

### **Sec. 34-113. Regulation 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) 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.
  - (2) A toy snake which contains no mercury.
  - (3) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects.
  - (4) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
  - (5) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects.
  - (6) 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.
  - (7) A cone fountain that is classified by the Federal Department Of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.5
  - (8) A fuseless device that is designed to produce audible or visible effects, and that contains less then one-quarter grain of explosive mixture.
- (b) *Site requirements.* There shall be at least one five-pound ABC fire extinguisher mounted in plain view. At all entrance/exits there shall be "no smoking" signs posted in a plainly visible location. Exception: if the sale of fireworks is in a business that sells other merchandise, which then comes under the jurisdiction of the department of commerce or state statute.
- (c) *Sale regulated.* Except as provided herein, no person shall sell, or possess with intent to sell, fireworks in the city.
- (d) *Use regulated.* No person shall possess or use fireworks in the city without a user's permit issued pursuant to Wis. Stats. § 167.10(3) a [and] section 34-113(e) below; except that the following fireworks may be possessed and used without a permit: those fireworks specified enumerated in section 34-113(a)(1) through (8) above.
- (e) *Sale license.*
  - (1) No person may sell, or possess with intent to sell, fireworks, except those specifically enumerated in section 34-113(a)(1) through (8) above, unless said person has been issued a fireworks sale license hereunder.
  - (2) Applicants for a fireworks sale license shall make an application for each site in writing on forms provided by the city clerk/treasurer. A licensee may possess and sell the enumerated fireworks at more than one site within the city. A

nonrefundable license application fee of \$200.00 for each site shall accompany each application.

- (3) The application for license shall include, without limitation, the following information:
  - a. Name, address, and telephone number of the applicant.
  - b. Address(es) at which the applicant intends to sell the enumerated fireworks.
  - c. Name(s), address(es), and consent(s) of the owner(s) of the real estate upon which the enumerated fireworks will be sold.
  - d. Itemization of which enumerated fireworks the applicant intends to sell.
- (4) The fire chief shall consider the application for licenses hereunder and shall approve or deny each application. If he denies the license, the applicant shall have the right to appeal the denial to the common council. The clerk shall issue the license upon the approval of the fire chief or the common council.
- (5) Licenses issued hereunder shall be for a term of one year, from May 1 through the following April 30. Application for annual licenses shall be filed not later than April 1 each year.
- (6) The common council may condition the issuance of licenses hereunder as it sees fit to protect the public interest and safety.
- (7) The common council shall have the right to suspend or revoke any licenses issued hereunder as it sees fit to protect the public interest or safety. If a license is suspended or revoked, the licensee shall be entitled to a public hearing before the common council within seven days of the suspension or revocation.
- (8) Licenses issued hereunder may not be transferred or assigned without the consent of the common council; and, no licensee may use a site other than the site licensed pursuant to the application of the licensee.
- (9) The fire chief, police chief or their designee may temporarily suspend and confiscate licenses if violations occur and order the closer of the site pending corrective action or appeal to the legislative and regulatory committee.
- (f) *Use permit.* As provided in Wis. Stats. § 167.10(3), the mayor may issue fireworks user's permits, or other city official designated by the mayor. The official issuing the permit shall require a certificate of liability insurance, or similar proof of coverage, in an amount he deems necessary. A copy of the permit and proof of insurance shall be filed with the clerk/treasurer and copies of the permit shall be given to the fire chief and the chief of police at least five days before the authorized use. This permit may be canceled by the fire chief, if the mayor is unavailable, if weather or other situations make it an unsafe condition.
- (g) *Obnoxious odor devices and products.*
  - (1) No person may sell, possess or use any device, product or item that has its primary purpose the production of an obnoxious odor or smell.
  - (2) Without limitation, it shall be grounds for suspension or revocation of a person's

fireworks sale license if the licensee sells or possesses for sale any obnoxious odor devices, products, or items.

(h) *Penalties.*

- (1) Any person who violates the provision of section 34-113(b), (d), (e)(1), or (g), upon conviction thereof, shall forfeit not less than \$250.00, and not more than \$500.00, together with the costs of prosecution. Each day of continued violation shall constitute a separate violation and offense.
- (2) Any person who violates the provisions of section 34-113(c), upon conviction thereof shall forfeit not less than \$50.00 and not more than \$500.00 together with the costs of prosecution. Each day of continued violation shall constitute a separate violation and offense.
- (3) Any parent or legal guardian of a minor who consents to the use of fireworks by the minor contrary to the provision of section 34-113(c), upon conviction thereof, shall forfeit not less than \$50.00 and not more than \$500.00 together with the costs of prosecution. Each day of continued violation shall constitute a separate violation and offense.

(Ord. No. OR99-05, §§ I, II, 5-24-1999; Ord. No. OR01-04, § I, 5-14-2001)

Secs. 34-114--34-116. Reserved.

**Editor's note:** Ord. No. OR01-04, § I, adopted May 14, 2001, repealed §§ 34-114--34-116, which pertained to requirements for permit, fee for permit, and sale and discharge restricted, respectively, and derived from Code 1983, §§ 9.06, 10.05(7), and Ord. No. OR99-05, §§ I, II, adopted May 24, 1999.