

ARTICLE VII. - FIREWORKS

DIVISION 1. - GENERALLY

Sec. 44-691. - Definitions.

Wis. Stats. § 167.10(1), which defines "fireworks", together with any existing or future amendments thereto, is hereby adopted and incorporated by reference and made part of this chapter, as if fully set forth herein.

(Comp. Ords. 2009, § 14.02(3)(a); Ord. No. 2017-O-03, § 1, 2-14-2017)

Sec. 44-692. - Regulation by city.

The city hereby elects under Wis. Stats. § 167.10(5) to regulate the sale, possession and use of fireworks.

(Comp. Ords. 2009, § 3.13(1))

Sec. 44-693. - State law adopted by reference.

Except as herein specifically provided, Wis. Stats. § 167.10 regulating the sale and use of fireworks, including the definition of fireworks in Wis. Stats. § 167.10(1), exclusive of any penalty imposed thereby, is adopted by reference and made part of this article as if fully set forth.

(Comp. Ords. 2009, § 3.13(2))

Sec. 44-694. - National fire protection association standards adopted by reference.

NFPA 1123, "Fireworks Display" and NFPA 1124, "Fireworks and Pyrotechnic Articles" are adopted by reference and made part of this article as if fully set forth herein. Wherever the provisions of state law conflict with NFPA 1123 or 1124, the more restrictive provision shall apply.

(Comp. Ords. 2009, § 3.13(3))

Sec. 44-695. - Sale, possession and use restricted.

No person may sell fireworks, or possess fireworks with intent to sell, or use fireworks, except as allowed in this article.

(Comp. Ords. 2009, § 14.02(3)(b), (c))

Sec. 44-696. - Exclusions.

This section shall not apply to:

- (1) Explosives, ammunition and blasting agents handled and used in accordance with construction or mining purposes, in which such action is in accordance with other ordinances and statues.
- (2) The use of or sale of blank cartridges for circus or theatrical purposes, or signal purposes in athletic contest or sport events, or use by militia, police or military organizations; nor the use or sale of colored flares or torpedoes for railway, aircraft, or highway signal purposes.

- (3) Pyrotechnic display approved by the Fitchburg Days Committee for a Fitchburg Days event, and for pyrotechnic display approved by the public safety and human services committee for the annual Festa Italia Event sponsored by Italian Workman's Club.
- (4) Any person who, without the intent to sell the fireworks in the city, is in the possession of fireworks while transporting the fireworks to a municipality where the possession of the fireworks is authorized by permit or ordinance, provided, however, that this exclusion does not apply if the person remains within the city for a period of more than 12 hours.

(Comp. Ords. 2009, § 14.02(3)(d))

Sec. 44-697. - Out-of-state.

This section does not prohibit a resident wholesaler, dealer, or jobber from selling fireworks at wholesale, if that wholesaler, dealer or jobber ships or delivers the fireworks outside of the state in sealed opaque containers by common motor carrier, contract motor carrier or private motor carrier, as defined by Wis. Stats. § 194.01(1), (2), and (11), engaged in the business of shipping or delivering property.

(Comp. Ords. 2009, § 14.02(3)(e))

Sec. 44-698. - Storage and handling.

This section shall apply to places where fireworks are stored and handled within the city.

- (1) Fireworks may only be stored or handled in premises that are equipped with fire extinguishers approved by the fire chief.
- (2) Smoking shall be prohibited where fireworks are stored or handled.
- (3) Every wholesaler, dealer, or jobber who keeps, stores, or handles fireworks, of any description, within the city shall immediately notify the fire chief of the receipt of such fireworks, or the removal thereof from one location to another, and the location where such fireworks are stored.
- (4) No fireworks may be stored within 50 feet of a dwelling.
- (5) No fireworks may be stored within 50 feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon.

(Comp. Ords. 2009, § 14.02(3)(f))

Sec. 44-699. - Parental liability.

A parent, foster, or family-operated group home parent or legal guardian of a minor who consents to the use of fireworks by the minor who is under the age of 18 years of age is liable for damages caused by the minor's use of fireworks, and in addition shall be subject to the penalty provided in in section 1-21.

(Comp. Ords. 2009, § 14.02(3)(g))

State Law reference— Parental liability for acts of minor child, Wis. Stats. § 895.035.

Sec. 44-700. - Seizure.

The fire chief or police chief shall seize, at the expense of the owner, all fireworks stored, handled, sold, possessed or used by any person who violates this section. Such seized fireworks shall be destroyed after conviction for a violation.

(Comp. Ords. 2009, § 14.02(3)(h))

Secs. 44-701—44-728. - Reserved.

DIVISION 2. - PUBLIC DISPLAY

Sec. 44-729. - Public displays, permits and fees.

This section shall not prohibit the use of fireworks for pyrotechnic displays sponsored by public authorities, fair associations, amusement parks, park boards or civic organizations if a permit for such display is issued by the city.

- (1) *Application for permits.* An application for a fireworks permit shall be made in writing to the city at least 30 days in advance of the date of the display. The application shall be reviewed by the fire chief or his/her designee.
- (2) *Fee.* An application for permit shall be accompanied by a fee in the amount established by the common council. In the event the application is denied, the permit fee shall be refunded; provided, however, that the common council may by ordinance establish a nonrefundable administrative fee for processing of denied application in which event the administrative fee shall be withheld upon refund of the permit fee.
- (3) *Sponsor.* The sponsor of the event shall provide the following information to the city in the application: Name and qualifications of operators (operators must be at least 18 years of age), proof of insurance (minimum of \$1,000,000.00 bodily injury/property damage) location of event and proposed method of spectator control and protection.
- (4) *Display conditions.* The operator shall provide the city at the time the application for permit is submitted with details concerning the display of the fireworks. These details shall be used to evaluate the safety precautions planned for the display. The department will base its evaluation upon the NFPA standards adopted in section 44-694. Such conditions shall be submitted to the permit holder and the operator in writing. The operator shall comply with all conditions found to be required for the display. The city may impose conditions on the display.
- (5) *Day of display requirements.* At least four hours prior to the start of the display, the operator shall make contact with the fire chief or his/her designee to obtain conditional approval for the display to occur. The fire chief or his/her designee may prohibited or terminate the use or display of fireworks or pyrotechnic special effects material when in the opinion of the fire chief or his/her designee atmospheric conditions or local circumstances make such use or display a fire or other hazard or otherwise endangers the safety of the public.

(Comp. Ords. 2009, § 3.13(5))

Secs. 44-730—44-758. - Reserved.

Editor's note— Ord. No. 2017-O-03, § 1, adopted February 14, 2017, amended the Code by repealing former § 44-730 in its entirety. Former § 44-730 pertained to parental responsibility, and derived from the Compiled Ords. of 2009, § 3.13(6).