

Sec 9.05 Possession, Sale And Use Of Fireworks

(a) *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:

- (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 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 tobacco products.
- (9) 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.
- (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
- (11) 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.
- (12) 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.
- (13) 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.

(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.

(14)(15) A novelty device that spins or moves on the ground.

(b) Sale. No person may sell ~~any fireworks, as that term is defined in sub. (a), within the City limits without an appropriate permit or possess with intent to sell fireworks, unless any of the following apply~~

(1) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person holding a permit under sub. (c)(5).

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

(3) 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.

~~(b)(4)~~ (4) The person sells the fireworks, or possesses the fireworks with intent to sell them, for a purposes specified under sub. (c)(2)b. to f.

(c) Possession or Use.

(1) No person may possess or use fireworks without a user's permit from the Mayor or from a person designated by the Mayor to issue a user's permit, who shall first consult with the Council, prior to issuance of a permit. No person may use fireworks or a device listed under sub. (a)(5) to (7) or (9) to (14) above while attending a fireworks display for which a permit has been issued to a person listed under par. (c)(4)a. to e. below or under par. (c)(4)f. below if the display is open to the general public. The permit fee shall be as set forth in Sec. 25.045.

(2) Paragraph (c)(1) above does not apply to:

- a. The City, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least 2 days in advance.
- b. The possession or use of explosives in accordance with rules or general orders of the department of safety and professional services.
- c. The disposal of hazardous substances in accordance with rules adopted by the department of natural resources.
- d. The possession or use of explosive or combustible materials in any manufacturing process.
- e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
- f. 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.

g. Except as provided in par. (c)(3) below, the possession of fireworks while transporting the fireworks to a city, village or town where the possession of the fireworks is authorized by permit or ordinance.

g-h. ~~The possession of fireworks by a person who is not a resident of this state if the person does not use the fireworks in this state.~~

(3) Paragraph (1) above applies to a person transporting fireworks under par. (c)(2)g. above if, in the course of transporting the fireworks through the City, the person remains in the City for a period of at least 12 hours.

(4) Permit Application Process.

a. Application. Any entity in sub. (5) desiring to obtain a user's permit shall submit an application for a user's permit on forms provided by the City Clerk-Treasurer's office, which will include all of the following:

1. The name, signature, phone number, and address of the applicant.
2. The name, signature, phone number, and address of the owner of the property where the fireworks are proposed to be used, if different from the applicant.
3. The location of the property where the fireworks are proposed to be used.
4. A description of the fireworks proposed to be used, including the kind and quantity.
5. The date or dates and approximate time(s) the fireworks are proposed to be used.
6. Any additional information deemed necessary by the Mayor or their designee to determine if issuance of a user's permit to a particular applicant would be in the best interest of the public.

b. The application and payment of the proper permit fee for a user's permit must be submitted at least fifteenforty-five (145) days in advance of the proposed use of the fireworks, unless waived by the Mayor-Council.

c. Upon receipt of an application for a user's permit and payment of the proper permit fee, the City Clerk-Treasurer shall notify the Fire Chief of the application. Within five (5) days of such notice the Fire Chief or their designee shall review the application to assess whether the proposed use of the fireworks poses a threat to the public health or safety and make recommendations to the Mayor or the Mayor's

designee on any conditions that should be imposed to protect the public health and safety.

~~(3)~~d. After receipt of the report and recommendations from the Fire Chief or their designee, the Mayor or their designee shall review the permit application and if timing allows consult with the Common Council at a regular Council meeting before determining whether to issue a -user's permit.

~~(4)~~(5) A permit under this subsection may be issued only to the following:

- a. A public authority.
- b. A fair association.
- c. An amusement park.
- d. A park board.
- e. A civic organization.
- f. Any individual or group of individuals.
- g. An agricultural producer for the protection of crops from predatory birds or animals.

~~(5)~~(6) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

~~(6)~~(7) The Mayor may require an indemnity bond with good and sufficient sureties or policy of liability insurance with policy limits as recommended by the City's liability insurer 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 City, 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-Treasurer.

~~(7)~~(8) A permit under this subsection shall specify all of the following:

- a. The name and address of the permit holder.
- b. The date on and after which fireworks may be purchased.
- c. The kind and quantity of fireworks which may be purchased.
- d. The date and location of permitted use.

e. Other special conditions prescribed by ordinance.

~~(8)~~(9) A copy of a permit under this subsection shall be given to city fire and law enforcement officials at least seven (7)~~2~~ days before the date of authorized use.

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

(11) The City Clerk-Treasurer shall post a notice on the City's website following notices to inform the public of the date or dates and location of any use of fireworks authorized by a user's permit at least 48 hours prior to the first date of the permitted use of fireworks for each user's permit.

~~A class 1 notice published the use of fireworks.~~

~~A posted on the City's website~~

Commented [EH1]: Doesn't need to be published - just posted on website

(d) Storage and Handling.

(1) 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 or their designee.

(2) No person may smoke where fireworks are stored or handled.

(3) A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.

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

(5) No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon.

~~(d)~~(e) Enforcement.

(1) The City may petition the Circuit Court for Iowa County for an order enjoining violations of sub. (b) to (d) ~~or (e)~~ above.

(2) Fireworks stored, handled, sold, possessed or used by a person who violates this section or a court order under par. (e)~~(d)~~(1) above may be seized and held as evidence of the violation. Except as provided in §968.20(4), Wis. Stats., only the fireworks that are the subject of a violation of this section or a court order under par. (e)~~(d)~~(1) above may be destroyed after conviction for a violation. Except as provided in §968.20(4), Wis. Stats., fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

~~(e)~~(f) Penalties. A person who violates this Section shall be subject to a forfeiture as set forth in Sec. 25.04.

~~(1) A person who violates subs. (b) or (c) above shall be subject to a forfeiture as set forth in sec. 25.04.~~

~~(2) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall be subject to a forfeiture as set forth 25.04 in sec.00.~~