

ORDINANCE NO. 23-9-01

ORDINANCE CONCERNING FIREWORKS

WHEREAS, the Council of the Town of Kimball believes that the safety of the citizens of the Town of Kimball requires the following,

NOW, THEREFORE, BE IT RESOLVED as follows:

(a) Generally.

(1) The terms used in this article, including "fireworks" and "consumer fireworks" shall have the same meaning as defined in West Virginia Code § 29-3E-2. The term fireworks or consumer fireworks shall not include sparkling devices, novelties, toy caps, or model rockets.

(2) The sale, storage, use, possession, ignition, detonation and/or discharge of fireworks within the Town of Kimball, shall be subject to, and conducted in a manner consistent with, applicable state law.

(b) Consumer fireworks; regulations, prohibited actions, and exceptions.

(1) Any person igniting, discharging, detonating or otherwise using (hereinafter, collectively "use" or "using") consumer fireworks within the Town of Kimball and, consistent with W. Va. State Code § 8-12-19, within one mile beyond the corporate limits of the town, but not including areas within the corporate limits of another municipality, shall:

- a. Not be under the influence of intoxicating liquor, non-intoxicating beer, any controlled substance, or any combination thereof; and
- b. Be eighteen (18) years of age or older or shall be under the direct supervision of his or her parent, guardian, or other adult person responsible for the care and custody of the minor; and
- c. Be responsible for the prompt removal of all debris resulting from the use of fireworks and such completed removal shall not exceed twenty-four (24) hours after use; and
- d. Be financially responsible for cleanup costs and/or damages resulting from the use of fireworks; and
- e. Be responsible for all costs associated with fire suppression efforts related to the use of fireworks; and
- f. Not use fireworks within one hundred (100) feet of any building or structure unless permission of the owner of the building or structure has been obtained; and
- g. Not use fireworks from any motor vehicle or boat; and
- h. Store fireworks in a safe, secure and responsible manner, and separate from any possible ignition source; and

i. Use fireworks in a manner designed to ensure that fireworks do not travel through, come in contact with, discharge, or explode onto any public street, highway, sidewalk, or in or upon any building, or at or near any person, or within five hundred (500) feet of any location posing a special fire danger, such as a gas station, chemical storage area or other similar location; and

j. Not use fireworks during periods of very high or extreme fire danger as determined by the Kimball Fire Department or the West Virginia Division of Forestry, or while wind conditions are such that proper fireworks control cannot be exercised; and

k. Not be permitted to use fireworks, except between the hours of 6:00 p.m. and 11:00 p.m., on Memorial Day, Independence Day and Labor Day, or between 6:00 p.m. on December 31 and 1:00 a.m. on January 1; provided, however, that a person may request permission from the Mayor to use fireworks for a special event or occasion at other days and times not regularly permitted herein, and the Mayor shall have reasonable discretion, on a case by case basis and after consultation with the chief of the fire department, to approve such a request.

(2) This section, and the prohibitions contained herein related to the use of consumer fireworks, is not intended to prohibit use of display fireworks within the town at any day or time so long as the use is sponsored or approved by the town.

(c) Enforcement.

(1) The Town of Kimball may seize, take, remove, dispose of at public auction, or destroy, or cause to be seized, taken, removed, disposed of at public auction, or destroyed, at the expense of the owner, all stocks of fireworks offered for sale, stored, held or used in violation of this section, West Virginia Code, or any emergency or legislative rule promulgated thereunder.

(2) The provisions of this article shall be enforced by the chief of police, or his/her designee, and the fire chief, or his/her designee.

(3) Any person convicted of a violation of the provisions of this article shall be fined not more than two hundred dollars (\$200.00). Each violation of the provisions of this article shall constitute a separate offense.

FIRST READING: October 17, 2023

SECOND READING: November 15, 2023

Section 8: EFFECTIVE DATE: This ordinance shall become effective on the 1st day of January 2024, after its adoption and publication as required by law.

ADOPTED this 15th day of NOVEMBER 2023.

MAYOR

Authenticated and Attested:

Town Clerk

I hereby certify that this is a true copy of an ordinance adopted by the Town Council of Kimball, West Virginia at its regular meeting held on November 14, 2023. Given under my hand and seal this 14th day of November 2023.

Town Recorder