

# Village of Rochester

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Reflections of  
the Past...



Visions of  
the Future

## FIREWORKS APPLICATION/PERMIT FORM

- Individual applicant must be an owner or resident of real property in the Village of Rochester
- Fee- \$15.00, cash or check payable to the Village of Rochester
- All permit applications must be filed between May 1 and June 30
- This permit is for individual use of fireworks at the location listed below and on the fireworks display date (July 3 through July 5 only)
- A separate application must be completed for each day requested.
- Mail form to: Village of Rochester, P.O. Box 65, Rochester WI 53167 or apply in person
- A copy of Section 9-8 of the Municipal Code is provided. Please read all regulations.

Applicant: \_\_\_\_\_ Telephone: \_\_\_\_\_  
*(Owner or resident of real property in the Village of Rochester)*

Person(s) Discharging Fireworks \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Location of display only if different from address of applicant: \_\_\_\_\_

\_\_\_\_\_, 2016 Note: Fireworks can only be used between 4:00 p.m. and 10:30 p.m.

**STATE: State law requires this permit to specify the date the fireworks will be used. The State Attorney General's Office has determined that the permit must give a single specific date on which the fireworks may be used.**

**THE FOLLOWING FIREWORKS WILL BE DISPLAYED: State law requires this permit to specify the kind and quality of fireworks. The Wisconsin Department of Justice has determined that the term "Class C" does not satisfy the requirement.**

**Please list kind and quantity below. (For example, firecrackers - 50, roman candles - 10)**

Specific Kind of Fireworks	Approximate Quantity

*(List on a separate sheet if more space is needed)*

**I certify that I am familiar with all Federal, State and Local laws and regulations pertaining to the display of fireworks, and if granted said permit, do agree with and obey all provisions thereof.**

**I as the applicant, agree to indemnify and hold harmless the Village of Rochester from and against all liabilities, claims, demands, judgements, losses, and all suits at law or in equity, costs and expenses, including reasonable attorney fees, for injury or death of any person or loss or damage to the property of any person, including both parties hereto and their employees, arising from the ignition and use of fireworks.**

Applicant's Signature \_\_\_\_\_ Date: \_\_\_\_\_, 2016

Application Approved by: \_\_\_\_\_ Date: \_\_\_\_\_, 2016  
*(Clerk-Treasurer, on behalf of Village President)*

\$15.00 Fee \_\_\_\_\_ Municipal Code Section 9-8 provided to applicant \_\_\_\_\_

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- H. Penalty. Any person who violates any provision of this Section or who shall transport passengers in a horse-drawn carriage within the Village of Rochester without first obtaining a license as required herein shall, upon conviction thereof, be subject to the penalties set forth in s. 9-50. Each day of continued violation of the provisions of this Section shall be considered a separate offense.

**9-8. SALE AND DISCHARGE OF FIREWORKS RESTRICTED<sup>1</sup>**

A. State Laws Adopted. The statutory provisions of Wis. Stat. s. 167.10, as may be amended from time to time, regulating the sale and use of fireworks, except in so far as this ordinance is more restrictive as to use, are hereby adopted by reference and made part of this Section as though fully set forth herein. This Section is adopted pursuant to Wis. Stat. s. 167.10(5).

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

1. "Novelty Fireworks" means the following types of fireworks:
  - A cap containing not more than 1/4 grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
  - A toy snake which contains no mercury.
  - 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.
  - A device designed to spray out paper confetti or streamers and which contains less than 1/4 grain of explosive mixture.
  - A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than 1/4 grain of explosive mixture.
  - 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.
  - 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.
  - 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.
2. "Novelty Fireworks, Commercial" means the sale and storage of novelty fireworks for commercial purposes, for which a temporary use permit is required under s. 35-21.G.10.
3. "Statutory Fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, inclusive of pyrotechnics, but not including any of the following:
  - Fuel or a lubricant.
  - A firearm cartridge or shotgun shell.
  - 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.
  - A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
  - A model rocket engine.
  - Tobacco and a tobacco product.
  - Anything defined herein as "novelty fireworks."

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<sup>1</sup> Ordinance #2016-4 Adopted May 9, 2016

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C. Sale and Storage of Fireworks.

1. The sale and storage of statutory fireworks is prohibited within the Village of Rochester unless such sale or storage is part of a permanent use of land duly authorized under Chapter 35, Planning and Zoning.
2. The sale and storage of novelty fireworks for commercial purposes is prohibited within the Village without a Temporary Use Permit under s. 35-21.G.10. unless such sale or storage is part of a permanent use of land duly authorized under Chapter 35, Planning and Zoning..

D. Use of Statutory Fireworks.

1. Use prohibited without a permit. The use of statutory fireworks is prohibited in the Village of Rochester unless the fireworks are used pursuant to a user permit issued by the Village of Rochester, according to the provisions of Wis. Stat. s. 167.10(3) and all of the requirements and limitations of this Section 9-8.
2. User permit. A user permit application for the discharge of statutory fireworks may be made by any owner or resident of real property in the Village of Rochester, for intended discharge on such applicant's property in the Village. Such application may be made pursuant to Wis. Stat. s. 167.10(3)(c), and shall be subject to all applicable terms of this Section 9-8. Such use is restricted to the following dates: July 3, 4 or 5 each year, subject to the following. If the 4th of July falls on a Monday or Tuesday, the Saturday before will be allowed. If the 4th of July falls on a Wednesday or Thursday, the Saturday after will be allowed. The application must specify the name and address of the requested permit holder, the date on and after which fireworks may be purchased, the general kind and approximate quantity of fireworks which may be purchased, the date and location of the proposed use, and the name, address and telephone number for the individual responsible for the discharge of fireworks. All permit applications under this subsection must be filed between May 1 and June 30.
3. Restrictions and limitations. In addition to all other requirements of this Section 9-8 and applicable State laws, any use of statutory fireworks shall be subject to the following requirements:
  - a. Wind velocity. Wind velocity at the time of use shall not be more than 15 miles per hour as recorded or forecast by the National Weather Service Forecast Office, Milwaukee/Sullivan, Wisconsin.
  - b. Wind direction. Wind direction at the time of use shall be away from buildings or other combustible materials and structures and shall not carry fireworks onto any adjoining buildings or cause annoyance or danger to other persons or property.
  - c. The storage, use or display of permitted statutory fireworks shall conform to the standards set forth in NFPA 1, Chapter 65, Explosives, Fireworks and Model Rocketry, as may be amended from time to time. Every display shall be handled by a competent adult operator. After the permit is issued, possession, and use of fireworks shall be lawful for that purpose only. No permit granted hereunder is transferable.
  - d. Storage and handling of statutory fireworks.
    - (1) No person may store or handle statutory fireworks on any premises unless the premises are equipped with fire extinguishers.

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- (2) No person may smoke where statutory fireworks are stored or handled.
  - (3) A person who stores or handles statutory fireworks shall immediately notify the Fire Chief or Fire Inspector of the location, description and quantity of the fireworks.
  - (4) No person may store statutory fireworks closer than the separation distances required in NFPA 1 Chapter 65 to a dwelling.
  - (5) No person may store statutory fireworks closer than the separation distances required in NFPA 1 Chapter 65 to public assemblages or places where gasoline or volatile liquid is sold in quantities exceeding one gallon.
  - (6) No person may use statutory fireworks for which a permit was not issued while attending a fireworks display for which a permit has been issued under this section.
- e. Parental liability. A parent, foster, or family-operated group home parent or legal guardian of a minor who consents to the use of any fireworks by the minor who is under the age of 18 years of age is liable for damages caused by the minor's use of the fireworks, and in addition shall be subject to the penalty provided in this Municipal Code.
  - f. Fire prevention. Sufficient firefighting implements and personnel shall be available at the scene to control any fire that may be caused by the statutory fireworks.
  - g. Hours. Statutory fireworks may only be used between 4:00 P.M. and 10:30 P.M.
  - h. Responsibility on Permitted Property. For property that is subject to a statutory fireworks permit, only the individuals designated on the permit application may discharge fireworks. Such individual is responsible in case of a violation, jointly and severally with the permit holder and property owner, and any or all of these parties may be cited for the violation. Any damage or personal injury as a result of the ignition of fireworks shall be the responsibility of the permit holder.
  - i. Responsibility on non-permitted property. For property that is not permitted for the discharge of statutory fireworks, if fireworks are discharged the actual person that caused the illegal discharge is responsible for the violation if such person is identified to the Village's satisfaction. If the Village cannot determine to its satisfaction the actual person that caused the illegal discharge, the owner or occupant of the property where the discharge occurred will be presumed to have caused the discharge, or to have aided or abetted the discharge, and shall be held responsible for the illegal discharge and may be cited for the violation. Such presumption may be rebutted only by credible evidence to show that the owner or occupant of the property had no knowledge of the fireworks being on the property at any time prior to the discharge, and that the owner or occupant of the property fully cooperated with the Village in trying to identify the actual person who caused the illegal discharge.
  - j. No sale. No person in the possession of statutory fireworks pursuant to this section may resell those fireworks in the Village of Rochester.
  - k. Permit availability. The permit issued for the use of fireworks must be made available upon request of a law enforcement officer

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4. Fee. A fee for statutory fireworks permits shall be established by the Village Board and placed on the Fee Schedule, and must be submitted at the time of application and shall be non-refundable.
  5. Acceptance of risk. All fireworks discharge permits issued in the Village are issued subject to the possibility that discharge may be prohibited, even if the permit is issued, due to the restrictions and limitations of this Section. All applicants accept this risk and shall be solely responsible for all consequences of the same, by their submittal of the application.
  6. Statutory fireworks may be possessed and used by the Village without a permit, but Village fire and law enforcement officials must be notified of the proposed use of fireworks at least two days in advance.
- E. Possession of statutory fireworks.
1. Statutory fireworks may be possessed while transporting the fireworks to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance, but the person doing the transporting may not remain in the Village for more than 12 hours.
  2. Statutory fireworks may be sold or possessed by persons delivering the fireworks to a person granted a permit under this Section.
- F. Use of Novelty Fireworks. Individuals may possess and use novelty fireworks on private property with the permission of the owner or person in charge thereof. Novelty fireworks may be used in Village rights-of-way, but not in the paved portion of streets. Novelty fireworks may not be used in Village parks or in or on other Village property.
- G. Temporary ban on all fireworks. The Village President, upon recommendation of the Fire Chief because of extreme dryness or drought, may in the President's discretion declare a temporary ban on fireworks, whether statutory or novelty. No fireworks of any kind may be discharged during a declared ban. Any permit which would otherwise allow discharge on a date during such ban is automatically revoked, subject to the following. Such permittee may apply for a new discharge date after the ban is lifted without incurring a new fee. If any of the possible discharge dates of Section 9-8.D.2. are during the ban, the Village Board shall have the authority, but not the obligation, to establish additional discharge dates which would apply only to those permittees who were not able to discharge fireworks on their permitted dates due to the ban.
- H. Seizure and destruction of fireworks; Revocation of permit.
1. In addition to, and not to the prejudice or exclusion of such other penalties and remedies as may apply, any fireworks stored, handled, sold, possessed or used by a person who violates the terms of this Section may be seized and held as evidence of the violation. In the event a person is convicted of violating this section all fireworks seized shall be destroyed pursuant to the provisions of Wis. Stat. s. 167.10(8)(b), provided that, if storage after seizure but prior to resolution of the charges is deemed too dangerous, the seized fireworks may be destroyed pursuant to statute. Fireworks seized as evidence of a violation for which no conviction results shall be returned to the owner if they have not been destroyed pursuant to statute.
  2. Any permit issued to the person under this Section shall be revoked upon conviction for a violation of this Section.

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- I. Application for and issuance of permit.
  - 1. Application. The application for a permit hereunder for statutory fireworks be submitted to the Village Clerk and shall include the date of the display, and shall specify the name and address of the permit holder, the kind and quantity of fireworks that will be displayed, and the date and location of the display. The owner or person in authority of the site of the display shall consent in writing to the use of the site.
  - 2. Review and issuance. The application shall be reviewed by the Village Clerk, who may seek the advice of the Fire Chief. The Clerk, under the authority of the Village President, shall issue the permit only if the requirements of this Section are met.
    - (a) No permits shall be issued to minors.
    - (b) No permit shall be issued unless the applicant acknowledges in writing that he or she understands and accepts that he or she is fully liable for all bodily injury and property damage that may result from the issuance of the permit, and the applicant indemnifies the Village for the same.
    - (c) No permit shall be issued for the storage of statutory fireworks, except as that storage may be necessary in preparation for a display permitted hereunder, and then only for the period set forth in this Section.
    - (d) No permit shall be issued for the indoor display or use of statutory fireworks.
  - 3. In accordance with state statute, the Village Clerk shall provide copies of the permits issued to the municipal fire and law enforcement officials at least 2 days before the date of authorized use.
- J. Penalties. See Wis. Stat. s. 167.10(9)(b), which provides that a penalty for violation of an ordinance adopted pursuant to Wis. Stat. s. 167.10(5) may not exceed \$1,000. The penalties for violation of this Section shall be set forth in the Village Deposit Schedule and shall not exceed \$1000 per violation.

9-50 PENALTIES.

In addition to any penalty specifically set forth in this chapter, any person who violates any provision of this chapter or any regulation or rule, or order made hereunder shall be subject to a penalty as provided in Chapter 50 of this Municipal Code. Nothing in this section shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter by injunction or other equitable relief.