

ORDINANCE 2019-4

AN ORDINANCE REGULATING THE SALE OR DISPLAY OF FIREWORKS IN THE CITY OF ARCADIA, WISCONSIN.

The Common Council of the City of Arcadia, Wisconsin, do ordain as follows:

SECTION 1. Section 217 of the City of Arcadia Code of Ordinances is amended to read:

“§ 217-1 Permit required; prohibitions.

A. No person may possess or use fireworks within the City of Arcadia without a fireworks user's permit signed by the Mayor of the City of Arcadia or an official or employee of the City of Arcadia who has been designated by the Mayor. No parent or legal guardian of a minor may permit the minor to use fireworks or consent to the use of fireworks by the minor.

B. No person may use fireworks or a device listed under Subsection E to G or I to N of the definition of "fireworks" in § 217-2 while attending a fireworks display for which a permit has been issued to a group of resident or nonresident individuals if the display is open to the general public, except for a holder of a valid fireworks user's permit that specifically authorizes such use.

C. No person may sell or possess with the intent to sell fireworks within the City of Arcadia without a fireworks vendor's permit signed by the Mayor of the City of Arcadia or an official or employee of the City of Arcadia who has been designated by the Mayor.

§ 217-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FIREWORKS

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:

- A. Fuel or a lubricant;
- B. A firearm cartridge or shotgun shell;
- C. 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;
- D. A match, cigarette lighter, stove, furnace, candle, lantern, or space heater;
- E. A cap containing not more than 1/4 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;
- F. A toy snake which contains no mercury;
- G. A model rocket engine;

- H. Tobacco and a tobacco product;
- I. 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;
- J. A device designed to spray out paper confetti or streamers and which contains less than 1/4 grain of explosive mixture;
- K. A fuseless device that is designed to produce audible or visible effects or audible and visible effects and that contains less than 1/4 grain of explosive mixture;
- L. 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;
- M. 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;
- N. 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; or
- O. A novelty device that spins or moves on the ground.

FIREWORKS USER'S PERMIT APPLICATION

An application form prescribed by the Clerk, to allow a person to use Fireworks within the City of Arcadia, which shall contain at a minimum the information set forth in this chapter, properly completed and executed.

FIREWORKS USER'S PERMIT

Authorization issued by the City on a form prescribed by the Clerk, allowing a person to use Fireworks within the City of Arcadia.

FIREWORKS VENDOR'S PERMIT APPLICATION

An application form prescribed by the Clerk, to allow a person to sell Fireworks within the City of Arcadia which shall contain at a minimum the information set forth in this chapter, properly completed and executed.

FIREWORKS VENDOR'S PERMIT

Authorization issued by the City on a form prescribed by the Clerk, allowing a person to sell Fireworks within the City of Arcadia.

§ 217-3 Permit application; bond or insurance; approval; fees.

A. A fireworks user's permit shall not be issued unless a fireworks user's permit application is submitted to the City Clerk-Treasurer with the permit application fee. An individual or group of resident or nonresident individuals may apply for a fireworks user's permit. The application must be submitted with sufficient time for the City of Arcadia to act on it and, if approved, with

sufficient time for the applicant to provide the notice required under § 217-4 of this chapter. The application shall include:

- (1) The name and address of the applicant;
- (2) The date on and after which the applicant intends to purchase the fireworks;
- (3) The kind and quantity of fireworks which the applicant wishes to purchase;
- (4) The date on which and the time and location at which the applicant wishes to use the fireworks; and
- (5) The signature of an authorized representative of the fireworks display company authorized by Wisconsin law to display fireworks that will display the fireworks, or the signature of the person authorized by Wisconsin law to display fireworks who will display the fireworks.

C. A fireworks vendor's permit shall not be issued unless a fireworks vendor's permit application is submitted to the City Clerk-Treasurer with the permit application fee. An individual or group of resident or nonresident individuals may apply for a fireworks vendor's permit. The application shall include:

- (1) The name and address of the applicant;
- (2) The location at which the applicant intends to sell the fireworks;
- (3) The date on and after which the applicant intends to begin sale of the fireworks;
- (4) The kind and quantity of fireworks which the applicant wishes to sell;
- (5) The name and address of the business intending to sell the fireworks, if different from the applicant.

B. Bond or insurance.

(1) The Mayor, or an official or employee of the City of Arcadia who has been designated by the Mayor may not approve an application for a fireworks user's or a fireworks vendor's permit unless the applicant has provided the Mayor with proof of an indemnity bond with good and sufficient sureties or proof of a policy of liability insurance 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 fireworks user's permit. The bond or policy shall be taken in the name of the City of Arcadia. The bond or policy together with a copy of the fireworks user's permit or vendor's permit shall be filed in the office of the City Clerk-Treasurer.

(2) The bond or policy of insurance shall provide that the bond or policy shall protect the City of Arcadia against any liability arising from any claim, the basis of which arose as a direct or indirect result of the issuance of the fireworks user's permit or vendor's permit, whether the claim is filed after the bond or policy of insurance expires or not, provided that the claim arose after the bond or policy of insurance became effective.

(3) The applicant shall pay the bond or policy premium.

C. The application is subject to approval by the Mayor, or an official or employee of the City of Arcadia who has been designated by the Mayor, and may be rejected or refused for any reason or for no reason. The Mayor, or an official or employee of the City of Arcadia who has been designated by the Mayor, shall set the number of hours the fireworks user's permit shall be valid, or the period for which the vendor's permit shall be valid.

D. In no event shall a fireworks user's permit be valid for longer than three hours after the beginning of the fireworks display event.

E. The applicant shall pay a nonrefundable application fee established by the Common Council by resolution to the City of Arcadia upon submitting the application. If the application is approved, then prior to the fireworks user's permit or vendor's permit being issued the applicant shall pay an additional fee established by the Common Council by resolution to the City of Arcadia for issuance of the fireworks user's permit or vendor's permit. The City Clerk-Treasurer shall not issue the fireworks user's permit or vendor's permit until all fees required by this chapter are paid.

F. In addition to satisfying the other requirements hereunder and if required by the Chief of the Arcadia-Glencoe Fire Department, the applicant for a firework's user's permit shall pay to the Arcadia-Glencoe Fire Department a fee for the cost of having one or more trucks and appropriate personnel from the Arcadia-Glencoe Fire Department present at the fireworks display, as determined by the Chief in the Chief's sole discretion. The Chief of the Arcadia-Glencoe Fire Department shall estimate the cost of having the truck or trucks and personnel present at the fireworks display and the applicant shall pay the amount estimated to the Arcadia-Glencoe Fire Department prior to the date of the fireworks display. In the event the actual cost exceeds the estimated cost, the applicant shall pay the difference to the Arcadia-Glencoe Fire Department within 30 days of the date of the fireworks display. In the event the actual cost is less than the estimated cost, the Arcadia-Glencoe Fire Department shall refund the difference to the applicant within 30 days of the date of the fireworks display.

§ 217-4 Notice to fire and law enforcement officials.

Not more than 10 days after issuance of the fireworks user's permit and at least five days before the date of authorized use, the holder of a fireworks user's permit shall notify the municipal fire and law enforcement officials by providing a copy of the fireworks user's permit to the Arcadia-Glencoe Fire Chief and to the City of Arcadia Chief of Police. Such notice shall be delivered either personally to the Fire and Police Chiefs or by certified mail to the official mailing address of the Fire and Police Chiefs.

§ 217-5 Fireworks display site; barricades.

A. During the setup, display, and cleanup of authorized fireworks possession or use, the holder of a fireworks user's permit shall have the fireworks user's permit present and available for inspection by municipal fire or law enforcement officials wherever the fireworks are located or displayed.

B. Notwithstanding the fact that a person may have obtained a fireworks user's permit, no person may display fireworks within the City of Arcadia without erecting and maintaining

barricades reasonably sufficient to prevent people from being within 100 feet of where the fireworks are ignited. Reasonably sufficient barricades include ropes. In addition, the holder of a fireworks user's permit shall be responsible for preventing any person who is not authorized by Wisconsin law to display fireworks from being within 100 feet of where the fireworks are ignited.

§ 217-6 Application and permit terms and conditions incorporated.

All permits and applications under this chapter shall be in a form prescribed by the Clerk and shall be properly completed and executed to take effect.

§ 217-7 Restoration of display site.

It shall be the sole responsibility of the fireworks user's permit holder to restore the fireworks display site to the condition the fireworks display site was in immediately before the display. Such restoration shall be completed within 48 hours after the end of the fireworks display. The City of Arcadia, in its sole discretion, shall determine whether the fireworks display site has been restored to the appropriate condition.

§ 217-8 Storage and handling of fireworks.

- A. No person may store or handle fireworks in a building within the City of Arcadia unless the building is equipped with fire extinguishers approved by the Arcadia-Glencoe Fire Chief.
- B. No person may smoke where fireworks are stored or handled.
- C. A person who stores or handles fireworks within the City of Arcadia shall notify the Arcadia-Glencoe Fire Chief of the location of the fireworks prior to bringing the fireworks into the City of Arcadia.
- D. No person may store fireworks within 50 feet of a dwelling.
- E. No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon.

§ 217-9 Transportation of fireworks through City.

Pursuant to Wis. Stat. § 167.10(5)(e), this chapter does not prohibit the possession of fireworks within the City of Arcadia while transporting the fireworks to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance. However, pursuant to Wis. Stat. § 167.10(3)(bm), if in the course of transporting the fireworks through the City of Arcadia the person remains in the City of Arcadia for a period of at least 12 hours, then the prohibition on the possession of fireworks within the City of Arcadia under § 217-1A of this chapter shall apply.

§ 217-10 Violations and penalties.

- A. Any person who violates any of the terms or conditions of the permit application, permit or any provision of this chapter shall, upon conviction for each such violation, be subject to a forfeiture of not less than \$50 nor more than \$1,000, plus court costs and fees pursuant to Wis. Stat. § 167.10(9), as the same may be amended from time to time. Each day during which a violation occurs or continues shall be deemed and constitute a separate violation.

B. A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall, upon conviction therefor, be subject to a forfeiture of not more than \$1,000, plus court costs and fees pursuant to Wis. Stat. § 167.10(9), as the same may be amended from time to time.”

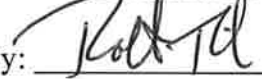
§ 217-11 Statutory authority.

This ordinance is adopted according to the authority given to the City of Arcadia under Wis. Stat. § 167.10.

SECTION 2. This Ordinance #2019-4 shall take effect upon passage and publication as provided by law.

ADOPTED at a regular meeting of the City of Arcadia Common Council this 7th day of August, 2019.

CITY OF ARCADIA

By: 

Robert Reichwein, Mayor

ATTEST: 
Angela Berg, Clerk

Adopted: August 7, 2019

Published: August 14, 2019