

**BEFORE THE COUNTY COMMISSION OF PUTNAM COUNTY, WEST VIRGINIA**

**RE: PUTNAM COUNTY FIREWORKS ORDINANCE**

WHEREAS, Section 11, Article IX of the Constitution of West Virginia and West Virginia Code §7-1-3 provide that county commissions have the superintendence and administration of the internal police and fiscal affairs of their counties;

WHEREAS, West Virginia Code §7-1-3kk authorizes a county commission 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 anything which the commission deems to be a public nuisance within a county;

WHEREAS, the County Commission of Putnam County, West Virginia, hereby finds that fireworks are a hazard to public health and safety, and that fireworks constitute a public nuisance;

Now, THEREFORE, the County Commission of Putnam County, West Virginia sitting in regular session the 13<sup>th</sup> day of April, 2021 hereby approves and adopts the following "Putnam County Fireworks Ordinance";

The adoption having been moved by Commissioner Skidmore, and duly seconded by Commissioner Ellis, the vote on passage of the motion was as follows:

Ronald R. Foster	Aye
R. Andrew Skidmore	Aye
C. Brian Ellis	Aye

President Foster declared the Ordinance passed and approved.

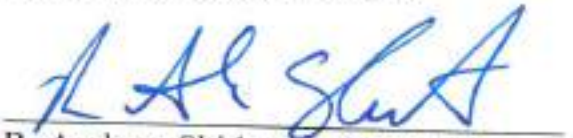
WHEREFORE, it is therefore ADJUDGED and ORDERED that the attached Putnam County Fireworks Ordinance be adopted.

Entered this 13<sup>th</sup> day of April, 2021.

THE PUTNAM COUNTY COMMISSION

A handwritten signature in blue ink, appearing to read "Ronald R. Foster", written over a horizontal line.

Ronald R. Foster, President

A handwritten signature in blue ink, appearing to read "R. Andrew Skidmore", written over a horizontal line.

R. Andrew Skidmore, Commissioner

A handwritten signature in blue ink, appearing to read "C. Brian Ellis", written over a horizontal line.

C. Brian Ellis, Commissioner

## PUTNAM COUNTY FIREWORKS ORDINANCE

### I. JURISDICTION.

- (a) That W.Va. Code §7-1-3kk authorizes the Putnam County Commission 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.”; and
- (b) That W.Va. Code §7-1-3kk further provides that “The ordinance may provide for a misdemeanor penalty for its violation.”; and
- (c) That W.Va. Code §7-1-3kk further provides that “The ordinance may further be applicable to the county in its entirety or to any portion of the county as considered appropriate by the county commission.”; and
- (d) The Magistrate Court of Putnam County and the Circuit Court of Putnam County shall have concurrent jurisdiction with respect to misdemeanors under this Ordinance.

### (a) DEFINITIONS

The terms used in this section, including “fireworks”, “consumer fireworks” and “display fireworks” shall have the meanings as defined in W.Va. Code §29-3E-2. Fireworks include consumer fireworks, display fireworks and special effects. Fireworks do not include sparkling devices, novelties, toy caps or model rockets.

- (1) Fireworks: A person igniting, discharging or using fireworks:
  - a. Shall not do so while that person is under the influence of alcohol, under the influence of any controlled substance, is under the influence of any other drug, or is under the combined influence of alcohol and any controlled substance or any other drug; and
  - b. Shall be eighteen years of age or older or shall be under the direct supervision of his or her parent, guardian or other adult person having the care and custody of the minor; and

- c. Shall be responsible for the removal of all debris accumulated within twenty-four hours of such ignition, discharge or use of such fireworks; and
  - d. Shall be responsible for all costs associated with fire suppression efforts related to such fireworks; and
  - e. Shall abide by all legal requirements concerning such fireworks use.
- (2) Consumer Fireworks: A person igniting, discharging or using consumer fireworks:
- a. Shall not do so within 100 feet of any building or structure; and
  - b. Shall not do so except between 12:00 p.m. (noon) and 12:30 a.m. within two (2) days before or after Memorial Day, Independence Day, Labor Day or corresponding holiday weekends or on December 31 and January 1.; and
  - c. Shall not do so from any motor vehicle or boat; and
  - d. Shall ensure that such consumer fireworks do not travel through, come in contact with, or discharge or explode onto any public street, highway or sidewalk, in or upon any building, at or near any person, or within 500 feet of any location posing a special fire danger, such as a gas station or chemical storage area; and
  - e. Shall not do so during period of high or extreme fire danger as determined by the West Virginia Division of Forestry or while wind conditions are such that proper fireworks control cannot be exercised; and
  - f. Shall not do so within 200 feet of any "livestock" as defined in W.Va. Code §19-10B-2 as cattle, horses, swine, sheep, goats or any other animal of the bovine, equine, porcine, ovine or caprine specie, and domestic poultry.
- (3) Display Fireworks. Display fireworks shall be operated by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of such composition, character and so located, discharged or fired so as to be safe.
- (4) No person or entity may manufacture, wholesale, distribute, import, sell or store for the purpose of resale, fireworks, sparkling devices, novelties or toy caps without a licensed, registration, certificate or permit from the State Fire Marshal.
- (5) The sale of fireworks shall be under the direct supervision and control of a competent person of at least twenty-one years of age

and duly qualified and responsible for the enforcement of all safety measures. Smoking, matches and open flames shall not be permitted within fifty feet of fireworks being sold. Signs shall be posed in conspicuous places in, on and around all fireworks being displayed for sale with the words "FIREWORKS – NO SMOKING" in letters of not less than four inches in height. Fire extinguishing equipment shall be kept and maintained upon the sale premises and shall include, but not be limited to, a ten-pound A.B.C. fire extinguisher. All electrical fixtures contained upon the sale premises shall be dust-ignition proof. No fewer than two unobstructed exits shall be maintained upon the fireworks sale premises at all times. No fireworks shall be offered for sale within 300 feet of the property line of any church, hospital or flammable liquid dispensers or flammable liquid storage areas are located. Any outdoor fireworks sales shall be located not less than twenty-five feet from any building, structure and all rights of way including, but not limited to, highways, streets, alleys, and sidewalks. Fireworks shall not be sold to any person under the age of eighteen years.

- (6) Fireworks shall be stored in a manner so as to be fire-resistant for any external or internal source, weather resistant and theft resistant. Fireworks storage shall be under the direct supervision and control of a competent person at least eighteen years of age.
- (7) The State Fire Marshal shall seize, take, remove and dispose of at public auction or destroy, or cause to be seized, taken or removed and disposed of at public auction, or destroyed at the expense of the owner, all stocks of fireworks or combustibles offered for sale, stored or held in violation of this ordinance or the provisions of W.Va. Code § 29-3E-1 et seq. The West Virginia State Police, deputy sheriffs, municipal police officers and other law-enforcement officers shall assist in the enforcement of this ordinance.
- (8) For an organized event other than those listed in paragraph (2)b above, an application may be made to the Putnam County Commission prior to the event for a special permit for Display Fireworks; PROVIDED, that the event organizers also obtain all other required permits.

**(b) PROHIBITIONS.**

It shall be unlawful for any person to manufacture, wholesale, distribute, import, sell or store for the purpose of resale, consumer fireworks, sparkling devices, novelties or toy caps without a license, registration, certificate or permit from the State Fire Marshal.

It shall be unlawful for any person to ignite, discharge or use fireworks in violation of the provisions of this ordinance.

The Ordinance shall be applicable to all zoned unincorporated areas of Putnam County, West Virginia.

**(c) PENALTIES.**

- i. Any person who violates the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$500.00.
- ii. Each violation of the provisions of this Ordinance shall constitute a separate offense.

Any violation of this Ordinance also constitutes a public nuisance.

**(d) ENFORCEMENT.**

This Ordinance may be enforced by any law enforcement agency, including but not limited to, The State Fire Marshal's Office, the Putnam County Sheriff and any Deputy Sheriff, West Virginia State Police, West Virginia Department of Natural Resources and any municipal police officer.

**(e) SEVERABILITY.**

If any clause, paragraph, subparagraph, section or subsection of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby but shall remain in full force and effect.

**(f) EFFECTIVE DATE.**

This Ordinance is effective upon passage.

THE PUTNAM COUNTY COMMISSION



Ronald R. Foster, President



R. Andrew Skidmore, Commissioner



C. Brian Ellis, Commissioner

Adopted: April 13, 2021