

ARTICLE 1535

Fireworks

- 1535.01 Definition.**
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CROSS REFERENCES

General regulations - see W. Va. Code 29-3-23 et seq. & W. Va. Code ' 29-3E-23 et seq.

Explosives - see FIRE PREV. Art. 1531

1535.01 DEFINITION.

"Fireworks" means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except that the term "fireworks" shall not include:

Model rockets and model rocket engines, designed, sold and used for the purpose of propelling recoverable acro models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with the United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps are used and toy paper or plastic caps manufactured as provided therein, the sale and use of which shall be permitted at all times. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.

The following sparklers and novelties shall not be considered fireworks and require a business registration fee be paid to be authorized to sell, as provided in West Virginia Code 11-12-86:

- (a) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the caps shall not exceed twenty-five hundredths of a grain for each cap.
- (b) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large snake-like ash when burning.
- (c) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
- (d) Trick noisemakers which produce a small report designed to surprise the user and which include:
 - (1) A party popper, which is a small plastic or paper item containing not in excess of twenty-five hundredths of a grain of explosive mixture. A string protruding from the device is pulled to activate the device, expelling paper streamers and producing a small report.
 - (2) A string popper which is a small tube containing not in excess of twenty-five hundredths of a grain of explosive mixture with string

protruding from both ends. The strings are pulled to activate the friction-sensitive mixture, producing a small report.

- (3) A snapper or drop pop, which is a small paper wrapped item containing no more than twenty-five hundredths of a grain of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.
- (e) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed one hundred grams of mixture per item.
- (f) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, are hand-held or ground-based, cannot propel themselves through the air and contain not more than seventy-five grams of chemical compound per tube or not more than a total of two hundred grams if multiple tubes are used: Provided, that sparklers and sparkler devices as provided for herein shall not be sold to anyone below the age of sixteen years old.

(WVaC 29-3-23)

1535.02 MANUFACTURE, SALE AND DISCHARGE OF FIREWORKS; PERMITS.

- (a) The manufacture of fireworks is prohibited within the Municipality.
- (b)
 - (1) No person shall possess, store or use or explode any fireworks within the municipality such is strictly prohibited unless the following permit process has been followed and is applicable. The Chief of the Fire Department shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by the Municipality, fair associations, amusement parks, and other organizations or groups of individuals. Every such display shall be handled by a competent operator approved by the Chiefs of the Police and Fire Departments, and shall be of such a character, and so located, discharged or fired as in the opinion of the Chief of the fire Department, and of the Chief of Police, after proper inspection, shall not be hazardous to property or endanger any person.
 - (2) Except as hereinafter provided, no person shall offer or expose for sale, sell at retail or wholesale, except such sales as permitted by State law in accord with West Virginia Code ' 29-3E, et seq. or use or explode any fireworks; provided that the Chief of the Fire Department shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by the Municipality, fair associations, amusement parks, and other organizations or groups of individuals. Every such display shall be handled by a competent operator approved by the Chiefs of the Police and Fire Departments, and shall be of such a character, and so located, discharged or fired as in the opinion of the Chief of the fire Department, and of the Chief of Police, after proper inspection, shall not be hazardous to property or endanger any person.
- (c) Application for permits shall be made in writing at least fifteen days in advance of the date of the display. After such privilege has been granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.
- (d) The requirements in subsections (a) through (c) hereof are in addition to, not in lieu of, the requirements set forth in the applicable provisions of State law.

(Ord. 7425. Passed 11-24-81.) Ord. 15560 Passed 6-15-21)

1535.03 DISPOSAL OF UNFIRED FIREWORKS.

Any fireworks that remain unfired after a display is concluded, shall be immediately disposed of in a way safe for the particular type of fireworks remaining.
(Ord. 7425. Passed 11-24-81.)

1535.04 EXCEPTIONS.

Nothing in this article shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations.
(Ord. 7425. Passed 11-24-81.)

1535.05 SEIZURES OF FIREWORKS.

The Chief Inspector of the Bureau of Fire Prevention and/or his designee, shall seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks possessed, exploded, offered or exposed for sale, stored or held in violation of this article. In addition, any such stocks so seized shall be disposed of in a safe manner by the Chief Inspector of the Bureau of Fire Prevention at such time determined by the Chief or his designee and such decision to dispose shall be within the Chief Inspector's sole discretion to preserve the health, safety and welfare of the community.
(Ord. 7425. Passed 11-24-81.) Ord. 15560 Passed 6-15-21)

1535.06 PENALTY.

The penalty for violation of this Article is a non-discretionary fine of Five Hundred Dollars (\$500.00) per occurrence plus court costs, if applicable. Repeat violations occurrences can result in additional citations regardless of the place, date or time of such reoccurring violation(s).
Ord. 15560 Passed 6-15-21)

1533.07 SUNSET CLAUSE

The Amendments made by Ordinance 15560 on June 15, 2021 shall sunset on October 1, 2021 or before such date if hereafter modified by Amendment prior to October 1, 2021.
Ord. 15560 Passed 6-15-21)