

TITLE 6

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CHAPTER 1 - Volunteer Fire Department

Section 6-101 Recognition of the Danville Volunteer Fire Department

The Town Council of Danville hereby recognizes the Danville Volunteer Fire Department as the official firefighting agency in the corporation.

Section 6-102 Support of volunteer fire department

This municipality may contribute financially to its fire department.

CHAPTER 2 - Authority of local fire department

Section 6-201 Entry of buildings on fire where reasonable cause to believe a fire is in progress; adjoining premises

The chief of the fire department, any fireman in charge or the subordinants so ordered may enter any building in which there is

believed to be a fire, or any building in which it is necessary to enter to stop a fire from spreading or to fight a fire or to protect either said burning building or one nearby from burning.

Section 6-202 Authority of chief or another fireman in command when answering alarm or extinguishing fire

While a fire is in progress all bystanders shall obey the direction of the fire chief or the fireman in control.

While going to the station, extinguishing a fire, or returning to the station, the fire chief or the fireman in control shall direct all bystanders, order all firemen, facilitate the movement of equipment and men, and until a policeman arrives, direct traffic or order a subordinate to do so. The fire chief or fireman in control shall display a fireman's badge or proper means of identification. Notwithstanding any other provisions of the law, the authority granted in this section shall extend to the activation of traffic control signals designed to facilitate the safe egress and ingress of fire-fighting equipment at a station.

Section 6-203 Person in command at fire scene may take and preserve certain property; restitution

The fire chief or any fireman in charge may take and preserve any property that might show where the fire started. A person may petition the court to re-obtain said property. However, the Judge may require a bond on the property for the preservation of evidence.

Section 6-204 Conducting investigation to determine cause of fire

To determine the cause of a fire, a fire chief or fireman in control may enter the scene of the fire for up to forty-eight hours after the fire.

If there is evidence that such fire was of incendiary origin, the fire chief or other authorized fireman may control who may enter the scene of such fire by posting no trespassing signs at such scene for a period of forty-eight hours after such fire has been extinguished.

After the scene of a fire has been posted against trespassing, no person shall enter such scene, unless he is an owner, lessee or has personal property at the scene; and then only after the area has been declared safe. He may then salvage for personal property if he is with or has the permission of an authorized fire department or company official.

Section 6-205 Person attacking or hindering or obstructing fireman or emergency equipment: penalties

It shall be unlawful, while any fire department or company or fireman is in the process of answering an alarm of fire or extinguishing a fire or returning to station, for any person to:

- 1) Take any action for the purpose of hindering or obstructing any fireman, equipment or emergency vehicle by any means.

Section 6-205 cont.

- 2) Refuse to take any action for the purpose of hindering or obstructing any fireman, equipment or emergency vehicle by any means.

Any person willingly violating (6-203), (6-204), or (6-205) shall be guilty of a misdemeanor and fined not less than ten or more than one hundred dollars.

CHAPTER 3 - Fire Protection and Control

Section 6-301 Power and authority of fire department

The Volunteer Fire Department shall have plenary power and authority to prevent and extinguish fire, obtain proper fire fighting equipment, provide for the organization and government of the fire department, describe the powers and duties of the department and the power and duties of its commanders and impose a penalty on those who refuse the orders of the men in command.

Section 6-302 Maintenance of fire hazard; order for repair or demolition; order to contain notice to comply and right to appeal

- a) No person shall build or maintain anything that is a fire hazard or might explode or is in violation of the fire safety laws of this municipality.
- b) Whenever the fire chief or his deputies find any fire hazard they shall notify the owner in writing and send a copy to the town recorder. In the notification, they may order repair and demolition.
- c) Fire hazard - any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the judgment of the fire chief or someone appointed by the governing body of this municipality, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

The owner shall have thirty days to comply with the order or the person may have a chance to file for a public hearing to be held within ten days of the order before the town council and then to the circuit court on appeal.

Section 6-303 "Fireworks" defined; labels required

The term "fireworks" means and includes any substance or combustion of substance or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, 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, skyrocket, roman candles, sparklers or other fireworks of like construction and any fireworks containing any explosive substance, but shall not include those that use plastic or paper caps. The sale of these caps is permitted, and each package containing them for sale in a retail store must indicate maximum explosive content.

Section 6-304 Unlawful sale, possession or use of fireworks; permit for public display

Except as provided in this section, no person shall sell or use fireworks; provided the State Fire Marshall may grant permits for special occasions such as for flairs, amusement parks, municipalities and others. All permits are obtained through the State Fire Marshall after he has inspected the fireworks and a bond has been posted. The permit is good only for the one purpose it is listed for and is not transferable.

Section 6-305 Penalties

Any person who violates any provision of this title shall be guilty of a misdemeanor and shall be fined not more than one hundred dollars.

INTRODUCED BY:

Mark McClure, Mayor

ORDINANCE NO:

REFERRED TO:

APPROVED ON:

AN ORDINANCE TO AMEND SECTION 304 OF CHAPTER ONE OF TITLE 6 OF THE ORDINANCE OF THE TOWN OF DANVILLE CONCERNING FIREWORKS

WHEREAS, the West Virginia Legislature, through the passage of House Bill 2852 [2016], repealed and amended several laws concerning fireworks, as well as created a new article in West Virginia Code, Fireworks Safety Article 3E in Chapter 29;

WHEREAS, House Bill 2852 [2016] authorizes the sale of consumer fireworks with a license, registration, certificate or permit from the State Fire Marshal;

WHEREAS, Danville's existing fireworks ordinance, Section 6-304, is now based, in part, on statutory language that was repealed by House Bill 2852 [2016] and should be updated; and

WHEREAS, West Virginia Code § 29-3E-10 [2016] specifically provides that Article 3E does not affect the authority of the governing body of a municipality to prohibit or regulate the use of consumer fireworks within its boundaries;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL FO THE TOWN OF DANVILLE, WEST VIRGINIA THAT SECTION 6-304, BE AMENDED TO READ AS FOLLOWS:

6.304 FIREWORKS USE, SALE AND POSSESSION.

- (a) The terms used in this section, including "fireworks," "consumer fireworks" and "display fireworks," shall have such meaning as defined in West Virginia Code Section 29-3E-2. Fireworks include consumer fireworks, display fireworks, and any special effects. Fireworks do not include sparkling devices, novelties, toy caps or model rockets. Any reference to the use of any fireworks in this section includes the ignition, discharge, firing, and other use of such fireworks.
- (b) *Fireworks* – A person using fireworks:
 - (1) shall not do so while that person is under the influence of alcoholic liquor or controlled substance or a combination of both;
 - (2) 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;
 - (3) shall be responsible for the removal of all debris accumulated within twenty-four hours of such fireworks use and be financially responsible for all cleanup costs and damages due to the use of such fireworks;

- (4) shall be responsible for all costs and expenses associated with emergency response efforts, including but not limited to fire suppression efforts, related to such fireworks; and
- (5) shall abide by all legal requirements concerning such fireworks use.
- (c) *Consumer Fireworks* – A person using consumer fireworks:
 - (1) shall not do so within 100 feet of any building or structure;
 - (2) shall not do so except between 10 a.m. and 10 p.m. on Memorial Day, Independence Day, Labor Day or corresponding holiday weekends or between 10 a.m. on December 31 and 12:30 a.m. on January 1;
 - (3) shall not do so from any motor vehicle or boat;
 - (4) 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;
 - (5) shall not do so during periods of high or extreme fire danger as determined by the Town of Danville Fire Department or the West Virginia Division of Forestry or while wind conditions are such that proper fireworks control cannot be exercised; and
 - (6) shall do so in accordance with the fireworks manufacturer's printed instructions.
- (d) *Display Fireworks* – Display fireworks shall be used by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of such composition and character and so located and used so as to be safe in the opinion of the Fire Chief and Police Chief. The use of display fireworks is conditioned on compliance with the provisions of this section, West Virginia Code Article 29-3E and the regulations of the State Fire Marshal. The operator shall provide proof of insurance coverage to the Mayor in the amount of \$1 million or more and of a character and form as the Mayor determines to be necessary for the protection of the public, with the City being a named insured to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the operator or an employee thereof. After such privilege shall have been granted, the sale, possession, use and distribution of display fireworks shall be lawful for that purpose only. No privilege granted hereunder shall be transferable.
- (e) 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 license, registration, certificate or permit from the State Fire Marshal and the Town of Danville.
- (f) The sale of fireworks shall be under the direct supervision and control of a competent person 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 posted in conspicuous places in, on and around all fireworks being displayed for sale with the words "FIREWORKS – NO SMOKING" in letter 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 school, or within fifty feet of the property line of any lot upon which any 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.

- (g) Fireworks shall be stored in a manner to be fire-resistant from 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. Consumer fireworks shall be stored in accordance with the manufacturer's printed instructions.
- (h) The Town of Danville may 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 fireworks or combustibles offered for sale, stored or held in violation of this section, West Virginia Code Article 29-3E or an emergency or legislative rule promulgated thereunder.
- (i) The provisions of this section shall be enforced by the Police Chief or it's designees.
- (j) Whoever violates any of the provisions of this section shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both. Each violation of the provisions of this section shall constitute a separate offense.

This ordinance shall take effect immediately upon passage.

ATTEST:

Tony Hensley, Town Recorder

Mark McClure, Mayor