

Article VIII. Fireworks

Cross reference— Fire prevention and protection, ch. 26; fireworks, § 30-71 et seq.
State Law reference— Fireworks, Wis. Stat. § 167.10.

Sec. 14-431. Definitions.

Consumer Fireworks, also known as 1.4G fireworks and formerly known as “Class C” fireworks mean fireworks containing Division 1.4 explosives, as defined in 49 CFR 173.50. Note: These fireworks are commonly sold at neighborhood stands during the Fourth of July season.

Display Fireworks, also known as 1.3G fireworks and formerly known as “Class B” fireworks mean fireworks containing Division 1.3 explosives, as defined in 49 CFR 173.50. Note: These are the type of fireworks used in large community displays run by licensed professionals and are not intended for use by consumers.

Fireworks, as set forth in Wis. Stat. § 167.10, mean 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 a tobacco product.
- (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.
- (15) A novelty device that spins or moves on the ground.

Sec. 14-432. Sale and use.

- (a) *Sale Prohibited.* No person may sell or possess with intent to sell fireworks or those devices described in Sec. 14-431 (5), (6), (9) through (14) within the limits of the village.
- (b) *Permit Required for Use.* No person may use or possess fireworks within the village without a user's permit from the village, except that possession of fireworks without a permit is permitted, subject to Wis. Stat. § 167.10(3)(bm), while transporting the fireworks to a city, town, village or county where possession of fireworks is authorized by permit or ordinance.
- (c) *Application.* All permit applications shall be filed with the clerk, or designee, in writing upon payment of an application fee in an amount set from time-to-time by the village board. All applications shall be on a form prepared by the village clerk and shall include at a minimum the following:
 - (1) The name and address of the permit holder.
 - (2) The date on and after which fireworks may be purchased.
 - (3) The general kind and approximate quantity of fireworks which may be purchased and used.
 - (4) The date and location of permitted use.
 - (5) The event for which the fireworks will be used and whether the public is invited to attend.
- (d) *Referral, Notice and Approval.* The village clerk or designee shall have the authority to issue a permit for the use of Consumer Fireworks. The clerk shall refer complete applications for the use of Display Fireworks to the village board for review and approval following review and recommendation by the chief of the fire department and the code enforcement officer. The clerk shall provide written notice of the village board meeting at which the application for use of Display Fireworks will be considered to all landowners within 2500' of the proposed location where the Display Fireworks will be used, at least seven days in advance of such meeting. The cost for such written notice shall be borne

by the applicant. A user's permit may be issued by the village president or designee to a person listed under subsection (e)(1) through (e)(7) of this section upon receiving approval by the clerk or designee for Consumer Fireworks and by the village board for Display Fireworks. The issuance of any such permit shall not be deemed a guarantee by the village or any of its officers or designees that the use of any fireworks shall be safe. Permits issued shall contain all of the following information:

- (1) The name and address of the permit holder.
 - (2) The general kind and approximate quantity of fireworks which have been approved for use.
 - (3) The date and location of permitted use.
 - (4) The event for which the fireworks will be used and whether the public is invited to attend.
 - (5) Statements of limitation of liability for the Village, pursuant to Wis. Stat. Section 167.10(7m), and requiring indemnification of the Village for claims related to the use of the fireworks permitted by the Village.
 - (6) Other special conditions prescribed by ordinance or the village board necessary to protect the public health, safety and welfare, including restrictions limiting the manner of use and distances from buildings and spectators.
- (e) *Authorized Permittees.* A permit under this section may be issued only to the following:
- (1) A public authority.
 - (2) A fair association.
 - (3) An amusement park.
 - (4) A park board.
 - (5) A civic organization.
 - (6) An individual or a group of resident or nonresident individuals.
 - (7) An agricultural producer for the protection of crops from predatory birds or animals.
- (f) *Miscellaneous Provisions.*
- (1) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
 - (2) No person may use a device listed under Section 14-431 (5),(6), (9) through (14) within the village, except upon private property with the owner's consent.
 - (3) No person may possess or use fireworks or a device listed under Section 14-431 (5),(6), (9) through (14) while attending any permitted fireworks display.

- (4) No permit shall be granted for the display or use of any fireworks within 100 feet of any gasoline pump, gasoline filling station or bulk station or any building in which gasoline or volatile liquid is sold in quantities in excess of one gallon.
- (5) A permit under this section may not be issued to a minor.
- (6) Unless otherwise approved by the village board, fireworks must be used on the date set forth on the permit between the hours of dusk and 11:00 pm.
- (7) A user's permit may be cancelled and rescheduled by the clerk or designee, or fire chief or designee, if the weather or other situations make it unsafe for the use to be conducted or if it is determined by the village board that the user permit was issued based upon fraud or misrepresentation.
- (8) The village board reserves the right to limit the amount of permits granted or to enact a moratorium on the issuance of such permits where conditions so warrant (e.g., drought conditions, pending no-burn orders, etc.).
- (9) Pursuant to Wis. Stat. § 167.10 (5), the Village's fireworks ordinance may not be less restrictive in its coverage, prohibition or regulation than state statute, but may be more restrictive. Subject to that requirement, the village board retains the authority to approve a modification or waiver to its ordinance requirements where warranted pursuant to Sec. 2-404 of the village's Code of Ordinances.
- (10) The notification requirements set forth in subsection (d) above are not applicable to Display Fireworks held at the Racine County Fairgrounds.

Sec. 14-433. Liability insurance required.

The person issuing a permit under this article for Display Fireworks shall require a surety bond or policy of liability insurance showing evidence of fireworks liability, 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 granted under this article, in the amount of no less than \$1,000,000, with the Village of Yorkville named as an additional insured. Any person injured thereby may bring an action on the policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the insurer to all persons shall not exceed the amount of the bond or policy. The policy and documentation showing the village as an additional insured shall be filed in the office of the clerk prior to permit issuance.

Sec. 14-434. Permit to be provided to fire chief and code enforcement officer.

Copies of all permits issued shall be given to chief of the fire department, code enforcement officer, and Racine County Sheriff's Department at least two days before the date of authorized use.

Sec. 14-435. Parental liability.

A parent or legal guardian of a minor who consents to the use of fireworks by a minor is liable for damages caused by the minor's use of the fireworks.

Sec. 14-436. Enforcement.

Fireworks stored, handled, sold, possessed or used by a person in violation of this Article, shall be seized. The fireworks shall be destroyed after conviction for a violation; and if not convicted shall be otherwise returned to the owner.

Sec. 14-437. Penalty.

A person, or a parent or legal guardian of a minor who consents to the use of fireworks by the minor, who violates this Article shall forfeit not less than \$50.00 nor more than \$1,000.00.

Sec. 14-438 -14-460. Reserved.

Article IX. Cigarettes, Electronic Vaping Devices, and Tobacco Products

State Law reference— Cigarettes, electronic vaping devices, and tobacco products retailer license, Wis. Stat. § 134.65.

Division 1. Generally

Sec. 14-461. State law adopted.

Sections 134.65 and 134.66, Wis. Stat., as amended from time to time, pertaining to cigarette retailer's licenses and restrictions on the sale or gift of cigarettes or tobacco products and electronic vaping devices are adopted by reference and incorporated herein as though set forth in full.

Secs. 14-462—14-480. Reserved.

Division 2. License

Sec. 14-481. Required.

No person shall in any manner, directly or indirectly, manufacture, sell, exchange, dispose of or give away or expose for sale any cigarettes, electronic vaping devices, or tobacco products without first applying for and obtaining a license therefor from the clerk in the manner provided in Wis. Stat. § 134.65. This division shall not apply to jobbers or manufacturers doing interstate business with customers outside the state.

Sec. 14-482. General requirements.

The fee for a license under this division is set forth in section 14-35 and shall be submitted together with the application to the clerk for presentation to the village board at any regular or