

**BEFORE THE COUNTY COMMISSION OF MERCER COUNTY, WEST VIRGINIA
IN REGARDS TO: FIREWORKS DISCHARGE RESTRICTION**

This commission hereby finds that the discharge of a fireworks device without restriction as to time of day or proximity to residential and other venues of rest, relaxation, and sleep is a public nuisance.

Accordingly, pursuant to West Virginia Code § 7-1-Jkk, the following Ordinance is adopted and shall be in full force and effect on and after March 1, 2019.

- (a) No person, firm or legal entity of any kind shall use or discharge fireworks within the confines of Mercer County, not including any incorporated municipality, except that such fireworks which are permitted by West Virginia Legislative Statute may be discharged on the following days and times:
- **New Year's Eve-During the hours of 9:00 pm and 11:59 pm**
 - **New Year's Day-During the hours of 12:00 am and 12:30 am**
 - **June 24th-July 7th (10 days prior/3 days after Independence Day) between the hours of 9:00 pm and 11:59 pm**
 - **July 5th from 12:00 am until 12:30 am**
- (b) Discharge of such permitted fireworks during any of the times herein referenced is not permitted within 500 feet of any residence, motel, hotel, bed and breakfast, hospital, nursing home or other facility in which people live, sleep, and rest.
- (c) **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 do not include sparking devices, novelties, top caps or bottle rockets. **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. **Display fireworks** means large fireworks to be used solely by professional pyro-technicians 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). **Special effects** means 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. (Definitions pursuant to West Virginia Code § 29-3E-2.

- (d) In addition to the regulatory requirements within the West Virginia Fire Marshal's office, temporary independent retail vendors of fireworks within Mercer County SHALL register with the County Commission Office to obtain a copy of the ordinance and pay a fee of one hundred dollars (\$100) prior to establishing a desired temporary location of operations. The fee is payable to the Mercer County Commission.
- (e) Temporary independent retail vendors of fireworks will comply with maximum posted hours of operation from 9:00 am and 9:00 pm on the allowable posted in sub-section (a) of this order.
- (f) The Sheriff of Mercer County shall have the authority to regulate violations of this ordinance.
- (g) Violation of the provisions of this Ordinance is a misdemeanor punishable, upon conviction thereof, by fine of up to \$500. Each discharge of a fireworks device in violation of this Ordinance shall be a separate offense. The Mercer County Commission will hear cases involving alleged violations.

This ordinance shall become effective on March 1, 2019. All of the above is ORDERED, ADJUDGED, AND DECREED.

Entered this 11th day of December, 2018.

MERCER COUNTY COMMISSION:

Gene Buckner, President

Greg Puckett, Commissioner

Bill Archer, Commissioner