

# Virginia State Laws effecting Fireworks Displays

Be advised any language appearing in City of Norfolk Ordinance that is more restrictive will supersede State Law and State Fire Code.

## **State Law:**

§ 27-97.2. Issuance of permit; background investigations.

A. The State Fire Marshal or other issuing authority shall consider all permit applications for manufacturing, storage, handling, use or sales of explosives and applications for certification as a blaster or as a fireworks operator or pyrotechnician, and may grant a valid permit or certification to applicants who meet the criteria established in the Statewide Fire Prevention Code. The State Fire Marshal shall require a background investigation, to include a national criminal history record information check, of all individual applicants and all designated persons representing an applicant that is not an individual, for a permit to manufacture, store, handle, use or sell explosives, and for any applicant for certification as a blaster or as a fireworks operator or pyrotechnician. Each such applicant shall submit his fingerprints to the State Fire Marshal on a form provided by the State Fire Marshal and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant. Any firm or company manufacturing, storing, using, or selling explosives shall provide to the enforcement agency, the State Fire Marshal or other issuing authority the name of a representative responsible for (i) ensuring compliance with state law and regulations relating to blasting agents and explosives and (ii) applying for permits. The State Fire Marshal or other issuing authority shall deny any application for a permit or for certification as a blaster or as a fireworks operator or pyrotechnician if the applicant or designated person representing an applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority. The provisions of this section shall not apply to the manufacturing, storage, handling, use or sales of permissible fireworks or in connection with any fireworks display conducted by a volunteer fire department provided one member of the volunteer fire department holds a valid certification.

## **State Fire Code/State Law**

3301.2 Permit required. Permits shall be required as set forth in Section 107.2 and regulated in accordance with this section. The manufacture, storage, possession, sale and use of fireworks or explosives shall not take place without first applying for and obtaining a permit.

3301.2.1 Residential uses. No person shall keep, possess or store, nor shall any permit be issued to keep or store, any fireworks or explosives at any place of habitation, or within 100 feet (30 480 mm) thereof. Exception: Storage of smokeless propellant, black powder and small arms primers for personal use and not for resale in accordance with Section 3306.

3301.2.2 Sale and retail display. Except for the Armed Forces of the United States, Coast Guard, National Guard, federal, state and local regulatory, law enforcement and fire agencies acting in their official capacities, explosives shall not be sold, given, delivered or transferred to any person or company not in possession of a valid permit. The holder of a permit to sell explosives shall make a record of all

transactions involving explosives in conformance with Section 3303.2 and include the signature of any receiver of the explosives. No person shall construct a retail display nor offer for sale explosives, explosive materials or fireworks upon highways, sidewalks, public property or in assembly or educational occupancies.

3301.2.3 Permit restrictions. The fire official is authorized to limit the quantity of explosives, explosive materials or fireworks permitted at a given location. No person, possessing a permit for storage of explosives at any place, shall keep or store an amount greater than authorized in such permit. Only the kind of explosive specified in such a permit shall be kept or stored.

3301.2.3.1 Permit applicants. As a condition of permit as provided for in Section 107.5, the fire official shall not issue a permit to manufacture, store, handle, use or sell explosives or blasting agents to any applicant who has not provided on the permit application the name and signature of a designated individual as representing the applicant. When, as provided for in Section 107.2 or 107.6, a permit is required to conduct a fireworks display, as a condition of permit as provided for in Section 107.5, the fire official shall not issue a permit to design, setup or conduct a fireworks display to any applicant who has not provided on the permit application the name and signature of a designated individual as representing the applicant.

If the applicant's designated individual changes or becomes no longer qualified to represent the applicant as responsible management or designated individual, the applicant shall notify the fire official who issued the permit on the change of status of the designated individual. The notice is to be made prior to the use of any explosives or conducting a fireworks display but in no case shall the notification occur more than seven days after the change of status and shall provide the name of another designated individual. The fire official may revoke or require the reissuance of a permit based on a change of permit conditions or status or inability to provide another designated individual.

3301.2.3.1.1 Background Clearance Card. The SFMO shall process all applications for a Background Clearance Card for compliance with Section 27-97.2 of the Code of Virginia and will be the sole provider of a Background Clearance Card. Using forms provided by the SFMO, a Background Clearance Card may be applied for and issued to any person who submits to the completion of a background investigation by providing fingerprints and personal descriptive information to the SFMO. The SFMO shall forward the fingerprints and personal descriptive information to the Central Criminal Records Exchange for submission to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history records check regarding such applicant.

3301.2.3.1.2 Issuance of a Background Clearance Card. The issuance of a Background Clearance Card shall be denied if the applicant or designated person representing an applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.

3301.2.3.1.3 Fee for Background Clearance Card. The fee for obtaining or renewing a Background Clearance Card from SFMO shall be \$150 plus any additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.

3301.2.3.1.4 Revocation of a Background Clearance Card. After issuance of a Background Clearance Card, subsequent conviction of a felony will be grounds for immediate revocation of a Background Clearance Card, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof. The Background Clearance Card shall be returned to the SFMO immediately. An individual may reapply for his Background Clearance Card if his civil rights have been restored by the Governor or other appropriate authority.

3301.2.4 Financial responsibility. Before a permit is issued, as required by Section 3301.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$500,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The legal department of the jurisdiction may specify a greater amount when conditions at the location of use indicate a greater amount is required. Government entities shall be exempt from this bond requirement.

3301.2.4.1 Blasting. Before approval to do blasting is issued, the applicant for approval shall file a bond or submit a certificate of insurance in such form, amount and coverage as determined by the legal department of the jurisdiction to be adequate in each case to indemnify the jurisdiction against any and all damages arising from permitted blasting but in no case shall the value of the coverage be less than \$500,000.

Exception: Filing a bond or submitting a certificate of liability insurance is not required for blasting on real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in Section 58.1-3230 of the Code of Virginia and conducted by the owner of such real estate.

3301.2.4.2 Fireworks display. The permit holder shall furnish a bond or certificate of insurance in an amount deemed adequate by the legal department of the jurisdiction for the payment of all potential damages to a person or persons or to property by reason of the permitted display, and arising from any acts of the permit holder, the agent, employees or subcontractors, but in no case shall the value of the coverage be less than \$500,000.

3301.4 Qualifications. Persons in charge of magazines, blasting, fireworks display or pyrotechnic special effect operations shall not be under the influence of alcohol or drugs which impair sensory or motor skills, shall be at least 21 years of age, and possess knowledge of all safety precautions related to the storage, handling or use of explosives, explosive materials or fireworks.

3301.4.1 Certification of blasters and pyrotechnicians. Certificates as a restricted blaster, unrestricted blaster or pyrotechnician will be issued upon proof of successful completion of an examination approved by the SFMO commensurate to the certification sought and completion of a background investigation for compliance with Section 27-97.2 of the Code of Virginia. The applicant for certification shall submit proof to the SFMO of the following experience:

1. For certification as a restricted blaster, at least one year under direct supervision by a certified unrestricted blaster, certified restricted blaster or other person(s) approved by the SFMO.
2. For certification as an unrestricted blaster, at least one year under direct supervision by a certified unrestricted blaster or other person or persons approved by the SFMO.

3. For certification as a pyrotechnician, aerial, or pyrotechnician, proximate, applicant was in responsible charge of, or has assisted in the documented design, setup and conducting of, a fireworks display on at least six occasions within the 24 months immediately preceding the application for certification. The SFMO shall process all certification applicants for compliance with Section 27-97.2 of the Code of Virginia and will be the sole provider of blaster and pyrotechnician certifications.