

CHAPTER 5

FIRE DEPARTMENT AND FIRE REGULATIONS

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FIRE DEPARTMENT AND FIRE REGULATIONS

5.01 JOINT VOLUNTEER FIRE DEPARTMENT

Pursuant to the provisions of Wis. Stat. ss. 62.13(8), 60.29(18) and (20)(c), fire protection in the City of Middleton shall be provided by a volunteer fire department operated and maintained jointly with other municipalities under written agreements from time to time approved by the Common Council. This organization shall be known as the Middleton Fire District.

5.02 FIRE DEPARTMENT ORGANIZATION

(1) Membership

The joint volunteer fire department of the Middleton Fire District shall consist of the Fire Chief, the Assistant Chief and such other officers as provided in the By-Laws of the Middleton Fire Department and approved by the Fire Commission, plus as many drivers and firefighters as may be approved by the By-Laws of the Middleton Fire Department and approved by the Fire Commission, provided that at no time shall the Department consist of less than twenty two (22) active members.

(2) Department to Adopt Bylaws

The joint volunteer fire department shall adopt bylaws for the control, management and government and for the regulation of business and proceedings of the department, which bylaws shall be adopted by the department members and approved by the Fire Commission. Amendments shall be adopted in the same manner.

5.03 FIRE CHIEF AND OFFICERS

(1) Appointment

The Fire Chief and the Assistant Chief shall be approved by the Fire Commission. All other officers are provided for under the By-Laws of the Middleton Fire Department. Such officers shall hold their offices according to the By-Laws of the Fire Department and may be subject to suspension or removal by the Fire Commission for cause. Upon occurrence of a vacancy in the office of Fire Chief, the Assistant Fire Chief shall perform the duties of the Chief until such vacancy is filled.

(2) Duties and Powers

The Chief shall have general supervision of the departmental personnel, apparatus and equipment, subject to the ordinances of the City, laws of the State and the By-Laws of the department. He or she or their designee shall command all fire fighting operations. He or she shall enforce or cause to be enforced all fire prevention ordinances, laws and regulations of the City and State.

5.04 FIRE INSPECTOR

(1) Appointment

The Fire Inspectors of the Middleton Fire District shall be appointed by the Fire Commission which has entered into written agreements to provide joint fire protection for the Middleton Fire District.

(2) Duties and Powers

The Fire Inspectors of the Middleton Fire District shall perform all duties required of Fire Inspectors by the laws of the State, the City and rules of the Department of Industry, Labor, and Human Relations, particularly Wis. Stat. s. 101.14.

5.05 FISCAL AGENT OF MIDDLETON FIRE DISTRICT

The City of Middleton shall act as fiscal agent of the Middleton Fire District and shall have custody and management of all monies belonging to the Middleton Fire District. The City Treasurer-Financial Director shall be ex officio custodian of all such monies, and shall keep books of account thereof in such manner as the District shall direct. The City Treasurer-Financial Director shall collect all payments due to the District and shall pay all claims payable by the District in accordance with the provisions of section 3.03 of this Code.

5.07 VEHICLES NOT TO BE OPERATED OVER PORTION OF STREET OCCUPIED BY FIRE APPARATUS

No person shall drive or operate any street car, automobile or other vehicle over any portion of any street or alley occupied by the engines, auto trucks, or other vehicles or apparatus of the fire department when engaged in extinguishing a fire unless precaution is taken so as not to do any injury to any property or apparatus of the fire department or interfere with the operation of the same. Whoever violates this section shall be subject to a penalty as prescribed by section 30.04 of this Code.

5.08 ELIMINATION OF FIRE HAZARDS

- (1) No person shall burn or cause to be burned any leaves, grass, wood, rubbish or other combustible material on any street, alley, sidewalk or driveway in any district within the City at any time.
- (2) No person shall burn or cause to be burned any leaves, grass, wood rubbish or other combustible material outdoors on any lot or parcel of land in any district within the City at any time without a burning permit. The provisions of this subsection, however, shall not apply to the burning of natural or LP gas, charcoal, dry wood or similar substances outdoors in vessels designed for cooking purposes only when such burning does not constitute a fire hazard or the burning of dry wood in an outdoor fireplace as set forth in paragraph (b) below.
 - (a) A burning permit may be issued by the Fire Department for prescribed vegetation management purposes subject to reasonable conditions to mitigate fire hazards. The fee for a burning permit shall be as set forth in the Fee Schedule under Section 3.12. Supervision and inspection costs shall be billed to the owner of the property upon which supervision or inspection is required. If not paid within thirty (30) days of billing, said costs shall be assessed against the property as a special charge pursuant to Wis. Stats. §66.0627. Burning permits shall apply to individual parcels or occupancies and are not transferable from person to person, parcel to parcel or occupancy to occupancy; however, burning permits may encompass multiple parcels under common ownership if part of a common vegetation management project.
 - (b) Dry wood may be burned in commercially manufactured outdoor recreational fireplaces that are certified by a nationally recognized listing agency or non-commercially constructed brick fireplaces with chimneys approved by the Building Inspector according to applicable building codes subject to the following conditions:
 1. The fireplace must be an assembly that includes a bowl, pit or device for holding the wood and a method of containing embers and sparks.
 - 2.. Only dry wood, entirely contained within the device, is permitted to be burned.

3. No outdoor fireplace shall be used within fifteen (15) feet of any structure or five (5) feet of any lot line unless the fireplace is a brick fireplace and closer placements are approved by the Building Inspector according to applicable building codes.
 4. The smoke shall not create a nuisance for other properties, obstruction of vehicle travel, or health concerns of others. No fireplace shall be used on a wood deck, porch, or patio.
 5. No fireplace shall be used on a wood deck, porch, or patio.
 6. An ABC type fire extinguisher, charged garden hose, or other method of first aid fire control must be readily available.
 7. The fireplace must be supervised or attended at all times while in use by a responsible adult over the age of 18. The fire must be completely extinguished before the fireplace is left unsupervised.
 8. Use of the unit shall be discontinued when atmospheric conditions are unfavorable or make the use of the device hazardous. Conditions include but are not limited to winds in excess of 10 miles per hour and excessive dry weather conditions as declared by the Fire Department. Fireplace operators shall be responsible for checking with the Fire Department by phone or other means prescribed by the Fire Chief to determine whether hazardous conditions exist. No burning will be allowed if wind conditions will cause smoke, embers or other burning materials to be carried toward any building or other combustible material.
- (3) No person shall cause or permit any accumulation of junk, scrap material, waste paper or wood products, or other waste materials on premises owned by him or her or under his or her control, if such material constitutes a fire hazard.
 - (4) Whoever shall violate any provision of this section shall be subject to a penalty as prescribed by Section 30.04 of this Code. The Fire Department may extinguish any fire ignited or maintained contrary to this section. The City may regardless of whether it seeks a forfeiture seek any other remedies prescribed by law to address violations of this section.
 - (5) Burning permits shall be issued by the fire department, when such permits are granted, they will be based upon atmospheric conditions, local circumstances, property line or structural setbacks that might make the fires hazardous. Persons utilizing and maintaining outdoor fires shall be responsible for monitoring these conditions, and shall be responsible for any liability resulting from damage caused by the fire.

5.09 COMBUSTIBLE PRODUCT STORAGE

There shall be no installation of pumps or tanks for containment of combustible products or fuels within any residential district not specifically permitting such use.

5.10 FIRE EXTINGUISHERS

(1) Where Required

In all buildings and structures provided for under the fire codes of the State and City, a Class "A" underwriter approved fire extinguisher shall be installed in an accessible location as provided by the above mentioned codes.

(2) Maintenance

All fire extinguishers hereby required shall be maintained in working order at all times by the owner of the building or structure, and the Fire Inspector is authorized to enter upon the premises where the same are installed at all reasonable times to make tests in order to determine their workability and efficiency.

(3) Penalty

Whoever shall violate any of the provisions of this section shall be subject to a penalty as prescribed by section 30.04 of this Code.

5.11 WISCONSIN BUILDING AND SAFETY CODES

The following sections of the Wisconsin Building and Safety, Building and Environment and their successors are adopted and incorporated in this Code by reference:

SPS	305	Licenses, Certifications, and Registrations
SPS	307	Explosives and Fireworks
SPS	314	Fire Prevention
SPS	316	Electrical Code
SPS	318	Elevators, Escalators and Life Devices
SPS	320-325	Uniform Dwelling Code
SPS	328	Smoke Detectors and Carbon Monoxide Detectors
SPS	330	Fire Department Safety and Health Standards
SPS	340	Gas Systems
SPS	360-366	Wisconsin Commercial Building Code
SPS	375-379	Buildings Constructed Prior to 1914

5.12 Repealed O1512, 01/21/2020

5.13 Repealed O1512, 01/21/2020

5.14 FIRE INSPECTION FREQUENCY

It shall be the duty of the Fire Chief or his or her designee to inspect all buildings and premises at least once per calendar year pursuant to Wis. Admin Code § SPS 314.01(13)(b)7.a., except the interiors of dwelling units, as often as may be deemed necessary for the purpose of ascertaining and causing to be corrected, any conditions liable to cause fire or any violation of any state law or ordinance relating to fire hazards, or to the prevention of fire. In no case shall the period between inspections exceed fifteen (15) months. *O1512, 01/21/2020*

5.15 FIREWORKS

(1) Permit Required

Except as provided under subsection (5), no person may possess or use fireworks without a permit issued pursuant to this section.

(2) Definition

In this section:

- (a) “Fireworks” means 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.
- (b) “Public display of fireworks” means a use or display of fireworks that occurs:
1. upon any public property; or
 2. where the display is substantially viewable from a public park or conservancy; or
 3. where the display includes fireworks that, when discharged, produce a display One-Hundred (100) feet or more above ground-level.

(3) Application

An application to possess or use fireworks, along with the fee set forth in the Fee Schedule under section 3.12, shall be filed with the City Clerk on a form prescribed by the City Clerk which shall include the following information:

- (a) Name, address and telephone number of the person, association, organization or corporation applying for the permit. If the application is for an association, organization or corporation, the name, address for all officers as well as the name,

address and phone number of the officer or employee primarily responsible for supervising permitted activity.

- (b) A description of the activity for which the permit is sought including whether the permit is for possession and storage only or for use.
- (c) The dates and locations of possession and storage.
- (d) The date and location of any permitted use.
- (e) A list of all fireworks to be used in any display.
- (f) Mortar configuration and specifications.
- (g) For any display, a site plan showing:
 - 1. The firing location,
 - 2. The device layout,
 - 3. The location of spectators,
 - 4. Distance of spectators from firing location,
 - 5. Fallout perimeter,
 - 6. Storage area for fireworks, and
 - 7. Distances to all structures from firing location
- (h) A letter of authorization from the property owner to display fireworks.
- (i) Resumes of each pyrotechnician that will be on site or setting up the display including date of birth and driver's license number or any substitute information authorized by the Chief of Police that will permit an adequate background check.
- (j) Any other information reasonably necessary to evaluate the permit application.

(4) Issuance

- (a) The City Clerk shall forward a copy of any such application to the Fire Chief and Chief of Police for review.
- (b) If the application is only for possession and storage, the Fire Chief may consider any recommendations by the Chief of Police and approve issuance of the permit subject to any reasonable conditions deemed necessary in his or her discretion to protect the public health, safety and welfare or deny the permit. If the permit is denied, the Fire Chief or Chief of Police shall provide the reasons for denial in writing.
- (c) If the application is for the display of fireworks, the Fire Chief and Chief of Police shall review the application and provide a recommendation to the License and Ordinance Committee which shall approve the permit subject to any reasonable conditions deemed necessary in its discretion to protect the public health, safety and welfare or deny the application providing the reasons for denial in writing.
- (d) Any public display of fireworks shall require a special event permit under section 7.17.

(5) Exemptions

Subsection (1) does not apply to:

- (a) The City of Middleton provided the Fire Department and Police Department are notified of the proposed use of fireworks at least 2 days in advance.
- (b) The possession or use of explosives in accordance with rules or general orders of the State of Wisconsin Department of Safety and Professional Services.
- (c) The disposal of hazardous substances in accordance with rules adopted by the State of Wisconsin Department of Natural Resources.

- (d) The possession or use of explosive or combustible materials in any manufacturing process.
- (e) The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
- (f) The possession of fireworks by a possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit and only to the extent authorized by the license or permit.
- (g) The possession of fireworks while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance unless the person remains in possession of the fireworks within the City for twelve (12) hours or longer.

(6) Regulations

(a) Authorized Recipients

A permit under subsection (1) may be issued only to:

1. A public authority.
2. A fair association.
3. An amusement park.
4. A park board.
5. A civic organization.
6. An individual and group of individuals.
7. An agricultural producer for the protection of crops from predatory birds or animals.

(b) Public Notice

As a condition of any permit issued for use of fireworks likely to produce an audible effect within a 1,000 foot radius of the display, the permittee shall provide public notice of the date, time and duration of the fireworks display in a public newspaper of general daily or weekly circulation posted 2 times, once at least 30, but no less than 20 days prior to the display and the second at least 7, but no less than 3 days prior to the display. As a further condition of approval, if the display is reasonably determined to have a potential adverse impact sensitive populations including, but not limited to, pet owners and combat veterans, written notice or posting may be required at up to 5 locations reasonably calculated to provide notice to such persons at least 30, but no less than 20 days prior to the display.

(c) Bond or Insurance

Before any permit may be issued, the permittee shall file proof of liability insurance or indemnity bond in an amount not less than \$1,000,000 for payment of claims that may arise by reason of injuries to persons or property from the handling, use or discharge of fireworks under the permit. The Bond or Policy shall be in the name of the City of Middleton and permit any person to bring an action on the bond or policy in the person's own name to recover the damage the person has sustained.

(d) Pre-display Inspection

Prior to any display, the permittee shall notify the Fire Chief as soon as possible when set-up for the display is complete for the purpose of inspecting compliance with the permit including to verify location, quantity of devices and firing set-up location.

(7) Enforcement

In addition to any other remedies allowed by law, any person found to have violated this section may be subject to a forfeiture as provided under section 16.03(4).

5.16 USE OF EXPLOSIVE MATERIALS

(1) Permit Required

To ensure compliance with Wis. Admin. Code §SPS 307 adopted under section 5.11 and to protect the public health, safety and welfare, no person may use explosive materials without a permit issued pursuant to this section.

(2) Definitions

Except as otherwise expressly provided, all terms shall have the meanings set forth in Wis. Admin. Code §SPS 307.20.

(3) Application

An application use explosive materials, along with the fee set forth in the Fee Schedule under section 3.12, shall be filed with the City Clerk on a form prescribed by the City Clerk which shall include the following information:

- (a) Name, address and telephone number of the person, association, organization or corporation applying for the permit.
- (b) Name, address, telephone number, and license number of the blaster in charge of the loading and firing of all blasts.
- (c) Type of blasting operation.
- (d) An explosives use plan showing:
 1. A written description of the total area within which explosives are proposed to be used;
 2. All blasting procedures to be employed, including types of explosives and initiating systems;
 3. An aerial photograph or drawing acceptable to with a scale of no less than one (1) inch equals one hundred (100) feet and having an overlaying grid of fifty (50) feet by fifty (50) feet which accurately includes all areas and inhabited buildings within five hundred (500) feet of all proposed blasting areas.
- (e) A list of all persons entitled to receive preblasting notification pursuant to Wis. Admin. Code §SPS 307.41 including reference to the address of affected building the person owns or in which he or she resides.

(4) Issuance

- (a) The City Clerk shall forward a copy of any such application to the Fire Chief, Chief of Police and Director of Public Works for review.
- (b) Upon receipt approval from the Fire Chief, Chief of Police and Director of Public Works, the permit may be issued including any reasonable conditions required by the Fire Chief or Chief of Police.
- (c) In the event the permit is denied, notice of such denial shall be given in writing including the reasons therefore.

(5) Additional Requirements

- (a) Pre-blasting notification pursuant to Wis. Admin. Code §SPS 307.41 shall occur no less than thirty (30) days prior to the initial blasting at a blast site. Such notification shall include notice of the date and time of all planned blasts. Notice of any change in the blasting schedule shall be given to all persons identified under Wis. Admin. Code §SPS 307.41 no less than twenty-four (24) hours in advance.