

## ORDINANCE NO. 848

### AN ORDINANCE REGULATING THE USE, DISCHARGE, AND EXPLOSION OF FIREWORKS

WHEREAS, the City of Grafton is in agreement that it is in the best interests of its citizens to establish certain rules regarding the use and discharge of fireworks in order (1) to protect and ensure for the safety of citizens and structures within the City, and (2) to promote the peace, good order, comfort, convenience, and welfare of the inhabitants of the City.

NOW THEREFORE, THE COUNCIL OF THE CITY OF GRAFTON HEREBY ORDAINS:

#### **Section 1. Definitions:**

§101. "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.

§101.1 The term "fireworks" shall not include:

(a) 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; and

(b) The following sparklers and novelties shall not be considered fireworks:

(1) 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.

(2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large snake-like ash when burning.

(3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.

(4) Trick noisemakers which produce a small report designed to surprise the user and which include:

A. 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.

B. 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.

C. 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.

(5) 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.

(6) 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 75 grams of chemical compound per tube or not more than a total of 200 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 16 years old.

## **Section 2. Prohibition on Fireworks**

§201. Except as hereinafter provided, no person, firm, copartnership or corporation shall use, discharge, or explode or attempt to use, discharge, or explode, any fireworks, provided, permits for the supervised display of fireworks may be granted upon application to the State Fire Marshal and after approval of the police and fire chiefs, and the filing of a bond by the applicant as provided hereinafter or established by the City Manager. Every such display shall be handled 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 as in the opinion of the fire chief, after proper inspection, and of the police chief shall not be hazardous to property or endanger any person or persons. No permit granted hereunder shall be transferable.

Any violation of this Section shall be a misdemeanor and subject to the penalties and terms set forth in Section 3 of this Ordinance.

§202. The City of Grafton and its agents, designees, and assigns shall be exempt from the prohibition(s) set forth in this Ordinance herein and shall be allowed to use, discharge, and/or explode fireworks for fireworks displays and/or celebrations as it deems appropriate.

## **Section 3. Penalties**

§301. Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor and shall be fined in the amount of \_\_\_\_\_ (\$ . ). Each

such incident of violation shall be deemed a separate offense, and each day that such violation continues shall be deemed a separate offense.

#### **Section 4. Other Provisions**

§401. The provisions of this Ordinance are severable and if any provision or part thereof shall be held invalid for any reason by a court of competent jurisdiction, such invalidity shall not affect or impair any of the other provisions or parts of this Ordinance. It is hereby declared to be the intent of the City Council that this Ordinance nevertheless would have been adopted if such invalid provision or part thereof had not been included herein.

The foregoing Ordinance was duly and regularly adopted at a meeting of the Council of the City of Grafton held on the 4<sup>th</sup> day of October, 2016, publication, and hearing thereon in the manner prescribed by law.

This Ordinance shall take effect upon the date of passage.

\_\_\_\_\_  
PEGGY KNOTTS BARNEY  
Mayor

ATTEST:

\_\_\_\_\_  
LARRY M. RICHMAN  
City Clerk

First Reading: September 20, 2016  
Second Reading: October 4, 2016  
Public Hearing: October 4, 2016  
Adopted: October 4, 2016  
Publication: September 23, 2016  
September 30, 2016

Ordinance Prepared By: Shawn D. Nines, Grafton City Attorney 222 West Main Street Grafton, WV 26354
---