

BODY – LEGISTAR #33814

The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (14) of Section 34.105 entitled “Licenses and Permits” of the Madison General Ordinances is amended to read as follows:

“(14) The following activities shall be required to obtain a license for a specific time period as approved by the Chief, but for no longer than a year.

- (a) Open Burning. ~~the license shall comply with Sec. 34.307, MGO. The fee for this license shall be~~ The license fee for an open burning license under Sec. 34.307 is fifty dollars (\$50).
- (b) Pyrotechnic Special Effects Materials. An operational ~~license~~ permit is required for the use and handling of pyrotechnic special effects materials ~~and public display of fireworks before a proximate audience or in a motion picture, television, theatrical and group entertainment productions.~~ A ~~license~~ permit is required for each display. The ~~license~~ permit fee is two hundred and fifty dollars (\$250). All use and handling of pyrotechnic special effect materials ~~and fireworks~~ shall comply with the requirements found in IFC section 105.6.36, IFC chapter 56 and Sec. 34.56048, MGO.
- (c) Fire Performance Art as defined Sec. 34.308(2)(a) – the license shall comply with Sec. 34.308(2)(e).”

2. Subsection (16) entitled “Fireworks Permits” of Section 34.105 entitled “Licenses and Permits” of the Madison General Ordinances is created to read as follows:

“(16) Fireworks Permits.

- (a) Recreational Fireworks Sellers Permit. A permit is required for the retail sales of recreational fireworks under Sec. 34.5601. The fee for this permit shall be one hundred dollars (\$100).
- (b) Fireworks Event Permit. A permit is required for a fireworks event under Sec. 34.5608(5). The permit fee is two hundred and fifty dollars (\$250).
- (c) Fireworks Shooters Permit. A permit is required for the possession or public display of fireworks under Sec. 34.5608(6). The fee for this permit shall be two hundred and fifty dollars (\$250).”

3. Current Subsections (16) and (17) of Section 34.105 entitled “Licenses and Permits” of the Madison General Ordinances are renumbered to Subsections (17) and (18).

4. The title of Section 34.5601 entitled “Explosives and Fireworks” is hereby amended to read as follows:

“34.5601 EXPLOSIVES AND RECREATIONAL FIREWORKS.”

5. Section 34.5608 entitled “Fireworks Display” of the Madison General Ordinances is hereby repealed and recreated to read as follows:

“34.5608 NON-RECREATIONAL FIREWORKS.

- (1) Applicability. The requirements in this Section are in addition to those incorporated herein by IFC section 5608. If these requirements differ with those set forth in IFC section 5608, these requirements are applicable.
- (2) Definitions. In this Section the following definitions shall apply:
 - (a) Fireworks means any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration or detonation that meets the definition of Fireworks as set forth in IFC section 202. This term does not include recreational fireworks, which are subject to Sec. 34.5601.

- (b) Fireworks Event means any occasion or occurrence, or series of occasions or occurrences, that includes the public display of fireworks.
 - (c) Public Display means the use of fireworks or pyrotechnics in a setting where the discharge is for public or private entertainment purposes.
 - (d) Pyrotechnic Special-Effect Material means a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration or detonation. Such a chemical mixture predominantly consists of solids capable of producing a controlled, self-sustaining and self-contained exothermic chemical reaction that results in heat, gas, sound, light or a combination of these effects.
- (3) Prohibitions.
- (a) Fireworks Displays Prohibited. The public display of fireworks without a fireworks event permit issued under Sec. 34.105(16)(b) and sub. (5) below is prohibited.
 - (b) Possession or Use of Fireworks Prohibited. No person may possess or use fireworks without a fireworks shooters permit issued under Sec. 34.105(16)(c) and sub. (6) below.
- (4) Exclusions. No permit otherwise required under this Section is needed under any of the following conditions:
- (a) The possession of fireworks in the City is solely in the course of transportation activities;
 - (b) The use or sale of blank cartridges; and,
 - (c) The use or sale of flares for railway signal and motor vehicle emergency warning purposes.
- (5) Fireworks Event Permit.
- (a) Requirement. A fireworks event permit may be issued by the Chief to allow a person to stage a fireworks event. A permittee shall follow all conditions imposed on the fireworks event permit holder by the Chief under this Subsection. The failure to comply with any such conditions is a violation of this Subdivision.
 - (b) Permit Application. An application by a person, group, organization or other entity sponsoring, organizing or planning a fireworks event shall be submitted at least sixty (60) days in advance of the date set for the public display of fireworks and shall contain the following:
 1. The name and contact information of the person seeking the permit.
 2. The address and exact location of the proposed public display.
 3. The date and time of the proposed public display, including any potential "rain dates" in the event the proposed public display is delayed due to weather or other public safety concerns.
 4. A general summary of the proposed fireworks event and public display.
 5. The written permission of the property owner where the fireworks event will occur, an approved or submitted street use permit application for the fireworks event, or an explanation why no such permission of the land owner is necessary.
 6. A proposed site plan for the fireworks event, showing where the public display will take place, the firing area, distances to the audience, buildings, roadways and public pathways, and other special conditions.
 7. A security plan for the safekeeping and security of fireworks while they are on-site. The plan must cover the time from when the fireworks arrive in the City until the post-display site survey is completed and all fireworks are used or properly disposed of. The security plan must include the contact information for any

persons or companies that will be responsible for firework security at the event.

8. A preliminary clean-up plan, as set forth below in sub. (c)4.
 9. Proof of insurance as required under sub. (10).
- (c) Permit Conditions. A fireworks event permit may be issued by the Chief, subject to the following conditions:
1. Shooters Permittee. Within thirty (30) days of the public display, the fireworks event permittee must provide the Chief with the fireworks shooters permit holder who will possess and discharge the fireworks as part of the public display. A fireworks event permit will be void if this information is not timely provided.
 2. Time Restrictions. No fireworks shall be discharged after 11:00 p.m., or before 8:00 a.m., unless specifically provided for by the Chief.
 3. Public Safety. No fireworks event permit may be granted for any public display where the discharge, failure to fire, faulty firing or fallout of any fireworks or other objects would endanger persons, buildings, structures, forests or brush. To ensure public safety at the event, the following conditions apply:
 - a. Approved Perimeters. The permittee shall establish and maintain separate perimeters for the preparation and unloading of fireworks and the discharge of fireworks. Only authorized persons shall be allowed inside of the approved perimeters. Spectators at a fireworks event shall be located behind an approved secured perimeter by means of barriers, security or safety staffing, posting and/or any other means necessary to keep people out.
 - b. No fireworks are to be fired from a point less than the NFPA standards for setbacks.
 - c. Fireworks events not in conformance with subparagraphs a. and b. may be approved by the Chief if proper safeguards are provided to protect life and property.
 4. Clean-Up Plans. Every fireworks event shall have an approved clean-up plan. The goal of a clean-up plan is to minimize the environmental impacts associated with a public display of fireworks. The permittee is responsible for complying with the approved clean-up plan as set forth in this paragraph.
 - a. Lake Clean-Up Plan. A public display of fireworks that will occur over a lake or river must comply with an approved lake clean-up plan. The City Engineer shall review the submitted lake clean-up plan and make any modifications necessary to ensure adequate clean-up following the fireworks event. The lake clean-up plan, as approved by the City Engineer, shall be incorporated into the conditions of the permit, and may include post-event reporting requirements as determined by the City Engineer.
 - b. Park Clean-Up Plan. A public display of fireworks that will occur over a City park must comply with an approved park clean-up plan. The Parks Superintendent shall review the submitted park clean-up plan and make any modifications necessary to ensure adequate clean-up following the fireworks event. The park clean-up plan, as approved by the Parks Superintendent, shall be incorporated into the conditions of the permit, and may

include post-event reporting requirements as determined by the Parks Superintendent.

- c. General Clean-Up Plan. For a public display of fireworks that will occur over lands not covered by subparagraphs a. and b., the public display must comply with an approved general clean-up plan. The Chief shall review the submitted general clean-up plan and make any modifications necessary to ensure adequate clean-up following the fireworks event. The general clean-up plan, as approved by the Chief, shall be incorporated into the conditions of the permit, and may include post-event reporting requirements as determined by the Chief.
 - 5. Public Safety. The permittee shall be responsible for immediately cancelling or terminating any public display as part of a permitted fireworks event in the interests of public safety should such a cancellation or termination be necessary to ensure the health, safety and welfare of the public, including permittee, permittee's employees, agents, and contractors, spectators, emergency personnel, or any other persons or property that may be placed in substantial risk if the public display were to commence or continue.
 - 6. Special Conditions. The Chief may impose special conditions on a permit as deemed appropriate under the circumstances of the planned fireworks event.
 - (d) Revocation. If a permittee fails to comply with the permit conditions or fails to follow this Section, the permit may be revoked. In addition, the Chief may determine that, in the interests of the public welfare and public safety, the permittee may not apply for a new fireworks event permit for at least fifteen (15) months.
- (6) Fireworks Shooters Permit.
- (a) Requirement. A fireworks shooters permit may be issued by the Chief under the procedures set forth in Sec. 34.105 and this Section to allow a person to possess or use fireworks as part of an approved fireworks event. A permittee shall follow all conditions imposed on the fireworks shooters permit holder by the Chief under this Subsection. The failure to comply with any such conditions is a violation of this Subdivision.
 - (b) Permit Application. An application for a fireworks shooters permit shall be submitted at least thirty (30) days in advance of the date set for the public display of fireworks and shall contain the following:
 - 1. The name and contact information of the person seeking the permit.
 - 2. A resume of experience detailing the applicant's experience in conducting public displays of fireworks.
 - 3. The name of the fireworks event for which the permit is being sought.
 - 4. The address and exact location of the proposed public display.
 - 5. The date and time of the proposed public display.
 - 6. A general summary of the proposed public display.
 - 7. A proposed site plan for the event, showing where the public display will take place, the firing area, distances to the audience, buildings, roadways and public pathways, and other special conditions.
 - 8. Any additional information needed to demonstrate compliance with NFPA standards.

9. Copies of valid ATF and/or United States DOT licenses allowing the applicant to transport and handle the fireworks that will be used as part of the public display.
 10. Proof of insurance as required under sub. (10).
- (c) Permit Conditions. A fireworks shooters permit may be issued, subject to the following conditions:
1. Approved Event. A fireworks shooters permit may only be issued for an approved fireworks event. The Chief may consider an application for a fireworks shooters permit at the same time as a fireworks event permit, but a fireworks shooters permit is conditioned upon the existence of a valid fireworks event permit.
 2. Authority. The permittee shall inform the Chief of all persons authorized to possess or use fireworks pursuant to the permittee's authority.
 3. Standards. A permittee, and all those persons working pursuant to the permittee's authority, must comply with all federal, state and local requirements regarding the safe handling, transportation, storage, use, and disposal of fireworks, explosives, and pyrotechnic special-effect material.
 4. Permissible Fireworks.
 - a. Authorized Fireworks. A firework shooters permit only authorizes the permittee to possess or use fireworks approved by the United States Department of Transportation as set forth in the American Pyrotechnics Association's Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, as adopted in 68 Fed Reg. 48562 (eff. Oct. 1, 2003) as 49 CFR Part 171.7, as that rule may be updated from time-to-time.
 - b. Casings. Plastic shell casings are prohibited, unless authorized by the Chief for safety purposes.
 5. Mortar Caps.
 - a. Mortars shall be covered to prevent entry of rain and debris and to indicate the shell lifted from the mortar.
 - b. Plastic caps shall not be allowed if the event is to discharge near any lake, river, waterway or other area where recovery may be difficult.
 6. Time Restrictions. No fireworks shall be discharged after 11:00 p.m., or before 8:00 a.m., unless specifically provided for by the Chief.
 7. Manual Display. Manually ignited firework displays are prohibited.
 8. Secured Perimeter. No fireworks shall be unloaded, prepared, or discharged if any person, other than the permittee, permittee's authorized employees, or emergency personnel, are within an event's secured perimeters.
 9. Unfired Devices. Any fireworks or other devices that remain unfired after a public display or after a public display is cancelled shall be disposed of or removed in a safe manner or other permissible way pursuant to NFPA standards. Upon the conclusion of any event, the permittee under this subsection shall make a complete and thorough search for any unfired fireworks or other devices which have failed to fire or function and shall dispose of them in a safe manner.
 10. Event Conditions. The permittee shall, at least thirty (30) days prior to a fireworks event, provide the Chief with the following

information, which information, upon being approved, shall be a condition of the fireworks shooters permit. The permittee is under a continuing obligation to update this information prior to the fireworks event as additional information becomes known to the permittee, or as circumstances change:

- a. The number and kinds of fireworks which will be fired as part of the permitted event.
- b. The net weight of explosives in the public display.
- c. A list of all the chemicals in the fireworks that will be used as part of the public display.
- d. The location where the fireworks will be stored prior to the public display.
- e. A site plan for the event, showing where the public display will take place, the firing area, distances to the audience, buildings, roadways and public pathways, and other special conditions.

11. Public Safety. The permittee shall be responsible for immediately cancelling or terminating any public display as part of a permitted fireworks event in the interests of public safety should such a cancellation or termination be necessary to ensure the health, safety and welfare of the public, including permittee, permittee's employees, agents, and contractors, spectators, emergency personnel, or any other persons or property that may be placed in substantial risk if the public display were to commence or continue.

12. Special Conditions. The Chief may impose special conditions on a permit as deemed appropriate under the circumstances of the planned fireworks event.

(d) Revocation. If a permittee uses or displays fireworks contrary to this Section or the permit conditions, the permit shall be revoked and the permittee may not apply for a new fireworks shooters permit for at least fifteen (15) months.

(7) Issuance and Denial of Licenses and Permits. Following receipt of an application for a fireworks shooters permit or a fireworks event permit, the Chief shall review the application to ensure compliance with this Section. The Chief may modify any time limit requirements in this Section for good cause shown by the applicant or permittee. The Chief may make an investigation of the site of a proposed event to determine compliance with this Section. The Chief may request additional information, and the failure to provide all information requested two (2) weeks prior to the proposed public display, or a determination by the city that the proposed fireworks event would violate the requirements of this Section or subject the public to undue hazards shall be sufficient cause for the Chief to deny the fireworks event permit and/or the fireworks shooters permit.

(8) Authority to Terminate or Delay Display. The Chief may order a permitted fireworks event or the permitted public display of pyrotechnic special-effect material to be delayed or terminated if any requirement of this Section is being violated, when in the opinion of the Chief atmospheric conditions or local circumstance make such use or public display a fire hazard or other hazard to public safety, or if the public display is causing, or is likely to cause, a hazard to life or property. During such prohibition, no person may use or display or permit the starting of any use or display of fireworks or pyrotechnic special-effect material.

(9) Authority to Seize Fireworks. The Chief may seize, at the expense of the owner, all explosives, fireworks or pyrotechnic special-effects material that is stored, handled, sold, possessed or used by any person in violation of this Section.

Such seized products shall be destroyed after conviction for a violation, unless ordered returned to the owner.

- (10) Insurance Requirement. Every permittee and license holder under this Section and Sec. 34.105(14)(b) shall have and maintain Commercial General Liability insurance with a minimum limit of one million dollars (\$1,000,000) per occurrence; additional limits may be requested upon review by the City Risk Manager. Said insurance shall include coverage for bodily injury, property damage, and contractual liability, and name the City, its officers, officials, employees and agents as additional insureds. It shall also provide that the City receive written notice thirty (30) days prior to any cancellation, nonrenewal or material change in the policy. Proof of said insurance shall be submitted to the Chief at the time of the license or permit application. In addition, the applicant shall agree to indemnify, defend, and hold harmless the City and its officers, officials, employees and agents against all claims, liability, loss, damage, or expense incurred by the City on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted.
- (11) Penalty. Any person violating any of the provisions of this Section shall upon conviction be subject to a forfeiture of not less two hundred and fifty dollars (\$250) nor more than two thousand five hundred dollars (\$2500). Every day or fraction thereof during which any person fails or to comply with any provisions of this Section code shall constitute a separate violation.”

6. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by creating and amending therein the following:

<u>Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
<u>Unlawful use of pyrotechnic special-effect materials.</u>	<u>34.105(14)(b)</u>	<u>\$250, 1st</u> <u>\$500, 2nd & sub.</u>
<u>Unlawful fireworks.</u>	<u>34.5608(1), (2), (3)</u>	<u>\$225, 1st;</u> <u>\$300, 2nd & subsequent</u>
<u>Public display of fireworks without a permit.</u>	<u>34.5608(3)(a)</u>	<u>\$250, 1st;</u> <u>\$500, 2nd & sub.</u>
<u>Possess or use fireworks without a permit.</u>	<u>34.5608(3)(b)</u>	<u>\$250, 1st;</u> <u>\$500, 2nd & sub.</u>
<u>Failure to comply with fireworks event permit requirements.</u>	<u>34.5608(5)(a)</u>	<u>\$250, 1st;</u> <u>\$500, 2nd;</u> <u>\$1,000, 3rd & sub.</u>
<u>Failure to comply with fireworks shooters permit requirements.</u>	<u>34.5608(6)(a)</u>	<u>\$250, 1st;</u> <u>\$500, 2nd;</u> <u>\$1,000, 3rd & sub.</u>
<u>Use or display of fireworks or pyrotechnic special-effect material after prohibition by Fire Chief.”</u>	<u>34.5608(48)</u>	<u>\$500</u>

7. Subsection (4) entitled "Issuance of Citations" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by amending therein the following:

<u>"Enforcement Official</u>	<u>Ordinance Chapter or Section and Title</u>
Superintendent of Parks or her/his designee, and Park Rangers.	<u>Section 34.5608(5)(a) and (c)4.b., Fireworks Event Permit Park Clean-Up Plan;</u>
City Engineer or her/his designee.	<u>Chapter 37; Section 34.5608(5)(a) and (c)4.a., Fireworks Event Permit Lake Clean-Up Plan;</u> Section 19.16(6)(c), Failure to Modify Electrical Service.
Streets Superintendent and Building Inspection Division Director or her/his designee.	<u>Section 9.21, Scrap and Recycling Dealers; Section 34.5608(5)(a) and (c)4.c., Fireworks Event Permit General Clean-Up Plan."</u>

EDITOR'S NOTES:

1. New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.

2. Sec. 34.5608 currently reads as follows:

"34.5608 FIREWORKS DISPLAY.

The following requirements are in addition to the requirements found in IFC section 5608:

- (1) It shall be unlawful to possess or display fireworks or pyrotechnic special-effect material unless a license has been obtained under Sec. 34.105(14)(b), MGO.
- (2) Manually ignited firework displays are prohibited.
- (3) Mortars shall be covered to prevent entry of rain and debris and to indicate the shell lifted from the mortar.
- (4) The Chief may prohibit or terminate the use or display of fireworks or pyrotechnic special-effect material when in the opinion of the Chief atmospheric conditions or local circumstance make such use or display a fire hazard or other hazard to public safety. During such prohibition no person may use or display or permit the starting of any use or display of fireworks or pyrotechnic special-effect material anywhere within the City of Madison.
- (5) The Chief may seize, at the expense of the owner, all explosives, fireworks or pyrotechnic special-effects material that is stored, handled, sold, possessed or used by any person in violation of this code. Such seized products shall be destroyed after conviction for a violation and other returned to the owner.
- (6) The following language is substituted for IFC section 5601.2.4:
Every public display permittee shall have and maintain Commercial General Liability insurance with a minimum limit of one million dollars (\$1,000,000) per occurrence; additional limits may be requested upon review by the City Risk Manager. Said insurance shall include coverage for bodily injury, property damage, and contractual liability, and name the City, its officers, officials, employees and agents as additional insureds. It shall also provide that the City receive written notice thirty (30) days prior to any cancellation, nonrenewal or material change in the policy. Proof of said insurance shall be submitted to the Chief at the time of the permit application. In addition, the applicant shall agree to indemnify, defend, and hold harmless the City and its officers, officials, employees and agents against all claims, liability, loss, damage, or expense incurred by the City on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted."