

VILLAGE OF WINDSOR
ORDINANCE 2016-21

AMENDMENT OF FIREWORKS ORDINANCE

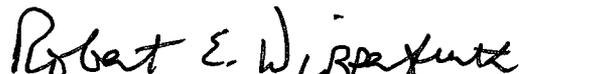
THE VILLAGE BOARD FOR THE VILLAGE OF WINDSOR, LOCATED IN DANE COUNTY, WISCONSIN, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE: Sections 24-141 through 24-147, which regulate fireworks use, sale and display in the Village of Windsor, are hereby amended to read as set forth on the attached Exhibit A, which is incorporated by reference as if set forth in full herein.

SECTION TWO: This Ordinance shall become effective following its adoption by the Village Board and publication or posting in the manner required by law.

The above and foregoing Ordinance was adopted at a duly noticed meeting of the Village Board of the Village of Windsor held on August 4, 2016, by a vote of 5 in favor and 0 opposed.

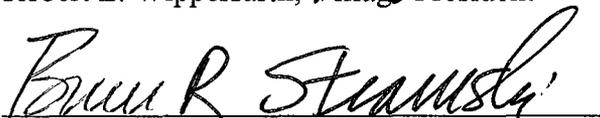
VILLAGE OF WINDSOR



Robert E. Wipperfurth, Village President



Donald G. Madelung, Trustee



Bruce Stravinski, Trustee

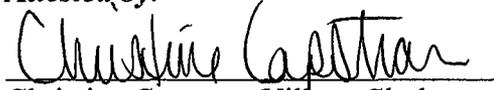


Alan Buchner, Trustee



Monica M. Smith, Trustee

Attested by:



Christine Capstran, Village Clerk

Published: August 11, 2016

Effective: August 12, 2016

Incorporated by Reference:

Exhibit A: Amendment of Windsor Ord. Sections 24-141 through 24-147

Sec. 24-141. - State law adopted.

Wis. Stats. § 167.10, which is entitled Regulation of Fireworks, and except for any provisions related to sale of fireworks and/or penalty imposed thereby, is adopted by reference and made a part of this section as though set forth in full. For purposes of this subsection, "fireworks" shall mean those items defined as fireworks under Wis. Stats. § 167.10(1), and, except as used in section 24-122, shall also mean the following:

- (1) Caps containing gunpowder or another explosive mixture, other than those manufactured and sold for use in firearms;
- (2) Toy snakes;
- (3) Sparklers;
- (4) Any device designed to spray out paper confetti or streamers, or to produce audible or visual effects by ignition of any explosive mixture;
- (5) Any 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; and
- (7) A cone fountain that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR § 173.50.

(Ord. No. 2013-03, § 1(7-3-1), 5-13-2013)

Sec. 24-142. - Fireworks use or display.

No person shall use or display fireworks, except as authorized by a fireworks display permit granted under this section.

(Ord. No. 2013-03, § 1(7-3-2), 5-13-2013)

Sec. 24-143. - Sale and possession of fireworks for sale prohibited.

The Village of Windsor has not authorized and does not permit the sale of fireworks by seasonal operators at roadside stands, tents, mobile trailers or other seasonal shelters. Therefore, no such persons shall sell, or possess with the intent to sell, fireworks, and no permits for such sales shall be issued by the Village of Windsor.

This paragraph shall not apply to persons transporting fireworks through the Village to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance if the fireworks remain in the Village for less than 12 hours and no sales occur in the Village.

This paragraph shall not apply to persons or businesses whose principal business is the sale of fireworks and who engages in such sales from a permanent structure or commercial building that is used principally for the sale of fireworks year round, provided that any such persons and businesses shall first apply for and obtain a fireworks permit that shall be valid for a period of one (1) year from the date of issuance. Such permits shall be reviewed and issued in accordance with the permit requirements for display of fireworks set forth in Sec. 24-144.

(Ord. No. 2013-03, § 1(7-3-3), 5-13-2013)

Sec. 24-144. - Fireworks permits.

Permits for the display of fireworks under section 24-142 shall be issued as provided in this paragraph.

- (1) Application. Applications for permits under this subsection shall be filed with the Village Clerk, on a form provided by the Clerk, at least 45 days prior to the requested date(s) of possession, sale, use or display. The application shall be accompanied by a non-refundable application fee of \$40.00 for a fireworks display permit.
 - a. The applicant's name, permanent residence address, telephone number, driver's license number and issuing state. A copy of the driver's license shall be attached to the application by the Clerk;
 - b. The name, address and telephone number of any business entity on whose behalf the applicant is applying;
 - c. The address or other location description of the property where the permitted activities will be conducted;
 - d. Specific identification of the products to be used in the permitted activity;
 - e. A drawing or other adequate description of the methods and facilities to be used to store and secure the fireworks before, during and after the completion of the permitted activities, as applicable;
 - f. A statement whether the applicant or the business for which the application is made has been charged with, or convicted of, a violation of a state or federal law or municipal ordinance relating to the use, possession or sale of fireworks or firearms, or of any criminal offense, within the previous five years, and the details of each such charge or conviction.
- (2) Investigation of applications. Upon receipt of each application, the Village Clerk shall immediately make an investigation of the statements made in such application. The Clerk shall also forward a copy of the application to the Fire Chief or designee, who shall review the application and comment on any fire or other public safety concerns raised by the application. Upon receipt of such reports, the Clerk shall promptly forward them to the Village President or his or her designee, for a determination on the application.
- (3) Decisions on applications. The Village President, or his or her designee, shall review the application and the reports of the Village Clerk and the Fire Chief or designee and shall approve, deny or conditionally approve the requested permit within 45 days of the date of application and notify the Clerk of such decision. No application shall be approved, and no permit shall be issued, unless the Village President or designee determines all of the following:
 - a. The application is complete, and all information required by subsection (1) has been provided;
 - b. All information contained in the application appears to be accurate and is not materially misleading or otherwise untrue;
 - c. The applicant and any entity on whose behalf the applicant has applied have not been found guilty of violating any criminal law or ordinance involving the improper handling, storage, sale, use or other activities involving fireworks, firearms or explosives, or which otherwise involved circumstances directly related to the fitness of the applicant to conduct the activities authorized by the permit, within the previous ten years;
 - d. No charges are currently pending against the applicant or any entity on whose behalf the applicant has applied, alleging a violation of a federal or state law or regulation, or any municipal ordinance, regulating the handling, storage, sale, use or other activities involving fireworks, firearms or explosives, unless the Village President or designee has cause to believe that the charges cannot be proven;
 - e. Based on the application and the reports, the Village President or designee is satisfied that the activities authorized by the permit will be conducted at a place and in a manner which

adequately protects the public from significant risk of harm to persons or property and from unreasonable annoyance.

- (4) Conditions on approval. The approving official may impose any conditions deemed reasonably necessary to assure that the permitted activities conform to the representations contained in the application and all applicable laws, and to otherwise protect the public health, welfare and safety.
- (5) Appeals. Any person aggrieved by the decision to grant or deny an application under this subsection may appeal to the Village Board, not later than 20 days following the date of the decision by filing a written request for a hearing with the Village Clerk which shall include a statement on the basis of the appeal.
- (6) Liability and insurance. No permit under this subsection shall be issued until the applicant has filed with the Village Clerk a certificate of liability insurance and an additional insured endorsement naming the Village of Windsor as an additional insured, in the amount of \$1,000,000.00 for bodily injury to one person; \$2,000,000.00 for injury to more than one person; and \$1,000,000.00 for damage to property, and has agreed in writing to indemnify and hold the Village of Windsor harmless from any claims or liability, including attorney fees and other defense costs, which may arise from the applicant's possession, use, or display of fireworks.

(Ord. No. 2013-03, § 1(7-3-4), 5-13-2013)

Sec. 24-145. - Display of permit cards.

The Village Clerk shall issue a permit card to each permittee whose application is approved under this subsection, containing sufficient information to identify the permittee and specifying the activities allowed, and the dates during which they are allowed, by the permit. A copy of the permit shall be forwarded by the Clerk to the Fire Chief prior to the effective date of the permit. A permit card issued under this paragraph shall be prominently displayed at the site of the permitted activities at all times while the permit holder is engaging in the permitted activities.

(Ord. No. 2013-03, § 1(7-3-5), 5-13-2013)

Sec. 24-146. - General regulations.

- (a) A permit issued under this subsection is not transferable from person to person or from one location to another.
- (b) No permit shall be issued under this subsection to any person under the age of 18 years.
- (c) Smoking and the use of matches, lighters or other flame or spark producing devices shall not be allowed in or within 25 feet of any fireworks storage area or firework display areas requiring a permit under this subsection, and "No Smoking" signs shall be posted accordingly.
- (d) At least one portable fire extinguisher approved by the Fire Chief or his designee shall be located within 50 feet of all fireworks storage or display areas requiring a permit under this subsection.

(Ord. No. 2013-03, § 1(7-3-6), 5-13-2013)

Sec. 24-147. - Enforcement.

Any law enforcement officer, the constable, the Fire Chief or any other fire inspector may immediately suspend any permit issued under this subsection if he or she finds a violation of the terms of the permit, or any state, federal, county or Village law, regulation or ordinance governing the safe and lawful storage, use or handling of fireworks. All permittees shall comply with all lawful orders of such

officials and shall immediately discontinue all activities requiring a permit under this subsection when the required permit is suspended. Decisions by such officers may be appealed as provided in subsection 24-144(5).

(Ord. No. 2013-03, § 1(7-3-7), 5-13-2013)