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CHAPTER 35.

 FIREWORKS AND EXPLOSIVES

**SECTION 23‑35‑10.** Sale, storage, transportation or use of impermissible fireworks; enumeration of permissible fireworks.

It shall be unlawful for persons to possess, sell, offer for sale, store, transport or use within this State any fireworks other than the permissible fireworks herein enumerated. The permissible fireworks consist of ICC Class C, “Common Fireworks” only, and shall mean such articles of fireworks as are enumerated as ICC Class C, “Common Fireworks” in the regulations of the Interstate Commerce Commission for the transportation of explosives and other dangerous articles, and shall include the following:

(1) Roman candles whose total pyrotechnic composition shall not exceed twenty grams each in weight;

(2) Bottle type rockets whose motor is a minimum one‑half of an inch in diameter and a minimum three inches in length, whose stabilizing stick is a minimum fifteen inches in length, and whose total pyrotechnic composition does not exceed twenty grams each in weight; however, all bottle type rockets smaller than provided for in this item may be stored by licensed wholesale distributors for out‑of‑state distribution only;

(3) Cylindrical fountains whose total pyrotechnic composition shall not exceed seventy‑five grams each in weight and whose inside diameter shall not exceed three‑fourths inch;

(4) Cone fountains whose total pyrotechnic composition shall not exceed fifty grams each in weight;

(5) Wheels whose total pyrotechnic composition shall not exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel and the inside bore of driver tubes shall not be over one‑half inch;

(6) Illumination torches and colored fire in any form whose total pyrotechnic composition shall not exceed one hundred grams each in weight;

(7) Sparklers whose total pyrotechnic composition shall not exceed one hundred grams each in weight;

(8) Firecrackers and salutes with casings, the external dimensions of which do not exceed one and one‑half inches in length and one‑quarter inch in diameter, and other items designed to produce an audible effect, total pyrotechnic composition not to exceed two grains each in weight; and

(9) Items composed of a combination of two or more articles or devices of the above enumerated approved items.

No component of any device listed in this section which is designed to produce an audible effect shall contain pyrotechnic composition in excess of two grains in weight excluding propelling or expelling charges. Pyrotechnic composition containing any chlorate or perchlorate shall not exceed five grams. All other fireworks not enumerated in this section are declared contraband, except as herein provided.

**SECTION 23‑35‑20.** Nomenclature and identification on shipping case.

No permissible articles of common fireworks enumerated in Section 23‑35‑10 shall be sold, offered for sale, possessed, stored or used in the State unless they shall be properly named to conform to the nomenclature of Section 23‑35‑10 and unless they are certified as “Common Fireworks” on all shipping cases and by printing on the article to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public.

**SECTION 23‑35‑30.** Toy paper pistol caps and devices using them as “Fireworks.”

The term “fireworks” shall not include toy paper pistol caps which contain less than twenty‑five hundredths of a grain of explosive compounds, toy pistols, toy canes, toy guns or other devices using paper caps and the sale and use of these items shall be permitted at all times.

**SECTION 23‑35‑40.** Exceptions to application of chapter.

Nothing in this chapter shall apply:

(1) To the shipping, sale, possession and use of fireworks for public displays, and such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the State shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulations of the Interstate Commerce Commission as “Class B Special Fireworks,” and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes;

(2) To the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other public or private transportation;

(3) To illuminating devices for photographic use;

(4) To the military or naval forces of the State or United States;

(5) To peace officers; and

(6) To the sale or use of blank cartridges for ceremonial, theatrical or athletic events.

**SECTION 23‑35‑45.** Use of pyrotechnic materials indoors; regulation.

Nothing in this chapter or in any other provision of law prohibits the use of pyrotechnic materials inside any enclosed entertainment or assembly area before proximate audiences when the indoor pyrotechnics are used in accordance with Standard 1126 of the National Fire Protection Association entitled “Standard for the Use of Pyrotechnics Before a Proximate Audience”, 1992 edition. The State Fire Marshal Division of the Department of Labor, Licensing, and Regulation is designated as the agency responsible for implementing, administering, and enforcing the provisions of this section, including the promulgation of necessary regulations. The State Fire Marshal Division also may establish fees which may be charged on a per performance or other basis to offset the cost of enforcing the provisions of this section, such fees to be the responsibility of the owner or operator of the establishment where the indoor pyrotechnics shall be used.

**SECTION 23‑35‑50.** Exception for storage and sale of agricultural and display fireworks by licensed distributor.

(A) Nothing in this chapter prohibits a licensed wholesale distributor from storing for sale where legal all Class “B” fireworks used for display or agricultural purposes after first obtaining a license for that purpose from the State Board of Pyrotechnic Safety. The cost of the license is seven hundred fifty dollars.

(B) Agricultural and display fireworks must be stored in an appropriate building and a record of purchases and sales must be kept for inspection by the State Board of Pyrotechnic Safety.

(C) If Class “B” fireworks used for display or agricultural purposes are returned to the wholesaler unused for any reason, the unused fireworks must be returned in the same manner they were sold, issued, or shipped, including any protective device attached to the fuse or fuses.

**SECTION 23‑35‑60.** Permits and other requirements for fireworks displays; penalty for violation.

Any person who desires to hold a fireworks display shall first obtain a permit from the governing body of the municipality or county where such display is to take place, in triplicate. The manufacturer or wholesaler supplying the fireworks display material shall retain one copy of the permit and the person putting on the display shall retain one copy. One copy shall be forwarded to the State Fire Marshal’s office.

All fireworks display materials shall be purchased through a manufacturer or wholesaler licensed in South Carolina who will supply insurance protection for any accidents that might take place during the display, except as otherwise provided for in this chapter.

Any display requiring shells to be fired from mortars or set pieces more than sixteen feet high shall be classified as Type “A” and, when such display is used, an experienced fireworks operator shall be in charge for the protection of spectators. Any display commonly called a local or family display, which includes no uncased shells and no shells larger than regular 100 aerial or set pieces larger than ten feet, may be fired by persons putting on the display who shall assume responsibility for insurance.

No commercial fireworks item such as “Cherry Bombs,” T‑N‑T, M‑80’s or other domestic items of commercial fireworks of a similar type shall be considered as display fireworks.

Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days.

**SECTION 23‑35‑70.** Wholesale distributor’s and jobber’s licenses; retailer’s license or permit.

(1) Each wholesale distributor of fireworks in this State is required to purchase an annual license from the State Board of Pyrotechnic Safety at a cost of one thousand dollars which is subject to regulations of the State Fire Marshal’s office governing storage of fireworks. A “wholesale distributor” is defined as a person or firm selling fireworks to licensed jobbers or licensed retailers.

(2) Each jobber selling fireworks in this State is required to purchase an annual license from the State Board of Pyrotechnic Safety at a cost of four hundred dollars which is subject to regulations of the State Fire Marshal’s office governing storage of fireworks. A “jobber” is defined as a person or firm selling fireworks to licensed retailers.

(3) Each retailer is required to procure an annual license or permit at a cost of fifty dollars which shall authorize the licensee to sell permissible fireworks. The license or permit must be obtained from the municipal clerk, or comparable municipal official, for retail sales within a municipality, after approval of the applicant and his place of business by the municipal fire chief serving such municipality; or, from the county clerk of court for retail sales in the county outside a municipality after approval of the applicant and his place of business by the county sheriff. No permit may be issued to an applicant until the premises where the fireworks are to be kept for the purpose of sale have been inspected and it is determined that the building and the facilities within the building meet safety standards for the storage and sale of permissible fireworks. The issuance of the permit is subject to regulations promulgated by the State Board of Pyrotechnic Safety governing the storage, safekeeping, and sale of fireworks. No person or firm may be issued a retail license who is not already licensed by the State Department of Revenue for sales tax purposes and who has not held the sales tax license for at least sixty days. Permits issued to retailers must be prominently displayed. No permit provided for herein may be transferred nor shall a person be permitted to operate under a permit issued to any other person.

(4) The respective licenses and permits must be issued on the form or forms as the State Board of Pyrotechnic Safety may determine.

All funds derived from the sale of permits as prescribed in item (3) must be retained by the county or municipality collecting the funds.

**SECTION 23‑35‑80.** Sales to and purchases from unlicensed persons prohibited; records shall be kept open.

No wholesaler is allowed to sell fireworks to any nonlicensed jobber or retailer, and the records of all retailers, licensed jobbers, and wholesalers must be open for inspection by authorized officials to check sales or purchases. Retailers may purchase fireworks only from a manufacturer, jobber, or wholesaler licensed to do business in this State. Licensed jobbers may purchase fireworks only from a manufacturer or wholesaler licensed to do business in this State.

**SECTION 23‑35‑90.** Storage of fireworks by wholesalers.

Fireworks to be sold at wholesale shall be stored in a room set aside for the storage of fireworks only. Over the entrance to this room shall be posted a sign reading, “FIREWORKS‑‑NO SMOKING‑‑KEEP OPEN FLAMES AWAY.”

**SECTION 23‑35‑100.** Storage and display of fireworks by retailers.

All retailers shall store permissible fireworks in the original unbroken containers in which such fireworks were shipped and received. Any such fireworks that are displayed or offered in bulk outside such original containers shall be displayed in accordance with rules and regulations promulgated and adopted by the State Fire Marshal. No fireworks shall be displayed in windows or where the sun may shine through glass onto the fireworks. At all places where fireworks are stored or sold, the area used by the patrons shall be unobstructed, with clear access to an outside door. Such areas where fireworks are stored must have posted signs containing the words “Fireworks for Sale‑‑No Smoking Allowed” in letters not less than four inches high. No person under the age of eighteen years shall be employed as a salesman or handler of fireworks.

**SECTION 23‑35‑110.** Display for sale or storage near certain flammable substances.

Fireworks shall not be sold or kept for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept in unbroken containers, unless in a separate and distinct section or department of the store.

**SECTION 23‑35‑120.** Sale of fireworks to minors and discharge of fireworks in certain circumstances unlawful.

It shall be unlawful:

(1) To offer for sale or to sell permissible fireworks to children under the age of fourteen years unless accompanied by a parent;

(2) To explode or ignite fireworks within six hundred feet of any church, hospital, asylum or public school;

(3) To explode or ignite fireworks within seventy‑five feet of where fireworks are stored, sold or offered for sale;

(4) To ignite or discharge any permissible fireworks within or throw the same from any motor vehicle; and

(5) To place or throw any ignited fireworks into or at any motor vehicle.

**SECTION 23‑35‑130.** Manufacture, storage, transportation or possession of certain fireworks illegal; storage and assembly of public display material; penalty.

(A) It is unlawful to manufacture, store, transport, or possess fireworks containing pyrotechnic composition in excess of two grains, designed to produce a loud and piercing effect, including, but not limited to, fireworks commonly called “ground salutes” or “cherry bombs”, M‑80’s, T‑N‑T salutes, and “bulldog salutes”. A manufacturer shall obtain a permit to store or assemble materials for public fireworks displays. No manufacturer may store public display material in the same building where legal fireworks are offered for sale to retailers.

(B) The provisions of this chapter do not prohibit continuous interstate commerce through this State into another state of any item of fireworks permitted for shipment by the regulations of the Interstate Commerce Commission or the United States Department of Transportation, or their successors. It is unlawful to ship into or through this State or possess, sell, or use, under any circumstances, any article of fireworks that is forbidden for transportation by regulations of the Interstate Commerce Commission, the United States Department of Transportation, or their successors.

(C) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than two years, or both.

**SECTION 23‑35‑140.** Issuance of rules and regulations concerning permissible fireworks.

Notwithstanding any other provisions of law, the Division of the State Fire Marshal shall issue rules and regulations regarding the storage, transportation, sale and use of permissible fireworks within this State. Such regulations may prescribe, but shall not be limited to, quantity of fireworks that may be kept, the manner of transporting fireworks within the State, the type of buildings or structures where such fireworks may be kept, sold or used, the manner of storage of fireworks within such buildings or structures and such other matters that may be necessary to protect lives and property. Violations of such regulations when duly promulgated shall be punished as provided for in Section 23‑35‑150.

**SECTION 23‑35‑150.** Penalties.

Any person violating any provisions of this chapter or regulations promulgated by the State Fire Marshal or the State Board of Pyrotechnic Safety, unless otherwise specifically provided in this chapter, is guilty of a misdemeanor and, upon conviction, must be punished:

(1) for a first offense, by a fine of not more than two hundred dollars or imprisonment for not more than thirty days;

(2) for a second offense, by a fine of not less than five hundred dollars nor more than twenty‑five hundred dollars or imprisonment for not less than sixty days, or both;

(3) for a third offense, by a fine of not less than one thousand dollars or imprisonment of not less than ninety days nor more than one year, or both.

In addition to the above penalties, the license of any wholesaler, jobber, or retailer must be permanently revoked upon conviction for a third offense.

**SECTION 23‑35‑160.** Sale, possession, discharge or use of fireworks prohibited in certain counties; penalties.

(1) In any county having a population of between two hundred five thousand and two hundred fifteen thousand according to the latest official United States census, the sale, possession, discharge or use of fireworks, except sparklers and toy caps commonly used in toy cap pistols, is prohibited.

(2) Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one hundred dollars or imprisoned for a term not to exceed thirty days.

**SECTION 23‑35‑170.** Manner in which powerful explosives shall be sold or delivered; reports; penalties.

No person shall sell, deliver or dispose of dynamite or similar powerful explosives, except ordinary gunpowder, unless such person knows the purchaser or the person to receive such explosive and is satisfied that the explosive is not to be used for killing fish, and then only upon a written application from the person desiring to purchase, stating the purpose for which he desires to use such explosives. A person selling, delivering or disposing of such explosives shall keep a book in which shall be recorded the name of the purchaser or person to whom the explosive is delivered, the quantity sold or so delivered and the date of such sale or delivery. No sale shall be made to a person under the age of eighteen or a person who has been convicted of a felony. Such person selling or keeping for sale the explosives mentioned in this section shall make sworn quarterly reports of such sales, the name and race of the purchaser, the amount sold and the date of sale to the county auditor of each county. The auditor of each county shall forward a copy of all reports to the South Carolina Law Enforcement Division. Any person violating this section shall be guilty of a misdemeanor, punishable by fine not to exceed one hundred dollars or imprisonment not to exceed thirty days.

**SECTION 23‑35‑175.** Fireworks prohibited zones; Discharge of Fireworks Prohibited Agreements; extension of zones; posting of notice.

(A) As used in this section:

(1) “Fireworks” means ICC Class C Common Fireworks as defined and enumerated in Section 23‑35‑10.

(2) “Fireworks Prohibited Zone” means property designated through the processes in this section as an area in which fireworks are prohibited from being knowingly and wilfully discharged.

(3) “Local governing body” means the governing body of a county or municipality.

(4) “Managing authority” means a governing board of a condominium association.

(5) “Subject property” means the property controlled by the owner, lessee, or managing authority for which a Discharge of Fireworks Prohibited Agreement has been filed.

(B) It is unlawful to knowingly and wilfully discharge fireworks from, in, or into a Fireworks Prohibited Zone. A person who knowingly and wilfully discharges fireworks from, in, or into a Fireworks Prohibited Zone is guilty of a misdemeanor and, upon conviction, must be punished:

(1) for a first offense by a fine of not more than one hundred dollars or imprisonment for not more than thirty days; and

(2) for a second and subsequent offense by a fine of not more than two hundred dollars or imprisonment for not more than thirty days.

(C) An owner, a lessee, or managing authority of real property may establish a Fireworks Prohibited Zone by:

(1) filing a Discharge of Fireworks Prohibited Agreement with the law enforcement agency having jurisdiction over the subject property; and

(2) posting at least two signs or placards in conspicuous locations on the subject property. These signs or placards must be posted to be visible from any street or thoroughfare the subject property abuts and any public land sharing a common boundary with the subject property. The signs or placards must measure not less than twelve inches by twelve inches and bear the following inscription:

“DISCHARGE OF FIREWORKS PROHIBITED

VIOLATORS WILL BE PROSECUTED”

In addition to the inscription, the signs or placards must identify the subject property for which the Discharge of Fireworks Prohibited Agreement has been filed and, if applicable, any adjoining public property to which the local governing body has extended the Fireworks Prohibited Zone as provided in this section.

(D) The Discharge of Fireworks Prohibited Agreement must be in the following form:

DISCHARGE OF FIREWORKS PROHIBITED AGREEMENT

DATE:\_\_\_

ADDRESS OF SUBJECT PROPERTY:

\_\_\_

\_\_\_

NAME OF SUBJECT PROPERTY (IF COMMERCIAL):

\_\_\_

\_\_\_

PROPERTY BOUNDARIES OR LEGAL DESCRIPTION OF SUBJECT PROPERTY:

\_\_\_

\_\_\_

\_\_\_

\_\_\_

I, \_\_\_\_\_\_\_\_\_, the undersigned, being the owner, lessee, or managing authority of the above described subject property, establish for my period of ownership, occupancy, or authority over the subject property a Fireworks Prohibited Zone for the subject property and, if applicable, any adjoining public property to which the local governing body has extended the Fireworks Prohibited Zone. By filing this agreement, I request that the applicable law enforcement agency enforce the prohibition of the discharge of fireworks on said subject property and, if applicable, any adjoining public property to which the local governing body has extended the Fireworks Prohibited Zone to the fullest extent of the law.

I acknowledge that this Discharge of Fireworks Prohibited Agreement exists only for the time period that I own, lease, or manage the subject property, or until I rescind the agreement, whichever occurs first.

I agree to post two signs or placards measuring not less than twelve inches by twelve inches in conspicuous locations on the subject property. The signs or placards must: (1) identify the subject property and, if applicable, any adjoining public property to which the local governing body has extended the Fireworks Prohibited Zone, and (2) bear the following inscription:

“DISCHARGE OF FIREWORKS PROHIBITED

VIOLATORS WILL BE PROSECUTED”

\_\_\_

OWNER, LESSEE, OR MANAGING AUTHORITY

\_\_\_

WITNESS

(E)(1) If authorized by a decision of the local governing body as provided in this subsection, an owner, lessee, or managing authority that has filed a Discharge of Fireworks Prohibited Agreement with a local law enforcement agency may extend the Fireworks Prohibited Zone beyond the subject property:

(a) to the low‑water mark of all oceanic bodies of water adjoining the subject property;

(b) to the center line of any street or thoroughfare that abuts the subject property; or

(c) onto any public land sharing a common boundary with the subject property for a distance not to exceed five hundred feet.

(2) The owner, lessee, or managing authority must apply for the extension in the office of the local governing body on the following form:

APPLICATION FOR EXTENSION OF FIREWORKS PROHIBITED ZONE

DATE:\_\_\_

ADDRESS OF SUBJECT PROPERTY:

\_\_\_

\_\_\_

NAME AND ADDRESS OF APPLICANT:

\_\_\_

\_\_\_

\_\_\_

I,\_\_\_\_\_\_\_\_\_, the undersigned, am the owner, lessee, or managing authority of the above described subject property for which a Discharge of Fireworks Prohibited Agreement was filed with the \_\_\_\_\_\_\_\_\_\_\_\_ law enforcement agency on \_\_\_\_\_\_\_\_\_\_. I am attaching with this application a copy of the Discharge of Fireworks Prohibited Agreement.

I have circled the following applicable description of the public property onto which I request the zone to be extended:

(a) to the low‑water mark of all oceanic bodies of water adjoining the subject property;

(b) to the center line of any street or thoroughfare that abuts the subject property; or

(c) onto any public land sharing a common boundary with the subject property for a distance not to exceed five hundred feet.

Below I have briefly described the public property onto which this application proposes to extend the fireworks prohibited zone:

\_\_\_

\_\_\_

\_\_\_

\_\_\_

If authorized by a decision of the local governing body to extend the Fireworks Prohibited Zone, I agree to identify the subject property and extended public property included in the Fireworks Prohibited Zone on two signs or placards measuring not less than twelve inches by twelve inches posted in conspicuous locations on the subject property.

\_\_\_

OWNER, LESSEE, OR MANAGING AUTHORITY

\_\_\_

WITNESS

(3) A local governing body may provide by ordinance for additional information to be included in the application. The local governing body must not require a fee for this application.

(4) In considering whether a Fireworks Prohibited Zone may be extended onto public property as provided in item (1), the local governing body must:

(a) schedule a public hearing within a reasonable time from which the application is made;

(b) give fifteen days’ public notice of the hearing in a newspaper of general circulation in the community; and

(c) receive testimony from interested persons, their agents, or their attorneys at the public hearing.

(5) No later than five calendar days following the public hearing, the local governing body must issue a written decision, including all findings of fact and rationales upon which the determination is made, concerning whether the Fireworks Prohibited Zone is to be extended. If the local governing body authorizes the extension of a Fireworks Prohibited Zone, the local governing body’s decision must be filed by the owner, lessee, or managing authority with the Discharge of Fireworks Prohibited Agreement for the subject property at the local law enforcement agency.

(F) A local governing body or local law enforcement agency is authorized to post appropriate signs or placards indicating the location of Fireworks Prohibited Zones in areas where contiguous properties have filed a Discharge of Fireworks Prohibited Agreement.

(G) A person may be prosecuted pursuant to the provisions of this section only if the subject property of the Fireworks Prohibited Zone is posted as required by this section.

(H) Unless restricted or prohibited by a lease or contract, a lessee may establish a Fireworks Prohibited Zone and apply for an extension of the zone onto public property as provided in this section during the time of the lease.

(I) A Discharge of Fireworks Prohibited Agreement exists only:

(1) during the ownership, lease, or authority of the person filing the agreement; or

(2) until the owner, lessee, or managing authority rescinds the agreement by withdrawing the documentation filed with the local law enforcement agency. If the subject property is no longer established as a Fireworks Prohibited Zone, any extension by a local governing body of the Fireworks Prohibited Zone to public property is unenforceable.

(J) The provisions of this section do not apply to a professional fireworks display show or demonstration that has been permitted or licensed to operate by the local governing body or has been authorized to operate as provided by law.

(K) Nothing in this section is designed to abrogate any civil remedies available under statutory or common law.