

CITY OF POLSON

Fire Department
 106 1st Street E. | Polson, MT 59860
 T: 406-883-8220 | F: 406-883-8221
 E: firechief@cityofpolson.com
 W: www.cityofpolson.com

CITY OF POLSON FIRE DEPARTMENT FIREWORKS STAND INSPECTION CHECKLIST

Inspection #: _____ Date: _____ Officer: _____

1. Name of "Stand": _____	2. Location of "Stand": _____
3. Responsible Party: _____	City/State/Zip: _____
Emergency Contact Number: _____	4. Property Owner: _____
5. Address/Phone of Owner/Operator: _____	Phone: _____

YOUR ATTENTION IS CALLED TO THE FOLLOWING VIOLATIONS OF MCA TITLE 50 CHAPTER 37 Part 1 and TITLE 23 CHAPTER 7 SUB-CHAPTER 2 OF THE ADMINISTRATIVE RULES OF MONTANA FIREWORKS

		Yes	No
1.	"Stand consists of a temporary, open-air structure, booth or other portable stand-alone structure designed and constructed of wood or metal, allowing NO PUBLIC ENTRY, <i>ARM 23.710JA(16) and 23.7.201 (2)</i>		
2.	"Stand" is properly located: <i>§MCA 50-37-103(5),- ARM 23.7.201(6)</i>		
	a. 300 feet from church or hospital		
	b. 50 feet from flammable liquid dispenser/storage		
	c. 50 feet from inhabited buildings or areas		
	d. 30 feet from public roadway		
3.	"NO SMOKING" signs shall be posted in conspicuous locations. Letters shall be four inches in height and ½ inch in stroke <i>§50-37-104, MCA,- ARM 23.7.201(5)</i>		
4.	Pressurized water extinguishers with a minimum rating of 2A or one dedicated garden hose connected to an available water supply. <i>ARM 23.7.201(8)</i>		
5.	All weeds, dry grass and combustible material shall be cleared for a minimum distance of 25 feet in all directions from fireworks stand. <i>ARM 23.7.201(9)</i>		
6.	No person under the age of 18 shall be employed to sell or offer for sale permissible fireworks <i>§50-37-103(2); ARM 23.7.201(3)</i>		
7.	Electrical wiring shall be in a safe condition or upgraded to comply with the currently adopted National Electrical Code. <i>ARM 23.7.201(10)</i>		
8.	No open flame devices of any kind within 25 feet of the stand. (includes heater coils and heat elements of portable heaters) <i>ARM 23.7.20(11)</i>		
9.	Parking of vehicles used to transport Class A or B explosives of flammable and combustible liquids is prohibited within 100 feet of a fireworks stand. <i>ARM 23.7.201(7)</i>		
10.	No fireworks shall be discharged within 100 feet of a fireworks stand. <i>§50-37-103(6), MCA; ARM 23.7.201(4)</i>		
11.	Campers, camp trailers, motor homes or similar vehicles shall be parked no closer than 25 feet next to fireworks stand. The exit door of the camper, camp trailer, motor home or similar vehicle shall be positioned away from the fireworks stand, so the vehicle exit door will be located 25 feet plus the width of the camper, camp trailer, motor home or similar		

	vehicle from the fireworks stand.		
12.	Owner/operator has been provided with a copy of the sections of Montana Code Annotated and Administrative Rules of Montana regarding "Fireworks".		

ADDITIONAL COMMENTS/CORRECTIONS:			

You are hereby notified to remedy the conditions designated above immediately.

Signature of Owner/Employee

Date:

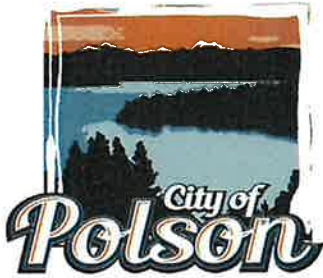
Print Name

Re-Inspection Date:

BY ORDER OF THE FIRE CHIEF

FIRE OFFICER: _____

TELEPHONE: _____



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Administrative Rules of Montana (ARM)

23.12.501 RETAIL FIREWORKS SALE

- (1) Anyone engaged in the retail sale of permissible fireworks, as defined in [50-37-105](#), MCA, must obtain a permit if required by the applicable local jurisdiction. The provisions of this rule do not apply if a local ordinance has been adopted pursuant to [7-33-4206](#), MCA, regulating or prohibiting the retail sale of fireworks.
- (2) The retail sale of permissible fireworks may occur only from approved retail business establishments or approved fireworks stands as defined in ARM [23.12.401](#). Fireworks shall not be sold from or stored in any tent, canopy, or temporary membrane structure. Fireworks may be sold from a mobile trailer which is designed for the transportation of goods, or sold from fireworks stand, but the public is not permitted inside any mobile structure for the purchase of fireworks.
- (3) No person under the age of 18 shall be employed to sell or offer for sale permissible fireworks.
- (4) No fireworks may be discharged within 100 feet of a fireworks stand.
- (5) No smoking shall be allowed within the fireworks stand. At any place where permissible fireworks are sold or displayed, a sign reading "NO SMOKING" must be posted in letters at least four inches in height and one-half inch in stroke where customers are most likely to read it.
- (6) Except as provided in (12), retail sale of fireworks shall be conducted from fireworks stands located at least 300 feet from a church or hospital, 50 feet from any flammable liquid dispensing device or installation, 50 feet from other inhabited areas, and 30 feet from any public roadway. There shall be 5 feet between stands, and 20 feet apart when stands are over 800 square feet aggregate.
- (7) Parking of vehicles used to transport Class A or B explosives, or flammable and combustible liquids is prohibited within 100 feet of a fireworks stand.
- (8) Fireworks stands shall be equipped inside with at least one pressurized water extinguisher with a current tag and a minimum rating of 2A or one garden hose connected to and turned on to an available water supply.
- (9) All weeds, dry grass, and combustible material shall be cleared for a minimum distance of 25 feet in all directions from fireworks stand.
- (10) Electrical wiring shall be in a safe condition, and if found upon inspection to be unsafe shall be upgraded to comply with the applicable provisions of the National Electrical Code (NEC) currently adopted by the Building Codes Division of the Department of Labor and Industry.
- (11) Open flame devices of any kind are prohibited in or within 25 feet of any fireworks stand.
- (12) Retail sale of fireworks from occupancies other than those authorized by this rule is prohibited, except that firework may be sold out of an existing retail business establishment under the following conditions:

- a. The amount of fireworks on display in the customer service area contains an aggregate of no more than one pound of pyrotechnic composition; and
 - b. Remaining quantities of fireworks are stored in a cabinet or room designed and constructed to restrict smoke travel that is separate from the customer service area, that has a self-closing door, and that conforms to one of the following:
 - i. It is constructed of material sufficient to achieve a one-hour fire resistant-rated barrier between the storage area and the customer service area. The fireworks must be stored in cabinets made of wood or equivalent material that is at least one inch thick, and each cabinet must contain no more than an aggregate of 5 pounds of pyrotechnic composition;
 - ii. It is protected by a fire suppression sprinkler system approved by the FPIS or by a fire marshal of the local jurisdiction; or
 - iii. The fireworks are contained in a cabinet with casters and constructed of wood at least one inch thick that is covered on all sides with 5/8-inch sheetrock.
- (13) All fireworks stands shall be subject to inspection by the chief, or the chief's representative, in accordance with 2009 IFC. Violations shall be handled in accordance with [50-61-115](#), MCA. If immediate action is necessary to safeguard life and property, the chief may issue an order to remedy in accordance with [50-62-102](#), MCA.

History: [50-3-102\(3\)](#), MCA; [IMP, 50-3-102\(3\)](#), MCA; [NEW](#), 1991 MAR p. 1283, Eff. 7/26/91; [AMD](#), 1996 MAR p. 439, Eff. 2/9/96; [AMD](#), 1999 MAR p. 2860, Eff. 12/17/99; [TRANS](#), from ARM [23.7.201](#), 2008 MAR p. 1467, Eff. 7/18/08; [AMD](#), 2010 MAR p. 395, Eff. 2/12/10.

23.12.502 FIREWORKS REPACKAGING, STORAGE, AND SHIPPING

- (1) All buildings where fireworks are stored, opened for repackaging, repackaged, or prepared for shipping shall conform to the provisions of the 2009 International Building Code and the 2009 IFC. Where those codes are silent, NFPA pamphlet 1124 (2006 edition) shall be applied.
- (2) NFPA pamphlet 1124 (2006 edition), which is the code governing the manufacture, transportation, and storage of fireworks, and which can be found in the National Fire Code (NFC), is hereby incorporated by reference. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169.

History: [50-3-102\(3\)](#), MCA; [IMP, 50-3-102\(3\)](#), MCA; [NEW](#), 1991 MAR p. 1283, Eff. 7/26/91; [AMD](#), 1999 MAR p. 2860, Eff. 12/17/99; [TRANS](#), from ARM [23.7.202](#), 2008 MAR p. 1467, Eff. 7/18/08; [AMD](#), 2010 MAR p. 395, Eff. 2/12/10.

23.12.503 OUTDOOR DISPLAY OF FIREWORKS

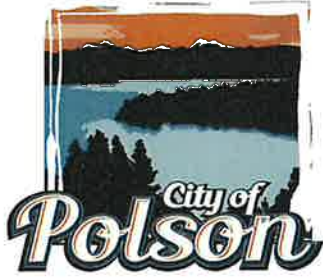
- (1) Unless prohibited by local ordinance, supervised public displays of fireworks shall be conducted in accordance with [50-37-107](#), MCA, and applicable local ordinances. Where no local ordinance is in effect, the governing body of the city, town, or county shall be notified at least 15 days in advance of any outdoor display.

History: [50-3-102\(3\)](#), [50-37-107](#), [50-37-108](#), MCA; [IMP, 50-3-102\(3\)](#), [50-37-107](#), MCA; [NEW](#), 1991 MAR p. 1283, Eff. 7/26/91; [AMD](#), 1999 MAR p. 2860, Eff. 12/17/99; [TRANS](#), from ARM [23.7.203](#), 2008 MAR p. 1467, Eff. 7/18/08.

23.12.504 GENERAL LIABILITY INSURANCE REQUIRED FOR PUBLIC DISPLAY OF FIREWORKS

- (1) Any organization or group of individuals planning a public display of fireworks must provide proof to either the FPIS or the governing body of a city, town, or county, that the group has a general liability insurance policy in the amount of not less than \$1,000,000 per occurrence.
- (2) The proof of insurance must be provided with the application for permit referenced in [50-37-107](#), MCA, no later than 15 days prior to any public display of fireworks. The general liability insurance policy must be valid at the time of the public display.
- (3) The general liability insurance policy must cover payment of any liability, including personal and property damages, arising out of the public display of fireworks.
- (4) Although the general liability insurance must meet the requirements of [50-37-108](#), MCA, an insurance policy is permitted in lieu of a damage indemnity bond as damage indemnity bonds are no longer available for the public display of fireworks.
- (5) Alternative methods of liability coverage may be approved if equivalent to the above-listed requirements.

History: [50-3-102](#), [50-3-103](#), MCA; [IMP](#), [50-37-108](#), MCA; [NEW](#), 1999 MAR p. 2860, Eff. 12/17/99; [TRANS](#), from ARM [23.7.204](#), 2008 MAR p. 1467, Eff. 7/18/08; [AMD](#), 2010 MAR p. 395, Eff. 2/12/10.



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Montana Code Annotated (MCA) 2019

50-37-101. Fireworks defined.

The term "fireworks" means any combustible or explosive composition or any substance, combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and includes sky rockets, roman candles, daygo bombs, blank cartridges, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sparklers or other fireworks of like construction, any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

50-37-102. Where chapter not to apply.

- (1) Nothing in this chapter shall be construed to prohibit the sale of any kind of fireworks to a person holding a permit issued under [50-37-107](#) at the display covered by such permits, the use of fireworks by railroads or other transportation agencies for signal purposes or illumination or when used in quarrying or blasting or other industrial use, or the sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations or organizations composed of veterans of the United States armed forces.
- (2) This chapter does not apply to toy paper caps containing less than one-fourth of a grain of explosive composition per cap, to the manufacture, storage, sale, or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, to the military or naval forces of the United States or this state, to peace officers, or to the sale or use of blank cartridges for ceremonial, theatrical, or athletic events.
- (3) Nothing in this chapter authorizes the sale of fireworks in a city or town that has banned the sale of fireworks within the city or town as authorized in [7-33-4206](#).

50-37-103. Unlawful sale, transportation, or use of fireworks.

- (1) It is unlawful to possess, sell, transport, or use any fireworks within the state except as provided in this chapter.
- (2) It is unlawful for an individual under the age of 18 to possess for sale, sell, or offer for sale within the state permissible fireworks enumerated in [50-37-105](#).
- (3) It is unlawful for a wholesaler to sell or offer for sale within the state fireworks without a current fireworks wholesaler permit or in violation of [50-37-105](#). It is lawful for a wholesaler, however, to transport fireworks within Montana for sale outside of the state.
- (4) It is unlawful to sell or offer for sale fireworks as defined in [50-37-101](#) or permissible fireworks as enumerated in [50-37-105](#) by mail order solicitation.

- (5) It is unlawful to sell or offer for sale fireworks as defined in [50-37-101](#) or permissible fireworks as enumerated in [50-37-105](#) within 300 feet of a hospital or church.
- (6) It is unlawful for an individual, firm, partnership, or corporation to discharge or cause to be discharged any pyrotechnics, fireworks as defined in [50-37-101](#), or permissible fireworks as enumerated in [50-37-105](#):
 - a. within the exterior boundaries of a state forest, state park, or state recreation area;
 - b. within 100 feet of a fireworks retail sales location;
 - c. from, inside, or toward a motor vehicle; or
 - d. in the vicinity of another person or group of people or any animal in a manner likely to expose them to the risk of injury.

50-37-104. Lawful sales or uses of fireworks -- "no smoking" sign -- wholesaler's permit.

- (1) Subject to subsection (2), it is lawful for an individual, firm, partnership, corporation, or association to possess for sale, sell or offer for sale at retail, or use within the state the permissible fireworks enumerated in [50-37-105](#). At any place where permissible fireworks are sold or displayed, a sign reading "NO SMOKING" must be posted in letters at least 4 inches in height where customers are most likely to read it.
- (2) Before a fireworks wholesaler may lawfully possess for sale, offer for sale, or sell within the state the permissible fireworks enumerated in [50-37-105](#), the wholesaler shall obtain a fireworks wholesaler permit from the department of labor and industry.
- (3) A person making application for a fireworks wholesaler permit shall:
 - a. pay an application fee to the department of labor and industry, which must be set by the department of labor and industry commensurate with costs; and
 - b. furnish proof under oath, on a form provided by the department, that person:
 - i. is at least 18 years of age;
 - ii. is of good moral character; and
 - iii. has not been convicted of a crime involving the use, possession, or sale of fireworks.
- (4) The department of labor and industry shall adopt rules implementing this section.

50-37-105. Permissible fireworks.

Permissible fireworks, excluding sky rockets, roman candles, and bottle rockets, include and are limited to those that meet the definition of "common fireworks" as set forth in the U.S. department of transportation's Hazardous Materials Regulations, 49 CFR, parts 173.88 and 173.100, as they read on January 1, 1985, and that comply with the construction, chemical composition, and labeling regulations of the U.S. consumer product safety commission, as set forth in 16 CFR, part 1507, as it read on January 1, 1985.

50-37-106. Sale of fireworks restricted to certain dates.

A person, firm, or corporation may offer permissible fireworks, as defined in [50-37-105](#), of any kind for sale at retail only during the following periods:

- (1) June 24 through July 5; and
- (2) December 29 through December 31.

50-37-107. Supervised public display of fireworks authorized.

- (1) The state fire prevention and investigation section of the department of justice or the governing body of a city, town, or county may, under reasonable rules adopted by them, grant permits for supervised public displays of fireworks to be held by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.
- (2) Each display must:
 - a. be handled by a competent operator, who must be approved by the state fire prevention and investigation section or the governing body of the city, town, or county in which the display is to be held; and
 - b. be located, discharged, or fired as, in the opinion of the state fire prevention and investigation section or the chief of the local governmental fire agency organized under Title 7, chapter 33, or other officer designated by the governing body of the city, town, or county after proper inspection, not to be hazardous to persons or property.
- (3) Application for permits must be made in writing at least 15 days prior to the date of the display.
- (4) After the privilege has been granted, sales, possession, use, and distribution of fireworks for the display are lawful for that purpose only.
- (5) A permit granted under this section is not transferable.

50-37-108. General liability insurance required for public display.

The state fire prevention and investigation section or the governing body of the city, town, or county shall require a person planning a public display of fireworks to provide proof of general liability insurance in a reasonable amount as determined by rules adopted by the department of justice.

50-37-109. Confiscation.

A representative of the state fire prevention and investigation section or any sheriff, police officer, constable, officer of a governmental fire agency organized under Title 7, chapter 33, or firewarden shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this chapter.

50-37-110. Penalties.

Any person, firm, partnership, association, or corporation violating the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 or more than \$500 or, in the case of individuals, the members of a partnership, and the responsible officers and agents of an association or corporation, by imprisonment in the county jail for a period of not less than 30 days or more than 6 months or by both such fine and imprisonment.