

Chapter 7

Regulation and Licensing of Fireworks

7-7-1 Regulation of Fireworks

Sec. 7-7-1 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 or to produce audible and visible effects.
 - (4) A device designed to spray out paper confetti or streamers and which contains less than on-quarter grain of explosive mixture.
 - (5) 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.
 - (6) 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.
 - (7) 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.
 - (8) 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.
 - (9) Fuel or a lubricant.
 - (10) A firearm cartridge or shotgun shell.
 - (11) 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.
 - (12) A match, cigarette, lighter, stove, furnace, candle, lantern or space heater.
 - (13) A model rocket engine.
 - (14) Tobacco and a tobacco product.
- (b) **Sale.** No person may sell or possess with intent to sell fireworks, except:
- (1) No person may sell or possess with intent to sell fireworks, except:
 - a. To a person holding a permit under either subsection 7-7-1(b)(2) or 7-7-1(b)(3) or
 - b. To a city, village or town.

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- (2) A firework seller's permit may only be issued to a person holding or exempt from having a valid user's permit pursuant to subsection (c) hereof. A firework seller's permit may be obtained from the City Clerk upon payment of the fee set forth in the City of Onalaska Fee Schedule. A firework seller's permit described in subsection 7-7-1(b)(3) hereof that provides services or conducts activities in the City of Onalaska.
 - (3) A fireworks location permit may only be issued to a person holding or exempt from having a valid users permit pursuant to subsection 7-7-1(c) hereof. The fireworks location permit shall be displayed at the location for which it was published at all times that such location is operating. A fireworks location permit may be obtained from the City Clerk, subject to a fee as set forth on the City of Onalaska Fee Schedule. A separate fireworks location permit is required for every physical location selling fireworks in the City of Onalaska.
 - (4) The provisions of subsection 7-7-1(c)(4) an (5) shall apply to the issuance of every fireworks seller's permit or fireworks location permit.
 - (5) For a purpose specified under subsection 7-7-1(c)(2)(a)-(f) hereof.
- (c) **Use.**
- (1) No person may possess, sell or use fireworks without a user's permit from the City Clerk. No person may use fireworks or a device listed under sub. (1)(a) through (h) or (m) while attending a fireworks display for which a permit has been issued to a person listed under subsection (2)(a)-(e).
 - (2) Paragraph (a) 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 of use of explosives in accordance with rules or general orders of the Wisconsin Department of Commerce.
 - c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin 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 institution.
 - 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. (bm)*, the possession of fireworks in the City while transporting the fireworks to the City where the possession of the fireworks is authorized by permit or ordinance. *(bm) Paragraph (a) applies to a person transporting fireworks under par. (b) 7. 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
 - (3) 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 civic organization intending to display fireworks for public purposes.

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- (4) The City may require an indemnity bond with good and sufficient sureties in the amount of not less than one million dollars (\$1,000,000) or policy of liability insurance in the amount of not less than one million dollars (\$1,000,000) for the payment of all claims that may arise by reason of injuries (including death) or damages of whatever kind to person or property from the sale, handling, use or discharge of fireworks under the permit. Such bond or policy of insurance shall be obtained from a company or companies approved by the City and in a form satisfactory to the City. The bond or insurance policy shall be taken in the name of the City and any person injured or damaged thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the City Clerk. None of the provisions of this section shall be construed to limit the liability of the permit holder for injuries or damages.
- (5) A permit under this subsection shall specify all of the following:
 - a. The name and address within the City of Onalaska of the permit holder
 - b. The date on and after which fireworks may be purchased or sold, as applicable
 - c. The kind and quality of fireworks which may be purchased or sold, as applicable
 - d. The date and location of permitted use or sale, as may be applicable
 - e. Other special conditions including but not limited to the amount of bond or insurance under subsection 7-7-1(c)(4) hereof and any conditions or special requirements that the City deems necessary or appropriate.
 - f. A copy of a permit under this subsection shall be given to the municipal fire or law enforcement official at least 2 business days before the date of authorized use.
 - g. No permit under this ordinance may be issued to a minor.
- (d) **Parental 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 the minor is liable for damages caused by the minor's use of the fireworks.
- (e) **Enforcement.**
 - (1) The City may petition the circuit court for an order enjoining violations of this ordinance.
 - (1) Fireworks stored, handled, sold, possessed or used by a person who violates this ordinance or a court order under par. (a) may be seized and held as evidence of the violation. Except as provided in s. 968.20 (4) Wis. Stats., only the fireworks that are the subject of a violation of this ordinance or a court order under par. (a) may be destroyed after conviction for a violation. Except as provided in s. 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.

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(f) **Penalties.**

- (1) A person who violates a court order under subsection 7-7-1(e)(1) hereof shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.
- (2) A person who violates this ordinance shall forfeit not more than \$1,000.
- (3) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.
- (4) A person holding any permit issued under this ordinance who violates this ordinance shall immediately forfeit such ordinance and shall be ineligible to obtain any permit under this ordinance for one (1) year from the date of such forfeiture.