

CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN

Legislative Chambers
160 S Macy Street

September 27, 2017
6:00 PM

1. CALL TO ORDER

- a. Roll Call
- b. Declaration a Quorum Is Present
- c. Pledge of Allegiance
- d. Silent Reflection
- e. A Proclamation Recognizing October 8th-14th, 2017 As Fire Prevention Week
- f. Presentation By Firefighters Local 400

2. PUBLIC HEARINGS

3. CONSENT AGENDA

- a. September 13, 2017 Council Minutes
- b. List Of Claims Dated September 20, 2017

4. INPUT

- a. Audience Comments
- b. Feedback From The Envision Greater Fond du Lac President
Presented By: Cecilia Harry, President
- c. Library 2018 Budget Update
Presented By: Library Director
- d. Building Security Update
Presented By: Judge English

5. ACTIONS

- a. Denial Of Claim
Claimant: Ann Kremer
Introduction: City Attorney
- b. "Class A" Intoxicating Liquor and Class "A" Fermented Malt Beverage Change Of Agent
Limited Liability: Ultra Mart Foods, LLC
Agent: Matthew Sullivan
Agent Address: 1824 Delaware St., Oshkosh, WI
d/b/a: Pick N Save
Location: 55 West Pioneer Rd.
Introduction: City Clerk
- c. "Class A" Intoxicating Liquor and Class "A" Fermented Malt

Beverage Change Of Agent

Corporation: Kwik Trip, Inc.

Agent: Michael Byes

Agent Address: 2775 Oakwood Cir., Oshkosh, WI

d/b/a: Kwik Trip 242

Location: 980 S Hickory Street

Introduction: City Clerk

d. Resolution No. 8702

A Resolution Approving The Application For An Urban Forestry Grant

Introduction: Director of Public Works

e. Resolution No. 8703

A Resolution Authorizing Acquisition Of Easements For Bus Shelters
With The Property Owners of 653 West Arndt Street, 709 Security

Drive, 101 Western Avenue, 810 South Main Street, 430 East
Division Street, And 459 East First Street

Introduction: City Engineer

f. Resolution No. 8704

A Resolution Approving, Adopting and Authorizing The Execution Of
The Working Conditions Agreement With The Fond du Lac Police

Supervisory Association

Introduction: City Attorney/Director-Human Resources

g. Ordinance No. 3645

An Ordinance Repealing And Recreating Chapter 347, Fireworks, Of
The Code Of The City Of Fond du Lac To Address Sale Of

Fireworks, Seasonal Novelties and Pyrotechnic Displays

Introduction: Fire Chief and Assistant City Attorney

6. ADJOURN

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: A Proclamation Recognizing October 8th-14th, 2017 As
Fire Prevention Week

Subject: A Proclamation Recognizing October 8th-14th, 2017 As
Fire Prevention Week

Initiator:

Recommendation:

ATTACHMENTS:

File Name

Fire_Prevention_Week_2017.pdf



Proclamation



Whereas, home fires are a serious public safety concern, both locally and nationally, and are where people are at greatest risk from fire; and

Whereas, U.S. home fires resulted in 2,560 civilian deaths in 2015, representing 78 percent of all U.S. fire deaths;

Whereas, newer homes are built with lightweight materials that burn faster than older home constructions and many of today's products and furnishings produce toxic gases and smoke when burned, making it impossible to see and breathe within moments; and

Whereas, these conditions contribute to a much smaller window of time for people to escape a home fire safely, allowing as little as one to two minutes to escape from the time the smoke alarm sounds; and

Whereas, all members of a household should have and practice a home fire escape plan that includes two exits from every room in the home, a path to the outside from each exit, smoke alarms in all required locations, and a meeting place outside where everyone in the home will meet upon exiting; and

Whereas, Fond du Lac Fire/Rescue is dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

Whereas, residents are responsive to public education measures and are able to take personal steps to increase their safety from fire, especially in their homes; and

Whereas, the 2017 Fire Prevention Week theme, "Every Second Counts: Plan 2 Ways Out!", effectively serves to educate the public about the vital importance of developing a home fire escape plan with all members of the household and practicing it twice a year.

Now, Therefore, I, Karyn Merkel, President of the Fond du Lac City Council, by my signature affixed, do hereby proclaim October 8-14, 2017, as Fire Prevention Week and urge all the residents of our City to develop a home fire escape plan with all members of the household and practice it twice a year, and to participate in the many public safety activities and efforts of the City of Fond du Lac's Fire/Rescue during Fire Prevention Week 2017.

Dated: September 2017

*Karyn Merkel
City Council President*

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: September 13, 2017 Council Minutes

Subject: September 13, 2017 Council Minutes

Initiator:

Recommendation:

ATTACHMENTS:

File Name

Minutes_2017_9_13_Meeting(367).pdf

**CITY COUNCIL MEETING MINUTES
CITY OF FOND DU LAC, WISCONSIN**

Legislative Chambers
160 S Macy Street

September 13, 2017
6:00 PM

CALL TO ORDER

Roll Call

Present

Catherine Block
Lee Ann Lorrigan
Greg Giles
Karyn Merkel
Brian Kolstad
Kay Miller
Derek TerBeest

Absent

None

Administrative Staff

Joe Moore, City Manager
Dyann Benson, Dir of Comm Dev
Tracy Salter, Dir of Administration
Tricia Davi, Dpty Comptroller/Treasurer
Deb Hoffmann, City Attorney
Alexandra Klimko, Asst City Attorney
Jordan Skiff, Dir of Public Works
Paul DeVries, City Engineer
Richard Flynn, Operations Director
Jennifer Chitwood, Asst HR Director
Jon Mark Bolthouse, Library Director
Steve Klein, Asst Police Chief, Operations
Steve Thiry, Asst Police Chief, Administration
Peter O'Leary, Fire Chief

Declaration a Quorum Is Present

President Merkel declared a quorum present.

Pledge of Allegiance

The Pledge of Allegiance was recited.

Silent Reflection

A moment of silent reflection of observed.

Proclamation Recognizing National Night Out

A proclamation was presented, thanking the Fond du Lac Police Department, its law enforcement officers, and the National Night

Out sponsors and partners that contributed their time, funding, and hard work to make this year's National Night Out another great success.

Proclamation Recognizing Holiday Automotive Community Support

A proclamation of was presented to Holiday Automotive on behalf of the citizens of Fond du Lac and the men and women of our Police Department as an expression of gratitude and appreciation for their extraordinary donation of the SWAT Transport vehicle.

CONSENT AGENDA

List Of Claims Dated September 6, 2017

August 23, 2017 Regular Council Minutes

A Motion was made by Brian Kolstad to approve the Consent Agenda and seconded by Lee Ann Lorrigan, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

INPUT

Audience Comments

Spoke in regards to traffic control on Scott Street and Park Avenue

Charles Mauch, 515 Northgate St, Fond du Lac

2018 Proposed Budget

City Manager, Joe Moore, presented the proposed 2018 Budget. In his presentation, Mr. Moore explained municipal operating per capita and property tax levy per capita in comparison to other peer municipalities. Financial forecasting and the upcoming budget schedule was briefly discussed. Mr. Moore went on to outline the Operating Budget and Tax Levy Allocation, highlighting expenditure areas and how they will be funded. CIP items were discussed as well, with note that some of the currently proposed projects are generational projects and unique to the upcoming year. Budget discussions will continue in the coming weeks.

Review Of City Fireworks Ordinance

Assistant City Attorney, Alexandra Klimko, and Fire Chief Peter O'Leary presented a review of the City Fireworks Ordinance. Ms. Klimko explained the State Statutes defining fireworks and the legal sale and use of fireworks and how the statute applies to City Code, e.g. what is required on the fireworks dealer application and who fireworks can be sold to. Recent issues with

fireworks vendor compliance were also discussed. Chief O'Leary explained the legal use and sale of fireworks, as well as the safety precautions taken by the Fire Department and licensed pyrotechnicians for public firework displays that are not taken by amateur users causing very dangerous situations. In the interest of the safety of our residents, it was requested that vendors be compliant and sell only what is appropriate according to State Statute and City Code.

ACTIONS

Disallowance of Claim

A Motion was made by Greg Giles to approve denial of the claim for Jacqueline Smet and seconded by Brian Kolstad, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Class "B" Fermented Malt & "Class B" Intoxicating Liquor License

A Motion was made by Derek TerBeest to approve a Class "B" Fermented and "Class B" Intoxicating Liquor License for 2.0 Ale House at 65 N Main Street and seconded by Kay Miller, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Resolution No. 8698

2017-081

A Motion was made by Brian Kolstad to approve Resolution No. 8698, approving the project plan for and creating Tax Incremental District Number Twenty-Two, City of Fond du Lac and seconded by Lee Ann Lorrigan, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Resolution No. 8699

2017-089

A Motion was made by Greg Giles to approve Resolution No. 8699, authorizing the issuance and sale of \$7,050,000 General Obligation Refunding Bonds, Series 2017B and seconded by Derek TerBeest, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Resolution No. 8700

2017-003

A Motion was made by Lee Ann Lorrigan to approve Resolution No. 8700, making an appointment to the Downtown Architectural Review Board and seconded by Kay Miller, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Resolution No. 8701

2017-090

A Motion was made by Catherine Block to approve Resolution No. 8701, authorizing purchase of parcel T09-15-17-05-14-001-00 for the future site of the Public Safety Training Center and seconded by Kay Miller, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Ordinance No. 3638

2017-091

A Motion was made by Brian Kolstad to approve Ordinance No. 3638, annexing property to the City of Fond du Lac and change limit to include property south of Hwy 151 between Scott Road and South Hickory Street and seconded by Lee Ann Lorrigan, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Ordinance No. 3639

2017-091

A Motion was made by Lee Ann Lorrigan to approve Ordinance No. 3639, to zone annexed property to M-1 (Manufacturing) at South Hickory Street and seconded by Greg Giles, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Ordinance No. 3640

2017-092

A Motion was made by Derek TerBeest to approve Ordinance No. 3640A, as recommended by the Advisory Parking and Traffic Board, amending Chapter 630, Traffic, of the Code of the City of Fond du Lac to revise parking restrictions on Scott Street east of Park Avenue and seconded by Catherine Block, and the motion was **Passed**.

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Ordinance No. 3641

2017-093

A Motion was made by Brian Kolstad to approve Ordinance No. 3641, amending Chapter 630, Vehicles and Traffic, of the code of the City of Fond du Lac to revise parking restrictions on Park Avenue south of Scott Street and seconded by Kay Miller, and the motion was **Passed.**

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Ordinance No. 3642

2017-094

A Motion was made by Catherine Block to approve Ordinance No. 3642, amending Chapter 630, Vehicles and Traffic, of the Code of the City of Fond du Lac, to revise bus loading zone on south side of Scott Street and seconded by Brian Kolstad, and the motion was **Passed.**

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Ordinance No. 3643

2017-095

A Motion was made by Kay Miller to approve Ordinance No. 3643, amending Chapter 630, Vehicles and Traffic, of the Code of the City of Fond du Lac to remove parking restrictions on Forest Avenue between Military Road and Brooke Street and seconded by Derek TerBeest, and the motion was **Passed.**

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Ordinance No. 3644

2017-096

A Motion was made by Catherine Block to approve Ordinance No. 3644, amending Chapter 630, Vehicles and Traffic, of the Code of the City of Fond du Lac to remove metered parking and add a 2-hour restriction on Western Avenue between Macy Street and Main Street along with cleaning up various conflicting parking restrictions on the Code and seconded by Derek TerBeest, and the motion was **Passed.**

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

ADJOURN

A Motion was made by Lee Ann Lorrigan to adjourn at 7:33 PM and seconded by Catherine Block, and the motion was **Passed.**

Ayes: Block, Giles, Kolstad, Lorrigan, Merkel, Miller, TerBeest

Margaret Hefter

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: List Of Claims Dated September 20, 2017

Subject: List Of Claims Dated September 20, 2017

Initiator:

Recommendation:

ATTACHMENTS:

File Name

List_of_Claims_9-20-17.pdf

CITY OF FOND DU LAC - Memorandum

Department of Administration

Date: September 20, 2017

To: City Council

From: Tracy Salter, Director of Administration

Re: List of Claims

The list of claims for goods and services for the payment periods September 2, 2017 through September 15, 2017 for all funds total \$698,310.15. Wisconsin statute 66.0609 (2) requires the comptroller to file, at least monthly with the City Council, a list of approved claims paid.

Suggested Motion: Receive and File

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: Building Security Update

Subject: Presented By: Judge English

Initiator:

Recommendation:

ATTACHMENTS:

File Name

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: Denial Of Claim

Subject: Claimant: Ann Kremer
Introduction: City Attorney

Initiator:

Recommendation:

ATTACHMENTS:

File Name

MCouncil_Disallowance_of_Claim_Kremer.pdf

CITY OF FOND DU LAC - Memorandum

City Attorney/Human Resources Department

Date: September 22, 2017

To: City Council

From: Deborah Hoffmann, City Attorney/Director – Human Resources

Re: Denial of Claims
Claimant: Ann Kremer
Date of Incident: August 25, 2016

This claim was investigated by the City's insurance adjuster. It involved a claim of bodily injury(s), for an alleged trip and fall filed against the City dated August 28, 2017.

The City's insurance adjuster recommends that this claim be denied. I accept and join in this recommendation. As this matter may possibly become litigation, it is not appropriate to discuss the merits of this claim in open session.

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: "Class A" Intoxicating Liquor and Class "A" Fermented
Malt Beverage Change Of Agent

Subject: Limited Liability: Ultra Mart Foods, LLC
Agent: Matthew Sullivan
Agent Address: 1824 Delaware St., Oshkosh, WI
d/b/a: Pick N Save
Location: 55 West Pioneer Rd.
Introduction: City Clerk

Initiator: Mad Max 3240, Inc

Recommendation: (Proposed Action: Approve)

ATTACHMENTS:

File Name

pick_n_save_Redacted.pdf

Fond du Lac Police Department

MEMO



To: City Manager Joe Moore
From: Chief Lamb
RE: Change of Agent Request for Pick 'n Save Store #5372 55 West Pioneer Road.
Date: 09-20-17

Roundy's Supermarkets Incorporated d/b/a Pick 'N Save has notified the City regarding a Change of Agent request for the following store location in the City of Fond du Lac: Store #5372 located at 55 West Pioneer Road. Matthew Sullivan will be the new licensed agent for this establishment. Background checks conducted on Mr. Sullivan, both in-house and NCIC/CIB, indicate no prior criminal history that would preclude the issuance of the change of agent request. The Police Department has no objections to the change of agent request.

AT-107a: SCHEDULE FOR SUCCESSOR OF AGENT

If there is a change in agent, each club, corporation, or limited liability company who holds a retail permit to sell fermented malt beverages and/or intoxicating liquor must appoint a successor agent pursuant to sec. 125.04(6), Wis. Stats. There is a \$10 change in agent processing fee due with this form. The following questions must be answered by the Agent. The appointment must be signed by the President and Secretary or members of limited liability company. The appointment must be approved by the licensing authority.

FOND DU LAC Wisconsin 20
(Municipality) (Date)

1. Name of agent MATTHEW SULLIVAN

- | | Yes | No | |
|----|-------------------------------------|-------------------------------------|--|
| 2. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Are you of legal drinking age? |
| 3. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Have you been a resident of Wisconsin for at least 90 continuous days prior to the date of appointment as agent? |
| 4. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Have you ever been convicted of a federal law violation? |
| 5. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Have you ever been convicted of a State law violation? |
| 6. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Have you ever been convicted of a Local ordinance violation? |
| 7. | <input type="checkbox"/> | <input type="checkbox"/> | Have you completed the required responsible beverage server program per sec. 125.04(5)(a)5, Wis. Stats.? |

UNDER PENALTY OF LAW, I declare that all of the above information is true and correct to the best of my knowledge and belief.

X [Signature]
(Signature of Agent)
X 1824 Delaware St Oshkosh WI 54902
(Address)

SUCCESSOR AGENT

The undersigned appoints MATTHEW SULLIVAN as agent in accordance with sec. 125.04(6), Wis. Stats.

Name of Permittee ULTRA MART FOODS, LLC

Date 9/12 20 17

By [Signature]
(Signature of President/Member)

(Signature of Secretary)

William L. Dowling
VP, Corporate Counsel

I hereby accept appointment as agent for ULTRA MART FOODS, LLC DBA PICK 'N SAVE #5372 and assume full responsibility or the conduct of the business relative to fermented malt beverages and intoxicating liquors.

X Date 8/30/ 20 17

X [Signature]
(Signature of Agent)

THE AGENT APPOINTED ABOVE MUST BE APPROVED BY THE LICENSING AUTHORITY TO BE EFFECTIVE.
(See sec. 125.04(6), Wis. Stats.)

CITY OF FOND DU LAC WI 09/20 2017
(Municipality) (Date)
[Signature]
(Signature of Official)
ASST. POLICE CHIEF
(Title)

AUXILIARY QUESTIONNAIRE ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
SULLIVAN		MATTHEW			
Home Address (street/route)	Post Office	City	State	Zip Code	
1824 Delaware St		Oshkosh	WI	54902	

The above named individual provides the following information as a person who is (check one):

- ☐ Applying for an alcohol beverage license as an individual.
- ☐ A member of a partnership which is making application for an alcohol beverage license.
- ☒ AGENT of ULTRA MART FOODS, LLC

(Officer/Director/Member/Manager/Agent)

(Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

- How long have you continuously resided in Wisconsin prior to this date? 37 yr
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? ☒ Yes ☐ No
If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
9/13 DUI Oshkosh WI
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality? ☐ Yes ☒ No
If yes, describe status of charges pending.
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? ☐ Yes ☒ No
If yes, identify.

(Name, Location and Type of License/Permit)

- Do you hold and/or are you an officer, director, stockholder, agent or employee of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin? ☐ Yes ☒ No
If yes, identify.

(Name of Wholesale Licensee or Permittee)

(Address By City and County)

- Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
ROUNDYS SUPERMARKETS	55 W. Pioneer Rd	9/2001	Current
Employer's Name	Employer's Address	Employed From	To
Hillies Hometown Foods	store closed	4/1999	9/2001

The undersigned, being first duly sworn on oath, deposes and says that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application.

Subscribed and sworn to before me

this 30 day of August, 2017

(Clerk/Notary Public)

My commission expires July 27 2020

(Signature of Named Individual)

BRIAN SCHROEDER
Notary Public
State of Wisconsin



Wisconsin Department of Revenue

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: "Class A" Intoxicating Liquor and Class "A" Fermented
Malt Beverage Change Of Agent

Subject: Corporation: Kwik Trip, Inc.
Agent: Michael Byes
Agent Address: 2775 Oakwood Cir., Oshkosh, WI
d/b/a: Kwik Trip 242
Location: 980 S Hickory Street
Introduction: City Clerk

Initiator:

Recommendation:

ATTACHMENTS:

File Name

KWIK_TRIP_Redacted.pdf

Fond du Lac Police Department

MEMO



To: City Manager Joe Moore
From: Chief Lamb
RE: Change of Agent Request for Kwik Trip Store
#242 980 S. Hickory Street
Date: 09-14-17

Kwik Trip Incorporated has notified the City regarding a Change of Agent request for the following store location in the City of Fond du Lac: Store #242 located at 980 S. Hickory Street. Michael E. Byes will be the new licensed agent for this establishment. Background checks conducted on Mr. Byes, both in-house and NCIC/CIB, indicate no prior criminal history that would preclude the issuance of the change of agent request. The Police Department has no objections to the change of agent request.

**SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT
ORGANIZATION OR LIMITED LIABILITY COMPANY**

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by the officer(s) of the corporation/organization or members/managers of a limited liability company and the recommendation made by the proper local official.

To the governing body of: ☐ Town ☐ Village ☐ City of City of Fond du Lac County of Fond du Lac

The undersigned duly authorized officer(s)/members/managers of Kwik Trip, Inc.
(registered name of corporation/organization or limited liability company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as

Kwik Trip 242

(trade name)

located at 980 S. Hickory St., Fond du Lac, WI 54935

appoints Michael E. Byes
(name of appointed agent)

2775 Oakwood Cir., Oshkosh, WI 54902

(home address of appointed agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

☒ Yes ☐ No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Agent at Kwik Trip 652 until new agent is approved -

Is applicant agent subject to completion of the responsible beverage server training course? ☐ Yes ☒ No **Since 1999**

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? _____

Place of residence last year 2228 Oregon St., Oshkosh, WI 54902

For: Kwik Trip, Inc.
(name of corporation/organization/limited liability company)

By: [Signature]
(signature of Officer/Member/Manager)

And: [Signature]
(signature of Officer/Member/Manager)

ACCEPTANCE BY AGENT

I, Michael E. Byes, hereby accept this appointment as agent for the
(print/type agent's name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

[Signature]
(signature of agent)

2775 Oakwood Cir., Oshkosh, WI 54902

(home address of agent)

8/24/17
(date)

Agent's age [Redacted]

Date of birth [Redacted]

**APPROVAL OF AGENT BY MUNICIPAL AUTHORITY
(Clerk cannot sign on behalf of Municipal Official)**

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on 09/14/17 by [Signature] Title ASST. POLICE CHIEF
(date) (signature of proper local official) (town chair, village president, police chief)

AUXILIARY QUESTIONNAIRE ALCOHOL BEVERAGE LICENSE APPLICATION

WI Dr. Lic. #: B200-5457-3068-04

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
Byes		Michael		Eugene	
Home Address (street/route)		Post Office	City	State	Zip Code
2775 Oakwood Cir.		Oshkosh		WI	54902
Home Phone Number		Age	Date of Birth	Place of Birth	

The above named individual provides the following information as a person who is (check one):

☐ Applying for an alcohol beverage license as an individual.

☐ A member of a partnership which is making application for an alcohol beverage license.

☒ **Agent**

of

Kwik Trip, Inc.

(Officer/Director/Member/Manager/Agent)

(Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

1. How long have you continuously resided in Wisconsin prior to this date?

Since 1999

2. Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?

☒ Yes ☐ No

If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)

OWI 1999, OWI 2003. Both closed, nothing pending. Fines paid.

only ones listed

3. Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?

☐ Yes ☒ No

If yes, describe status of charges pending.

4. Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?

☒ Yes ☐ No

If yes, identify. Agent at Kwik Trip was until new agent is approved.

(Name, Location and Type of License/Permit)

5. Do you hold and/or are you an officer, director, stockholder, agent or employee of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin?

☐ Yes ☒ No

If yes, identify.

(Name of Wholesale Licensee or Permittee)

(Address By City and County)

6. Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
Applebee's	3730 W. College, Appleton, WI 54914	4/07	6/10
Tumbleweeds	30 Wisconsin St., Oshkosh, WI 54901	6/96	6/07

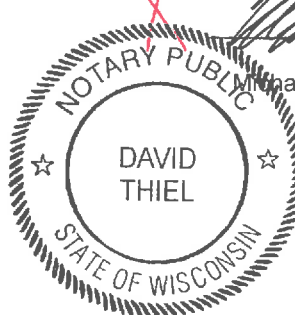
The undersigned, being first duly sworn on oath, deposes and says that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application.

Subscribed and sworn to before me

this 21 day of August, 2017

(Clerk/Notary Public)

My commission expires 5-8-2020



(Signature of Named Individual)

Michael E. Byes



Printed on Recycled Paper

Wisconsin Department of Revenue

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: Resolution No. 8702

Subject: A Resolution Approving The Application For An Urban
Forestry Grant
Introduction: Director of Public Works

Initiator:

Recommendation:

ATTACHMENTS:

File Name

8702__2017_Urban_Forestry_Grant.pdf

Urban_Forestry_Grant_Resolution_9-17.pdf

RESOLUTION NO. 8702

A RESOLUTION APPROVING THE APPLICATION FOR AN URBAN FORESTRY GRANT

WHEREAS, the City of Fond du Lac is interested in obtaining a cost-share grant from Wisconsin Department of Natural Resources for the purpose of funding urban and community forestry projects specified in § 23.097(1g) and (1r), Wis. Stats.; and

WHEREAS, the applicant attests to the validity and veracity of the statements and representations contained in the grant application; and

WHEREAS, the applicant requests a grant agreement to carry out the project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fond du lac that the City will comply with all local, state, and federal rules, regulations and ordinances relating to this project and the cost-share agreement.

BE IT FURTHER RESOLVED, that the applicant will budget a sum sufficient to fully and satisfactorily complete the project and hereby authorizes and empowers the Public Works Director, its official or employee, to act on its behalf to:

1. Sign and submit the grant application.
2. Sign a grant agreement between applicant and the DNR.
3. Submit interim and /or final reports to the DNR to satisfy the grant agreement.
4. Submit grant reimbursement request to the DNR.
5. Sign and submit other required documentation.

ADOPTED:

Karyn Merkel, President
Fond du Lac City Council

Attest:

City Attorney:

Reviewed 

Margaret Hefter, City Clerk

CITY OF FOND DU LAC – Memorandum

Director of Public Works

Date: September 21, 2017

To: City Council

From: Jordan Skiff, Director of Public Works

Re: Urban Forestry Grant Resolution

At Wednesday's meeting, you will be asked to approve a resolution authorizing me to submit an application for an Urban Forestry Grant. Council support is required to complete the application since a local cost share is involved.

The City has received this grant several times in the past. It is good for up to \$25,000, and can be used for a variety of urban forestry efforts. I am especially excited about this year's application, as it involves joint efforts with local partners such as Morning Rotary, Noon Rotary, Boy Scouts, Boys & Girls Club, Youth for Christ, Marian University, UW-Fond du Lac, the Gottfried Arboretum, and the Living Well Coalition.

The group plans to use the funds to purchase and plant trees in a number of locations to meet the Rotary Clubs' goal of planting one tree per member before next summer. The application is strengthened by the number of partners involved, the role that these new trees will play in replacing removed ash trees, updating our GIS public tree inventory, the fact that Rotary members are also planting trees on private property, and an educational component included in the program. The local match will be provided by funds raised and donated by the Clubs, in-kind labor as volunteers will be planting some of the trees, and City funds used to replace removed terrace ash trees.

Feel free to contact me at 322-3472 to discuss this matter further.

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: Resolution No. 8703

Subject: A Resolution Authorizing Acquisition Of Easements For
Bus Shelters With The Property Owners of 653 West Arndt
Street, 709 Security Drive, 101 Western Avenue, 810
South Main Street, 430 East Division Street, And 459
East First Street
Introduction: City Engineer

Initiator:

Recommendation: Plan Commission Recommendation: **Approve**

ATTACHMENTS:

File Name

8703_Acquisition_of_Easements_-_Bus_Shelters.pdf

Map_Bus_Shelter_Easements_-_PC_Sept_2017.pdf

Memo_Bus_Shelter_Easements_-_PC_Sept_2017.pdf

Excerpt_-_09-18-17_PC_Acquisition.pdf

RESOLUTION NO. 8703

**A RESOLUTION AUTHORIZING ACQUISITION OF EASEMENTS FOR
BUS SHELTERS WITH THE PROPERTY OWNERS OF
653 WEST ARNDT STREET, 709 SECURITY DRIVE, 101 WESTERN
AVENUE, 810 SOUTH MAIN STREET, 430 EAST DIVISION STREET,
AND 459 EAST FIRST STREET**

WHEREAS, the City of Fond du Lac has determined it necessary to replace or add a new bus shelters in the areas of 653 West Arndt Street, 709 Security Drive, 101 Western Avenue, 810 South Main Street, 430 East Division Street, and 459 East First Street; and

WHEREAS, land is necessary from adjacent property owners to accommodate these shelters; and

WHEREAS, the affected area for these easements are outlined on the attached Exhibit A and memo, which were also provided to the Planning Commission; and

WHEREAS, the Planning Commission has recommended approval.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fond du Lac that the proper City officials are hereby authorized and directed to obtain easements as described and to take all necessary steps to complete this acquisition consistent with the terms presented to Council.

ADOPTED:

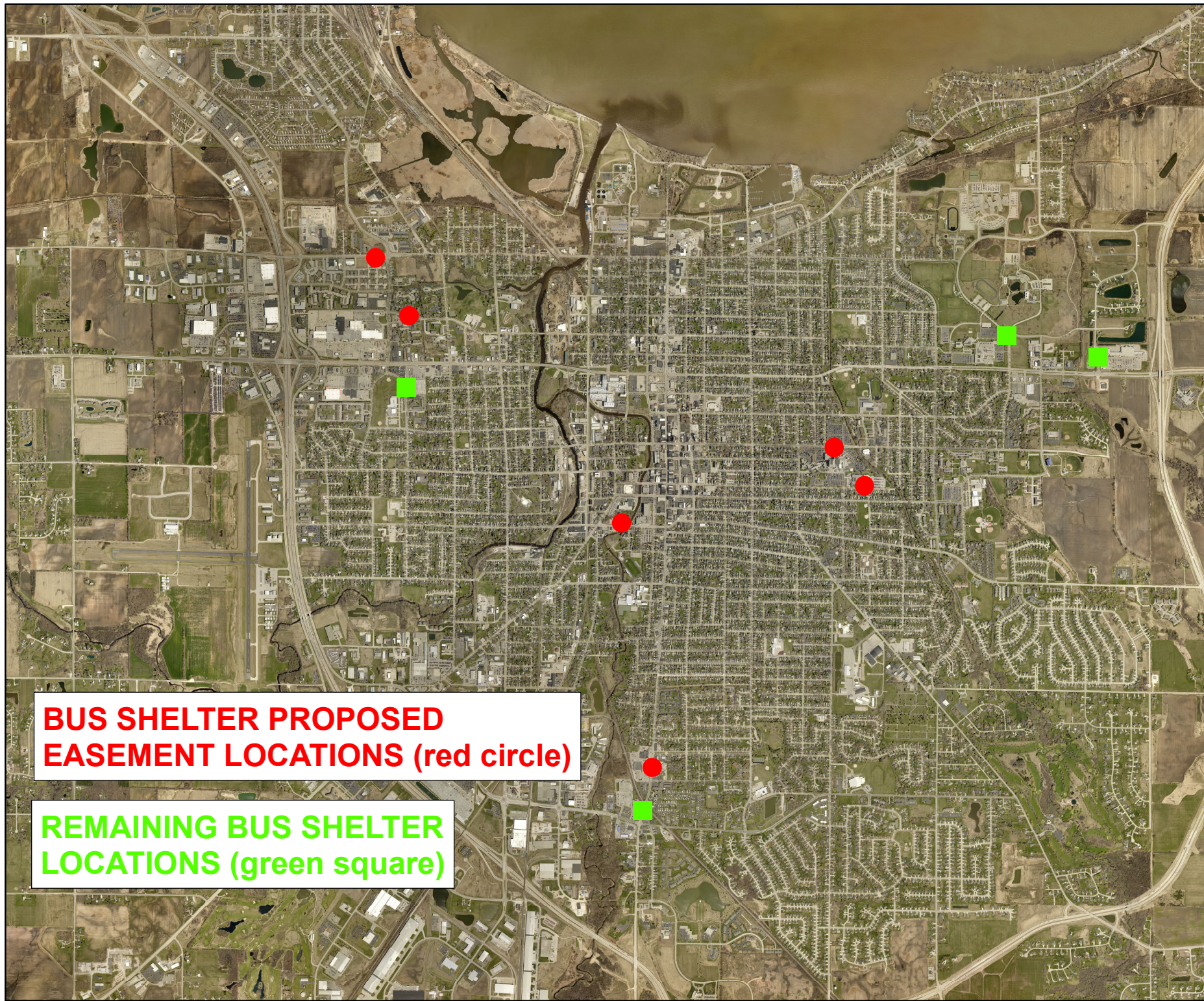
Karyn Merkel, President
Fond du Lac City Council



Attest:

City Attorney:

Margaret Hefter, City Clerk

Reviewed DSM



 1 IN = 3,083 FT	AGENDA / ITEM A	
	DRAWN BY: PDEVRIES DATE: 9/12/2017	
	PLAN COMMISSION	
	BUS SHELTER EASEMENT LOCATIONS	

CITY OF FOND DU LAC - Memorandum

Engineering and Traffic Division

Date: September 18, 2017

To: Plan Commission

From: Paul De Vries, P.E., City Engineer

Re: **Acquisition of Easements for Transit Bus Shelters**

This memo and attached map cover the agenda item to obtain public easements under Acquisition of Land for the Plan Commission's September 18, 2017 meeting.

Fond du Lac Area Transit is proposing to install nine new bus shelters at various locations to better serve their customers. Five of the bus shelters will be new locations and four bus shelters will be replace existing shelters. Six of the locations are on private property so the City would like to obtain easements where some existing shelters currently are located along with the new locations outside public right-of-way. Please see attached map for locations.

If approved through the City's Plan Commission and Council, City staff will finalize the negotiations and the necessary documents with the affected property owners.

The acquisition of a public easement requires City Council approval. City Engineering staff suggests the Plan Commission recommend to the City Council approval of these new easement acquisitions.

PLAN COMMISSION MINUTES

September 18, 2017
5:30 PM

Meeting Room D
City-County Government Center

160 S Macy Street
Fond du Lac, Wisconsin

OPENING CEREMONIES

Attendance

Present

Hertha Longo
Stan Ramaker
David Washkoviak
Sarah Van Buren
Dan Nielsen
Derek TerBeest

Absent

Nicole Wiese
Anne Pierce
Jordan Skiff

Administrative Staff

Joellyn Dahlin, Principal Planner
Paul DeVries, City Engineer
Tracy Salter, Dir of Administration
Lynn Gilles, Transit Manager

Declaration Quorum Present

Chairperson Washkoviak declared a quorum present.

*****OTHER BUSINESS*****

ACTION

Acquisition Of Land

Effect: Acquisition of easements for Transit Bus Shelters
at various locations in the City of Fond du Lac. Location:
Various, see memo & map

Initiator: City Engineer

A Motion was made by Derek TerBeest to recommend to City Council,
approval of the acquisition of easements for Transit Bus Shelters
at various locations in the City and seconded by Sarah Van Buren,
and the motion was Passed.

Ayes: Longo, Nielsen, Jr., Ramaker, TerBeest, Van Buren, Washkoviak
Absent: Pierce, Skiff, Wiese

*****OTHER BUSINESS*****

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: Resolution No. 8704

Subject: A Resolution Approving, Adopting and Authorizing The
Execution Of The Working Conditions Agreement With The
Fond du Lac Police Supervisory Association
Introduction: City Attorney/Director-Human Resources

Initiator:

Recommendation:

ATTACHMENTS:

File Name

8704_Police_Supervisory_WCA_Adoption.pdf

Police_Supervisory_Contract_Memo_(00249892xDC62F).pdf

RESOLUTION NO. 8704

A RESOLUTION APPROVING, ADOPTING AND AUTHORIZING THE EXECUTION OF THE WORKING CONDITIONS AGREEMENT WITH THE FOND DU LAC POLICE SUPERVISORY ASSOCIATION

WHEREAS, the City of Fond du Lac has negotiated with the Fond du Lac Police Supervisory Association to arrive at a working conditions agreement; and

WHEREAS, the parties are in concert and have come to an agreement on said matter.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fond du Lac that the working conditions agreement by and between the City of Fond du Lac and the Fond du Lac Police Supervisory Association, for the period of January 1, 2017 through December 31, 2018, is hereby approved, adopted and authorized for execution by the appropriate City officials, all in accordance with the terms and conditions thereof, and that all previous working conditions agreements between the City of Fond du Lac and the Fond du Lac Police Supervisory Association shall no longer be in force and effect.

ADOPTED:

Karyn Merkel, President
Fond du Lac City Council

Attest:

City Attorney:

Margaret Hefter, City Clerk

Reviewed 

CITY OF FOND DU LAC - Memorandum

Human Resource Department

Date: September 22, 2017

To: Joe Moore, City Manager
Members of the City Council

From: Chad Wade, Labor Relations Coordinator

Re: Police Supervisory Association Tentative Agreement

The City has reached a tentative agreement with the Fond du Lac Police Supervisory Association. The terms of the agreement include the following:

- The agreement is for 2 years (2017-2018);
- 3.75% wage increase effective January 1, 2017 and a 3.75% wage increase effective January 1, 2018;
- Addresses internal inequity regarding Floating Holiday hours;
- Creates incentive for members to gain certification and provide training to department personnel;
- Freezes the current Good Attendance Bonus Program in exchange for an additional salary schedule increase of \$1,125 for each year of the agreement;
- Replaces Post-Retirement year of free health insurance benefit with a new plan that caps the post retirement benefit and eliminates program moving forward; and
- Matches health insurance premium contribution levels to current general employee contribution levels.

This agreement addresses the post-retirement benefit liability concerns the Council and City staff have been considering the last several years. This agreement is consistent with the bargaining goals set by the City Council. In addition, it provides two years of labor peace within the Police Department and puts the Police and Fire Unions on the same bargaining schedule.

The bargaining team recommends approval of the resolution. As always, if you have questions you may contact me.

**CITY COUNCIL MEETING AGENDA
CITY OF FOND DU LAC, WISCONSIN**

Title: Ordinance No. 3645

Subject: An Ordinance Repealing And Recreating Chapter 347,
Fireworks, Of The Code Of The City Of Fond du Lac To
Address Sale Of Fireworks, Seasonal
Novelties and Pyrotechnic Displays
Introduction: Fire Chief and Assistant City Attorney

Initiator:

Recommendation:

ATTACHMENTS:

File Name

3645_Fireworks_Ordinance_dsrh_9.21.17.docx

Firework_Ordinance_Memo_FINAL.docx

Wis._Stats_167.10.pdf

ORDINANCE NO. 3645

AN ORDINANCE REPEALING AND RECREATING CHAPTER 347, FIREWORKS, OF THE CODE OF THE CITY OF FOND DU LAC TO ADDRESS SALE OF FIREWORKS, SEASONAL NOVELTIES, AND PYROTECHNIC DISPLAYS

The City Council of the City of Fond du Lac do ordain as follows:

Section 1. That Chapter 347, Fireworks, is hereby deleted in its entirety.

Section 2. That Chapter 347, Fireworks, Article I, Sale of Fireworks, is hereby created to read as follows:

ARTICLE I Sale of Fireworks

§ 347-1. Fireworks defined.

§ 347-2. Sale of fireworks prohibited.

§ 347-3. Reserved,

§ 347-4. Reserved.

§ 347-5. Reserved.

Article I. Sale of Fireworks

§ 347-1. Fireworks defined. As used in this chapter, “fireworks” will be defined as set forth and subsequently amended in § 167.10(1), Wis. Stats., but will not include a device listed under § 167.10(1)(a) – (p), Wis. Stats.

§ 347-2. Sale of fireworks prohibited. No person shall manufacture, sell, display, or offer for sale any firework within the City of Fond du Lac.

Section 3. That Chapter 347, Fireworks, Sections 347-3., 347-4., and 347-5., are hereby reserved for future amendments to the Code.

Section 4. That Chapter 347, Fireworks, Article II, Seasonal Novelties, is hereby created to read as follows:

ARTICLE II Seasonal Novelties

§ 347.6 Seasonal novelty defined.

§ 347.7 License required for sale of seasonal novelties.

§ 347.8 Application for license.

§ 347.9 License fee and term.

§ 347.10 Description of seasonal novelty required.

§ 347.11 Certificate of insurance required.

§ 347.12 Regulations.

§ 347.13 Display of seasonal novelty license and list required.

§ 347.14 Revocation of seasonal novelty license.

§ 347.15 Reserved.

§ 347.16 Reserved.

§ 347.17 Reserved.

§ 347.18 Reserved.

§ 347.19 Reserved.

§ 347-6. Seasonal novelty defined. As used in this chapter, “seasonal novelty” will be defined as a device set forth and subsequently amended in § 167.10(1)(e), (f), (i), (j), (k), (l), (m), and (n), Wis. Stats., [See the statute, but this list includes caps of ¼ grain or less of explosive, snakes, sparklers, poppers and fountains] in addition to free-floating sky lanterns, Chinese lanterns, and similar devices that utilize an open flame and are unmanned.

§ 347-7. License required for sale of seasonal novelties. No person shall sell, display, or offer for sale, whether as a retail or wholesale dealer, any seasonal novelty within the City of Fond du Lac without having first procured a seasonal novelty license from the City. Applications for such licenses will be filed with the City Clerk, or his or her designees, and approved by the City Clerk, Fire Chief, Police Chief, and Chief Building Inspector, or their respective designees.

§ 347-8. Application for license. An application for a seasonal novelty license will be made upon forms provided by the City Clerk and will contain the following information:

- A. The full name and address of the person, company, corporation or other organization applying for said license; the length of time of residence at that address; and, if the length of time of residence at that address is less than one year, the previous address;
- B. The address at which such activity is intended to be carried out; and
- C. The full names, addresses, and dates of birth of all such persons who will act as sales personnel at the premises. Sales personnel excluded from the

application shall not be allowed to sell seasonal novelties under a seasonal novelty license without first obtaining approval from the City.

§ 347-9. License fee and term. Each application will be accompanied by a license fee which will be shown in the schedule of fees, which is adopted annually by resolution of the City Council. The fee is nonrefundable. The license term will be for one year from the date of issuance.

§ 347-10. Description of seasonal novelty required. Each application shall be accompanied by a list fully describing each type and amount of seasonal novelties intended to be sold, the ingredients of said seasonal novelties, and a sworn statement setting out that each piece or type of said seasonal novelties conforms to the requirements of this chapter and Wisconsin state law. No dealer shall sell any piece or type of any seasonal novelty on which a statement has not been filed with the City Clerk, or his or her designees, and approved by the City Clerk, Fire Chief, Police Chief, and Chief Building Inspector, or their respective designees.

§ 347-11. Certificate of insurance required. Each application will be accompanied by a certificate of insurance issued by a company licensed to do business in the State of Wisconsin providing liability coverage for injury to persons, property or loss of life with limits of coverage not less than \$1,000,000.

§ 347-12. Regulations. The following provisions will apply to all places where seasonal novelties are sold, stored, and handled in the City, as permitted by this chapter and Wisconsin state law:

- A. All premises shall be equipped with approved fire extinguishers and any other fire prevention and safety equipment required by the Fire Chief, or his or her designee.
- B. Smoking shall be prohibited where seasonal novelties are sold, stored, or handled;
- C. Seasonal novelties shall not be sold, stored, or handled within 50 feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon, or within 50 feet of any dwelling.

§ 347-13. Display of seasonal novelty license and list required. No person shall sell, display, or offer for sale any seasonal novelty unless the seasonal novelty license required to be obtained under this chapter is openly displayed

upon the premises where such activity is permitted. A copy of the description set forth in Section 347-7 of this chapter will also be openly displayed upon said premises.

§ 347-14. Revocation of seasonal novelty license. The City Clerk, Fire Chief, Police Chief, or Chief Building Inspector, or his or her designee, may, at any time for good cause shown, revoke, suspend, or deny issuance of any license issued under this chapter. Good cause will include, without limitation for lack of enumeration herein, the following:

- A. Any violation of the provisions of this chapter;
- B. Any violation of building, zoning, or fire codes applicable to the licensed premises;
- C. Any violation of Wisconsin state law or this Code that is relevant to the operation of such business; and/or
- D. Any conviction of the licensee for the illegal sale or use of fireworks.

Section 5. That Chapter 347, Fireworks, Sections 347-15., 347-16., and 347-17., 347-18., 347-19., are hereby reserved for future amendments to the Code.

Section 6. That Chapter 347, Fireworks, Article III, Pyrotechnic Displays, is hereby created to read as follows:

ARTICLE III Pyrotechnic Displays

§ 347.20 Pyrotechnic display defined.

§ 347.21 Permit required.

§ 347.22 Application for license.

§ 347.23 Permit fee and term.

§ 347.24 Certificate of insurance required.

§ 347.25 Site inspections.

§ 347.26 Site regulations.

§ 347.27 Cancellation of Displays.

§347.28 Revocation of pyrotechnic display permit.

§ 347-20. Pyrotechnic display defined. As used in this chapter, “pyrotechnic display” means any display of fireworks, as defined in § 167.10(1), Wis. Stats., but excluding devices listed under § 167.10(1)(a) – (p), Wis. Stats., for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation.

§ 347-21. Permit required. No person shall use any firework for a pyrotechnic display within the City without first procuring a pyrotechnic display permit from the City. Applications for such licenses will be submitted to the City Clerk, or his or her designee, and approved by the City Clerk, Fire Chief, Police Chief, and Chief Building Inspector, or their respective designees. Permits will not be required for:

- A. The use or sale of blank cartridges for circus and theatrical purposes, or for signal purposes in athletic contests or sports events, or for the use by militia, police, or military organizations;
- B. The use or sale of flares for railway signal and motor vehicle emergency warning purposes; and

§ 347-22. Application for license. Applications for a pyrotechnic display permit will be made upon forms provided by the City Clerk and will be submitted at least 30 days in advance of the date of the proposed display. All such applications will contain the following information:

- A. The name of the person, company, corporation, or other organization sponsoring the pyrotechnic display; and the name and address of the individual responsible for arrangements;
- B. The date and time of the proposed pyrotechnic display;
- C. The address and exact location of the proposed pyrotechnic display;
- D. An alternate date and time for the proposed pyrotechnic display, which may be used if the pyrotechnic display to be is cancelled. No pyrotechnic display shall be conducted on the alternate date unless written approval is given by the City;
- E. The name and address of the organization in charge of firing the fireworks during the proposed pyrotechnic display;

- F. The names and addresses of the specific individuals in charge of firing the fireworks during the proposed pyrotechnic display;
- G. The intended method of ignition for fireworks to be used during the proposed pyrotechnic display;
- H. The number and types of fireworks intended to be fired during the proposed pyrotechnic display;
- I. The ingredients of each type of firework intended to be fired during the proposed pyrotechnic display;
- J. The names and addresses of the specific individuals responsible for recovering any unfired fireworks during and after the proposed pyrotechnic display;
- K. The location where the fireworks will be stored prior to the proposed display; and
- L. A diagram of the area where the pyrotechnic display will take place that shows the firing area, fall-out area, display site, distances to any audience, buildings, roadways, and public pathways, and any other special conditions as required by the Fire Chief, Police Chief, or Chief Building Inspector, or their respective designees.

§ 347-23. Permit fee and term. Each application will be accompanied by a permit fee which will be shown in the schedule of fees, which is adopted annually by resolution of the City Council. The fee is nonrefundable. The permit term will be limited to the date listed.

§ 347-24. Certificate of insurance required. Each application shall be accompanied by a certificate of insurance issued by a company licensed to do business in the State of Wisconsin providing liability coverage for injury to persons, property or loss of life with limits of coverage not less than \$1,000,000.

§ 347-25. Site inspections. The Fire Chief, or his or her designee, will inspect an approved pyrotechnic display site after a pyrotechnic display permit has been granted, when the company in charge of the pyrotechnic display has placed

mortars, if applicable, and at any other time as deemed necessary by the Fire Chief, or his or her designee.

§ 347-26. Site regulations. The following provisions will apply to all places where fireworks used in a pyrotechnic display are stored, handled, or displayed:

All premises shall be equipped with approved fire extinguishers and any other equipment required by the Fire Chief, or his or her designee.

- A. All premises where fireworks are stored shall be kept locked at all times.
- B. Smoking shall be prohibited within 50 feet of any premises where fireworks are stored, and "No Smoking" signs will be posted in all such locations.
- C. Spectators at a pyrotechnic display will be restrained behind barriers, which will be provided and placed by the permittee. Only authorized persons and those in actual charge of the pyrotechnic display shall be allowed inside these barriers during the preparation, unloading, or firing of any fireworks.
- D. Fire staff will be on scene during all pyrotechnic displays permitted by the City. The permittee will be charged for this service as set forth in the schedule of fees, which is adopted annually by resolution of the City Council.
- E. Fireworks may not be displayed within 200 feet from the nearest spectator, permanent building, public highway or thoroughfare, railroad or other means of travel, or 50 feet from the nearest above ground communication or power line, tree, or other overhead obstruction.
- F. Fireworks may not be stored or handled within 50 feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon, or within 50 feet of any dwelling.
- G. All fireworks that fire a projectile over land will be so set up that the projectile will go into the air as nearly as possible in a vertical position.
- H. Upon conclusion of any pyrotechnic display, the authorized individuals responsible for recovery of any unfired fireworks shall make a complete and thorough search for any unfired fireworks that failed to fire or function

during the display. Said person(s) will immediately dispose of or remove in a safe manner any remaining fireworks.

§ 347-27. Cancellation of Displays. The Fire Chief may, at his or her discretion, cancel any pyrotechnic display for any reason. The City will not be required to issue a pyrotechnic display permit for an alternate date if a display is cancelled, and the City shall not be liable for any costs incurred as a result of the cancellation.

§ 347-28. Revocation of pyrotechnic display permit. The City Clerk, Fire Chief, Police Chief, or Chief Building Inspector, or his or her designee, may, at any time for good cause shown, revoke, suspend, or deny issuance of any permit issued under this chapter. Good cause will include, without limitation for lack of enumeration herein, the following:

- A. Any violation of the provisions of this chapter;
- B. Any violation of building, zoning, or fire codes applicable to the licensed premises;
- C. Any violation of Wisconsin state law or the City of Fond du Lac Municipal Code that is relevant to the operation of such business; and/or
- D. Any conviction of the permittee for the illegal use of fireworks.

Section 9. That Chapter 347, Sections 347-29., and 347-30., are hereby reserved for future amendments to the Code.

Section 10. That Chapter 347, Fireworks, Article IV, Enforcement, is hereby created to read as follows:

ARTICLE IV Enforcement

§ 347-29. Violations and penalties. Any person who violates any provision of this chapter will, upon conviction, pay a forfeiture as described in § 1-4 of this Code, together with the costs of prosecution and any penalty assessment imposed by Wisconsin Statutes. Each day during which a violation of this chapter is permitted to exist will be deemed to be a separate violation.

Section 11. That Chapter 720-15 Zoning, Article IV General Regulations, Section 720-15 Temporary land uses, is hereby amended as shown, with the language to be deleted shown as a strikethrough:

... seasonal merchandise (seasonal novelties, ~~fireworks~~, Christmas trees...

Section 12. Any person violating the provisions of this Ordinance shall be subject to the penalty provided in § 1-4 of the Code.

Section 13. The appropriate City officials are hereby authorized and directed to take such action as is necessary to effectuate the terms of this Ordinance.

Section 14. All other ordinances and resolutions inconsistent with the provisions of this Ordinance are hereby repealed.

Section 15. This Ordinance shall take effect and be in force upon its passage and publication as provided by law.

ADOPTED:

Karyn Merkel, President
Fond du Lac City Council

Attest:

City Attorney:

Margaret Hefter, City Clerk

Reviewed 

CITY OF FOND DU LAC - Memorandum

Fire Department; City Attorney's Office

Date: September 21, 2017

To: Joe Moore, City Manager; City Council

From: Pete O'Leary, Fire Chief
Alexandra A. Klimko, Assistant City Attorney

Re: Fireworks Ordinance Changes

Introduction

This summer, the City had some issues with types of fireworks that were being sold in the City. In response, staff has reviewed our ordinance and proposes the following general framework. Fireworks as defined by state law, will be prohibited in Fond du Lac, except if someone has obtained a Pyrotechnic Display permit. Certain items that are not consider fireworks under state law; including small caps, snakes, sparklers and fountains, will be defined as seasonal novelties. Anyone wishing to sell these items will obtain a permit and can sell them. Anyone in the city can possess and use seasonal novelties. The details of this issue are discussed below.

Wisconsin's Fireworks Law

Wisconsin state law defines "fireworks" as "anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use." Wis. Stat Sec. 167.10(1). Importantly, things like sparklers, smoke bombs, and other explosive devices with less of a safety risk have been excluded from the statutory definition.

Individuals wishing to light off fireworks in Wisconsin must first obtain a user permit from the local municipality where the fireworks will be used. Wis. Stat. Sec. 167.10(3). No person may possess or use a firework in Wisconsin without securing this permit. Moreover, firework dealers can only sell fireworks to individuals who possess a valid user permit. No restrictions exist on the ability to buy or sell items excluded from the statutory definition of "fireworks," and a permit is not required for use.

Wisconsin municipalities can regulate and prohibit the sale of fireworks within a municipality, so long as any resulting ordinance is not less restrictive than state law. Wis. Stat. Sec. 167.10(5).

Fond du Lac's Fireworks Dealer License

In February 2003, the City Council created Chapter 347 of the City of Fond du Lac Municipal Code to regulate the sale of fireworks within the City. This chapter remains in place today. Section 347-1 of the current ordinance defines "fireworks" by referring to Wis. Stat. Sec. 167.10(1), but does not make any distinction between "fireworks" and devices excluded from the statutory definition.

Presently, individuals and/or businesses wanting to sell fireworks within the City must obtain a firework dealer's license. Firework dealer's license applications are submitted and approved by the City Clerk with the assistance of the Police Department. Every license application must include a detailed list of fireworks intended to be sold, the ingredients of each type of firework, and a sworn statement affirming compliance with Chapter 347 and state law.

Importantly, the City of Fond du Lac has a long-standing policy of not issuing user's permits for fireworks. However, other municipalities do issue such permits (e.g., City of Green Bay, Town of Vernon, Town of Hull, Town of Arena, Town of Wascott, and Town of Drummond).

Further, the City of Fond du Lac has a pyrotechnic display permit that is required for use of fireworks during City-sanctioned displays, but no City ordinance currently specifies what is required for either the pyrotechnic display or application process.

Problems with the Current City Ordinance

In multiple past occasions, fireworks dealers in the City have sold fireworks not approved by the City or included in the license application process. Dealers have also been selling fireworks to individuals without first confirming that buyers have valid user permits.

The illegal sale of fireworks poses significant safety threats to the community by increasing the potential for fires to occur in the City, as well as serious injuries to users and bystanders.

Additionally, the Fire Department has been approached in the past regarding pyrotechnic displays held in the City. Display permits have been granted, including to Fond du Lac Festivals for their Walleye Weekend event. Fire staff has been on scene for all displays. A physical site inspection, subsequent inspection once mortars are in place, and insurance naming the City as an insured party is also required. Entities holding pyrotechnic displays are charged for this service.

Proposed Changes to the City's Fireworks Ordinance

1. Repeal and recreate Chapter 347. 4 articles would be created to address the following topics:
 - a. Sale of fireworks
 - b. Seasonal Novelties
 - c. Pyrotechnic Displays
 - d. Enforcement
2. In Article I, Fireworks:
 - a. Define "fireworks" by reference to Wis. Stat. Sec. 167.10(1), but to exclude the devices exempted from the state statutory definition.
 - b. Prohibit the sales of fireworks in the City.
3. In Article II, Seasonal Novelties:
 - a. Define the devices excluded from the state statutory definition of "fireworks" as "seasonal novelties."

- b. Require a license to sell seasonal novelties in the City. This license process and application would largely resemble the current firework dealer's license, process, and requirements.
- 4. In Article III, Pyrotechnic Displays:
 - a. Create a permit, process, and regulations for pyrotechnic displays in the City. Things included in this new section would include:
 - i. A permit process that goes through and is approved by City staff.
 - ii. Insurance on all displays naming the City as an insured party for pyrotechnic displays.
 - iii. Fire staff would be required to be on the scene during all pyrotechnic displays and would conduct pre-display inspections. Permit holders would pay for these costs.
 - iv. Fire and safety regulations would exist for all display launch sites and viewing sites.

Staff recommends approval.

CHAPTER 167

SAFEGUARDS OF PERSONS AND PROPERTY

167.07	Manufacture, storage and distribution of matches.	167.22	Cigars not to be manufactured in basements.
167.10	Regulation of fireworks.	167.25	Refrigerators and iceboxes.
167.12	Safety appliances.	167.26	Leaving unguarded ice holes.
167.13	Operation.	167.27	Capping and filling wells or similar structures.
167.14	Sale regulated.	167.30	Use of firearms, etc., near park, etc.
167.151	Unlawful operation of corn shredders.	167.31	Safe use and transportation of firearms and bows.
167.18	Threshing machine joints to be covered.	167.32	Safety at sporting events.
167.19	Farm machinery storage.	167.33	Alpine sports.
167.20	Stairway guards.	167.35	Fire safety performance standards for cigarettes.
167.21	Movable soccer goals.		

167.10 Regulation of fireworks. (1) DEFINITION. In this section, “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:

- (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 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.
- (f) A toy snake which contains no mercury.
- (g) A model rocket engine.
- (h) Tobacco and a tobacco product.

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(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 one-quarter 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 one-quarter 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.

(p) A novelty device that spins or moves on the ground.

(2) SALE. No person may sell or possess with intent to sell fireworks, unless any of the following apply:

(a) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person holding a permit under sub. (3) (c).

(b) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a city, village or town.

(bg) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person who is not a resident of this state.

(c) The person sells the fireworks, or possesses the fireworks with intent to sell them, for a purpose specified under sub. (3) (b) 2. to 6.

(3) USE. (a) No person may possess or use fireworks without a user's permit from the mayor of the city, president of the village or chairperson of the town in which the possession or use is to occur or from a person designated by the mayor, president or chairperson to issue a user's permit. No person may use fireworks or a device listed under sub. (1) (e) to (g) or (i) to (n) while attending a fireworks display for which a permit has been issued to a person listed under par. (c) 1. to 5. or under par. (c) 6. if the display is open to the general public.

(b) Paragraph (a) does not apply to:

1. The city, village or town, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least 2 days in advance.

2. The possession or use of explosives in accordance with rules or general orders of the department of safety and professional services.

3. The disposal of hazardous substances in accordance with rules adopted by the department of natural resources.

4. The possession or use of explosive or combustible materials in any manufacturing process.

5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

6. 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.

7. Except as provided in par. (bm), the possession of fireworks in any city, town or village while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance.

(bm) Paragraph (a) applies to a person transporting fireworks under par. (b) 7. if, in the course of transporting the fireworks through a city, town or village, the person remains in that city, town or village for a period of at least 12 hours.

(c) A permit under this subsection may be issued only to the following persons:

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

(d) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(e) The person issuing a permit under this subsection may require an indemnity bond with good and sufficient sureties or 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 permit. The bond or policy, if required, shall be taken in the name of the city, village or town wherein the fireworks are to be used, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the clerk of the city, village or town.

(f) A permit under this subsection shall specify all of 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.
4. The date and location of permitted use.
5. Other special conditions prescribed by ordinance.

(fm) If a city, village, or town requires that a user's permit be signed or stamped, a person who is authorized to issue the permit under par. (a) may sign or stamp the permit before the permit is issued rather than signing or stamping the permit at the time that it is issued.

(g) A copy of a permit under this subsection shall be given to the municipal fire or law enforcement official at least 2 days before the date of authorized use. This paragraph does not apply to a permit authorizing only the sale or possession of fireworks that are classified by the federal department of transportation as Division 1.4 explosives, as defined in 49 CFR 173.50.

(h) A permit under this subsection may not be issued to a minor.

(4) OUT-OF-STATE AND IN-STATE SHIPPING. This section does not prohibit a vendor from selling fireworks to a nonresident person or to a person or group granted a permit under sub. (3) (c) 1. to 7. A vendor that ships fireworks sold under this subsection shall package and ship the fireworks in accordance with applicable state and federal law.

(5) LOCAL REGULATION. (a) Subject to pars. (b) to (e), a city, village, town or county may enact an ordinance for any of the following:

1. Defining "fireworks" to include all items included under sub. (1) (intro.) and anything under sub. (1) (e), (f), (i), (j), (k), (L), (m) and (n).
2. Prohibiting the sale, possession or use, as defined by ordinance, of fireworks.
3. Regulating the sale, possession or use, as defined by ordinance, of fireworks.

(b) An ordinance under par. (a) may not be less restrictive in its coverage, prohibition or regulation than this section but may be more restrictive than this section.

(d) A county ordinance enacted under par. (a) does not apply and may not be enforced within any city, village or town that has enacted or enacts an ordinance under par. (a).

(e) Notwithstanding par. (a) or par. (b), no city, village, town or county may enact an ordinance that prohibits the possession of fireworks in that city, town, village or county while transporting the fireworks to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance.

(6) STORAGE AND HANDLING. (a) No wholesaler, dealer or jobber may store or handle fireworks in premises unless the premises are equipped with fire extinguishers approved by the fire official of the municipality where the premises are located.

(b) No person may smoke where fireworks are stored or handled.

(c) A person who stores or handles fireworks shall notify the fire official of the municipality in which the fireworks are stored or handled of the location of the fireworks.

(d) No wholesaler, dealer or jobber 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.

(6m) LICENSING AND INSPECTING MANUFACTURERS. (a) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) without a fireworks manufacturing license issued by the department of safety and professional services under par. (d).

(b) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) unless the person complies with the rules of the department of safety and professional services promulgated under par. (e).

(c) Any person who manufactures in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) shall provide the department of safety and professional services with a copy of each federal license issued under 18 USC 843 to that person.

(d) The department of safety and professional services shall issue a license to manufacture fireworks or devices listed under sub. (1) (e), (f) or (i) to (n) to a person who complies with the rules of the department promulgated under par. (e). The department may not issue a license to a person who does not comply with the rules promulgated under par. (e). The department may revoke a license under this subsection for the refusal to permit an inspection at reasonable times by the department or for a continuing violation of the rules promulgated under par. (e).

(e) The department of safety and professional services shall promulgate rules to establish safety standards for the manufacture in this state of fireworks and devices listed under sub. (1) (e), (f) or (i) to (n).

(f) The department of safety and professional services may inspect at reasonable times the premises on which each person licensed under this subsection manufactures fireworks or devices listed under sub. (1) (e), (f) or (i) to (n).

(7) PARENTAL LIABILITY. A parent, foster parent, legal guardian, or other out-of-home care provider, as defined in s. 48.02 (12r), of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

(7m) MUNICIPAL LIABILITY. No city, village, or town, or committee, official, or employee of a city, village, or town, is civilly liable for damage to any person or property caused by fireworks for the sole reason that the city, village, or town issued a permit in accordance with the requirements of sub. (3) and any applicable requirements authorized under sub. (5), that authorized the purchase, possession, or use of the fireworks.

(8) ENFORCEMENT. (a) A city, village or town may petition the circuit court for an order enjoining violations of sub. (2), (3) or (6) or an ordinance adopted under sub. (5).

(b) Fireworks stored, handled, sold, possessed or used by a person who violates this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be seized and held as evidence of the violation. Except as provided in s. 968.20 (4), only the fireworks that are the subject of a violation of this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be destroyed after conviction for a violation. Except as provided in s. 968.20 (4), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

(9) PENALTIES. (a) A person who violates a court order under sub. (8) (a) shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.

(b) A person who violates sub. (2), (3) or (6) or an ordinance adopted under sub. (5) shall forfeit not more than \$1,000.

(c) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.

(g) Whoever violates sub. (6m) (a), (b) or (c) or a rule promulgated under sub. (6m) (e) is guilty of a Class G felony.

History: 1977 c. 260; 1983 a. 446, 538; 1985 a. 135; 1987 a. 377; 1987 a. 403 a. 256; 1989 a. 31; 1989 a. 56 s. 258; 1993 a. 208, 446, 491; 1995 a. 27 ss. 4464 to 4469 and 9116 (5); 1995 a. 330; 1997 a. 3, 35, 283; 2001 a. 109; 2003 a. 298; 2007 a. 20; 2009 a. 28; 2011 a. 32; 2015 a. 128.

NOTE: 2003 Wis. Act 298, which created sub. (7m), contains explanatory notes.

Cross-reference: See also ss. SPS 305.21, 307.50, and 307.51, Wis. adm. code.

Sub. (3) (b) lists those situations for which a permit is not needed to use or possess fireworks. *City of Wisconsin Dells v. Dells Fireworks, Inc.* 197 Wis. 2d 1, 539 N.W.2d 916 (Ct. App. 1995), 94–1999.

Fireworks permits issued to groups do not authorize sales of fireworks to group members for their individual use. *City of Wisconsin Dells v. Dells Fireworks, Inc.* 197 Wis. 2d 1, 539 N.W.2d 916 (Ct. App. 1995), 94–1999.