

JEFFERSON COUNTY, WEST VIRGINIA

FIREWORKS ORDINANCE

I. FINDINGS AND PURPOSE¹

This ordinance is enacted for the purpose of controlling and managing fireworks and special effects in Jefferson County, West Virginia. The Jefferson County Commission hereby finds that the discharge of fireworks or special effects without restriction as to dates and time of day is a public nuisance and health hazard pursuant to West Virginia Code § 7-1-3kk.

II. DEFINITIONS²

- (a) **Firework or fireworks** means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks include consumer fireworks, display fireworks and special effects. Fireworks does not include sparkling devices, novelties, top caps or model rockets.
- (b) **Consumer fireworks** means small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission pursuant to 16 C.F.R. Parts 1500 and 1507 (2014), and that are listed in APA Standard 87-1. Consumer fireworks do not include sparkling devices, novelties, toy caps or model rockets.
- (c) **Display fireworks** means large fireworks devices to be used solely by professional pyrotechnicians licensed by the State Fire Marshal and designed primarily to produce visible or audible effects by combustion, deflagration or detonation and includes, but is not limited to, salutes containing more than two grains (one hundred thirty milligrams) of explosive materials, aerial shells containing more than forty grams of pyrotechnic compositions and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 pursuant to 49 C.F.R. § 172.101 (2014).
- (d) **Special effects** means a device containing a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

¹ The headings in this Ordinance are for convenience only and are not intended to limit the application of the substance herein.

² Definitions adopted pursuant to West Virginia Code § 29-3E-2 and 103 CSR 4.

III. REGULATIONS

(a) No person, firm, or legal entity of any kind shall use or discharge either consumer fireworks or special effects within the confines of Jefferson County, not including any incorporated municipality, except that such consumer fireworks or special effects which are permitted by the West Virginia Code or other West Virginia regulations may be discharged at the following times:

- 1) New Year's Eve, during the hours of 5:00 o'clock p.m. and 11:59 o'clock p.m. and
- 2) New Year's Day, during the hours of 12:00 o'clock a.m. and 12:30 o'clock a.m.; and,
- 3) July 3 between the hours of 5:00 o'clock p.m. and 11:59 o'clock p.m. and
- 4) July 4 from 12:00 o'clock a.m. until 12:30 o'clock a.m., and, again from 5:00 o'clock p.m. until 11:59 p.m.
- 5) Discharge of approved fireworks as aforesaid may also be accomplished on the Friday and Saturday preceding and following New Year's Eve and July 4, during the hours above referenced.
- 6) Memorial Day weekend and Labor Day weekend between the hours of 5:00 o'clock p.m. and 11:00 o'clock p.m, beginning the Friday immediately preceding Memorial Day and Labor day and continuing through Memorial Day and Labor day.
- 7) In addition, such fireworks may be discharged between the hours of 5 o'clock p.m. and 10:00 o'clock p.m. on any other day of the year.

(b) Display fireworks which are permitted by the West Virginia Code or other West Virginia regulations may be discharged as set forth in the permit to present a public display of fireworks obtained from the State Fire Marshal pursuant to W. Va. Code Ann. § 29-3E-6 and related statutes and regulations, including without limitation CSR §103 4 7 or its successor, but remain subject to the time restrictions stated herein. In the event that any display fireworks event is not required to obtain a permit from the State Fire Marshal to present a public display of fireworks, then those display fireworks are subject to the time and permitting restrictions stated herein.

(c) Permits: Display fireworks, consumer fireworks, and special effects may be discharged at dates and times other than those described herein if a permit is obtained at least five business days in advance of the proposed discharge times from the Jefferson County Office of _____.

1) Permits

- i. The Jefferson County Office of _____ shall provide a permit application that, at a minimum, establishes the name, address, and contact information of the persons or entity that are responsible for the fireworks

discharge event, and the date, time, and location of the event. The permit information shall be collected, along with the fee, and the permit issued forthwith provided that the information and fee is submitted.

1. For consumer fireworks, the permit fee is _____
 2. For display fireworks or special effects, the permit fee is _____
- 2) The Jefferson County Office of _____ shall provide a form to the person or entity obtaining the permit that shall be completed by the applicant as part of the permit application and used to notify the Jefferson County Sheriff's Department and the 911 call center of the time and place of the proposed fireworks discharge.
- 3) Once the permit is issued, the Jefferson County Office of _____ shall forthwith deliver a copy of the completed form containing the notice to the Jefferson County Sheriff's Department and the 911 call center.

IV. PENALTIES

Any person violating the terms of this ordinance is guilty of a misdemeanor, and upon conviction, may be fined in an amount not to exceed \$100 (one hundred dollars) for each violation. For the purposes of this ordinance, each discharge of a fireworks or special effects device in violation of this Ordinance shall be a separate offense.

V. SEVERABILITY

If a court of competent jurisdiction declares any provision of this ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be involved or ineffective, and all other provisions of the Ordinance shall continue to be separately and fully effective.

Accordingly, pursuant to West Virginia Code § 7-1-3kk, the following Ordinance is adopted and shall be in full force and effect on and after _____, 2017.

Passed and adopted by the County Commission of Jefferson County by majority vote at a duly called meeting of the County Commission on this ___ day of _____, 2017.

JEFFERSON COUNTY COMMISSION

BY: _____
PRESIDENT OF THE JEFFERSON COUNTY COMMISSION

AUTHORIZATION:

West Virginia Code §7-1-3kk. Authority to provide for the elimination of hazards to public health and safety; penalty.

In addition to all other powers and duties now conferred by law upon county commissions, commissions are hereby authorized to enact ordinances, issue orders and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance. The ordinances may provide for a misdemeanor penalty for its violation. The ordinances may further be applicable to the county in its entirety or to any portion of the county as considered appropriate by the county commission.

DRAFT 8/31/2011