen (16) to possess, set off, use, burn, explode or fire off firecrackers, fireworks, torpedoes, bombs, rockets, pin wheels, fire balloons, Roman candles, toy cannons, toy pistols or other fireworks of a like kind within the Village limits, except under adult supervision as set forth in subsection (D). Violations of this subsection shall be addressed as follows:

a. Whenever a juvenile shall be found in violation of this subsection (C), the law enforcement official shall deliver the juvenile to where his or her parent(s) or guardian may be located, or may contact the parent(s) or guardian to request that the juvenile be picked up. The juvenile authorities may be notified of the violation in writing. A

record of such violation shall be made with the enforcement agency and the Village clerk. The Village clerk shall, as soon as practicable, but within three (3) business days of said violation, mail a written notification of the violation to the juvenile and his or her parent(s) or guardian detailing the date, time and nature of the violation, whether the juvenile authorities have been notified of the juvenile's violation, and that any subsequent offense may result in transport to the juvenile facility for Cole County for further action.

b. The juvenile violator shall be taken to the juvenile facility for Cole County upon authorization from the on-call county juvenile officer and be held for parent or court in the event of any of the following:

1. For a second or subsequent violation of this subsection (C);
2. If the juvenile refuses to give his or her name and address, or the name and address of his or her parent(s) or guardian, or if he or she gives a false name, address, or telephone number to any enforcement officer investigating a possible violation of this subsection (C); or
3. If a parent or guardian of the juvenile cannot be located or fails to come and take charge of the juvenile when requested to do so.

c. No parent or guardian shall fail to exercise customary and effective control over the juvenile so as to contribute to, cause, or tend to cause a juvenile to violate this subsection (C). Written parental notice as defined in subsection (C)a. of this Section shall be *prima facie* evidence of parental neglect if the juvenile commits a second or successive violation of this subsection (C).

(D) The law enforcement officers are to enforce this Section 4.40 strictly, and without the use of warnings. Citations are to be issued regardless of the circumstances. Any person under the age of sixteen (16) found to be in possession of, setting off, using, burning, exploding or firing off firecrackers, fireworks, torpedoes, bombs, rockets, pin wheels, fire balloons, Roman candles, toy cannons, toy pistols or other fireworks of a like kind without adult supervision shall have said firecrackers, fireworks, torpedoes, bombs, rockets, pin wheels, fire balloons, Roman candles, toy cannons, toy pistols or other fireworks confiscated by law enforcement.

(E) Notwithstanding any other provision of this Section, it shall be unlawful for any person to willfully set off, use, burn, explode or fire off any firecrackers, fireworks, torpedoes, bombs, rockets, pin wheels, fire balloons, Roman candles, toy cannons, toy pistols or other fireworks of a like kind on any property owned by the

Village or in any park within the Village at any time, including the hours of 11:00 a.m. to 11:00 p.m. on July 1, 2, 3 and 5, and 10:00 a.m. to midnight on July 4, without a valid permit issued by the Village of Centertown Board of Trustees.

(F) **Permits.** All permits required to use fireworks on property owned by the Village or in any park within the Village as provided in subsections (A) and (E) must be applied for by submitting a request with the Village Clerk at least 45 days prior to the intended fireworks display. The request shall be decided upon and issued within 30 days of application submission. Before the permit is issued, proof of financial responsibility in the form of a corporate surety bond in the principal sum of \$1,000,000.00, or a public liability insurance policy for the same amount, for the purpose of providing payment of all damages to persons or property which arise from or are caused by the conduct of any act authorized by the permit. The Village Board of Trustees is authorized to specify a greater or lesser bond / insurance amount when conditions at the location of use indicate a greater or lesser amount is required. Government entities shall be exempt from this bond / insurance requirement.

(G) **Penalty.** Each violation of the provisions of this Section shall constitute a separate offense. Any person who is found guilty of violating this Section shall be subject to incarceration for not more than ninety (90) days and/or a fine of up to \$100.00 for the first violation, up to \$200.00 for the second violation, and up to \$500.00 for any successive violation. In addition, the court may order the defendant to make restitution to any person whose property has been damaged by the violation.

Section 2: This ordinance shall be in full force and effect upon final passage and approval.

FIRST READING HELD: November 13, 2007.

SECOND READING HELD AND FINAL PASSAGE ON THIS 13th DAY OF November, 2007, BY THE FOLLOWING VOTE:

	<u>Aye</u>	<u>Nay</u>
<u>Scott Call</u>	<u>X</u>	<u> </u>
Kenneth Farris	<u>X</u>	<u> </u>
Doug Heineman	<u> </u>	<u>X</u>
Curtis B. Holzer	<u>Absent</u>	<u> </u>
William McClure	<u>X</u>	<u> </u>

Doug Heineman
Chairman, Board of Trustees

Attest:

Doug Heineman
Village Clerk