

**MUNICIPALITY OF NORRISTOWN
A HOME RULE MUNICIPALITY
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 19-01 of 2019

AN ORDINANCE AMENDING THE CODE OF THE MUNICIPALITY OF NORRISTOWN TO ADD CHAPTER 163 REGULATING THE USE OF FIREWORKS WITHIN THE MUNICIPALITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Pennsylvania Fireworks Law, Act 43 of 2017, took effect on October 30, 2017; and

WHEREAS, the Pennsylvania Fireworks Law defines consumer fireworks as any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 C.F.R. (relating to commercial practices), or an successor regulation and complies with the provisions for “consumer fireworks” as defined in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout the Commonwealth (the term does not, however, include devises as “ground and handheld sparking devices,” “novelties” or “toy caps” in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout the Commonwealth); and

WHEREAS, pursuant to the Pennsylvania Fireworks Law, a person who is at least eighteen years of age and meets the requirements of the law may purchase, possess and use consumer fireworks provided, however, that a person may not intentionally ignite or discharge consumer fireworks on public or private property without the express permission of the owner, may not intentionally ignite or discharge consumer fireworks or sparking devices within, or throw consumer fireworks or sparking devices from, a motor vehicle or building, may not intentionally ignite or discharge consumer fireworks or sparking devices into or at a motor vehicle or building or at another person, may not intentionally ignite or discharge consumer fireworks or sparking devices while the person is under the influence of alcohol, a controlled substance or another drug, and may not intentionally ignite or discharge consumer fireworks within 150 feet of an occupied structure, and

WHEREAS, the Norristown Municipal Council has determined that the use of consumer fireworks and sparking devices in an urban setting provides safety and health hazards if the terms of the Pennsylvania Fireworks Law are not specifically complied with;

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by Norristown Municipal Council, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I: Part II, titled "General Legislation" of the Code of the Municipality of Norristown is hereby amended to add a new Chapter 160, titled "Fireworks" containing the following language and provisions:

§160 - FIREWORKS

§160-1. DEFINITIONS

APA 87-1 – The American Pyrotechnics Association Standard 87-1: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition.

Consumer Fireworks: Any combustible or explosive composition or any substance or combination of substances intended to produce visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to consumer practices) or any successor regulation and which complies with the provisions for "Consumer Fireworks" as defined in the American Pyrotechnics Association (APA) Standard 87-1, including but not limited to Sections *3.1 and *3.5, or any successor standard. The term does not include devices such as "ground and handheld sparking devices" as defined in APA Standard 87-1, Section *3.1.1, "novelties" as defined in APA Standard 87-1, Section *3.2, or "toy caps" as defined in APA Standard 87-1, Section *3.3.

Display Fireworks: Defined as more fully set forth in 27 CFR 555.11 (Meaning of terms), which is incorporated herein by reference which meet the types of display fireworks devices set forth in the APA Standard 87-1, Section *4.1 which comply with requirements for display fireworks set forth in APA Standard 87-1.

Fireworks: Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration or detonation that meets the definition of 1.4 G fireworks or 1.3 G fireworks as set forth in the 2003 International Fire Code including, but not limited to, those compositions or devices as defined in APA Standard 87-1.

NFPA 1124: The National Fire Protection Association Standard 1124, *Code for the Manufacture, Transportation and storage of Fireworks and Pyrotechnic Articles*, 2006 edition.

Novelties: Articles of trade having amusement value and whose appeal is often transitory, and which is limited to those items for sale described in American Pyrotechnics Association (APA) Standard 87-1, Section *3.2.

Occupied Structure: A structure, vehicle or place adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.

Temporary Structure – A structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of Consumer Fireworks and related items. The term includes temporary retail sales stands, tents, canopies and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not licensed to sell Consumer Fireworks under this Chapter.

All inconsistent definitions in Section 42-1 are hereby repealed to the extent of the inconsistency.

§160-2. USE, SALE AND STORAGE OF CONSUMER FIREWORKS

- (A) **Conditions.** A person who is at least 18 years of age and meets the requirements of this Chapter may purchase, possess and use Consumer Fireworks.
- (B) **Prohibitions.** A person may not intentionally ignite or discharge:
1. Consumer Fireworks on public or private property without the express permission of the owner.
 2. Consumer Fireworks or sparkling devices within, or throw Consumer Fireworks or sparkling devices from, a motor vehicle or building.
 3. Consumer Fireworks or sparkling devices into or at a motor vehicle or building or at another person.
 4. Consumer Fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug.
 5. Consumer Fireworks within 150 feet of any Occupied Structure.
 6. Consumer Fireworks within 100 feet of any combustible material.
 7. Consumer Fireworks such that the sparks or any portion of the fireworks will land upon the property of another without the owner's express permission.
 8. Consumer Fireworks two hours after sunset in the Municipality of Norristown, on the date they intend to ignite the Consumer Fireworks, as reported by the National Weather Service.
- (C) As a result of the background paragraphs above, it is hereby ordained and enacted that no permission is granted by the Municipality to any person to ignite or discharge consumer fireworks on the streets of the Municipality of Norristown, the sidewalks of the Municipality of Norristown or any property owned by the Municipality of Norristown, including, without limitation, all of the Municipality's parks and public buildings.

- (D) **Sale and Storage of Consumer Fireworks:** The sale and storage of Consumer Fireworks is licensed and regulated by the Pennsylvania Department of Agriculture. Any persons who intends to sell or store Consumer Fireworks within the Municipality shall provide proof of such licensure prior to such use being conducted within the Municipality, in addition to compliance with all other applicable Municipal ordinances, regulations or codes.

§160-3. CONSUMER FIREWORKS - TEMPORARY STRUCTURES.

- (A) **Conditions.** If a person is licensed by the Pennsylvania Department of Agriculture to store and sell Consumer Fireworks within a Temporary Structure as defined herein, such use shall be permitted within the Municipality provided all other applicable Municipal ordinances and regulations are met.
- (B) The person authorized to store and sell Consumer Fireworks within such Temporary Structure shall comply with the regulations of the Pennsylvania Department of Agriculture, and shall provide verification of such compliance prior to be permitted to conduct such use within the Municipality.

§160-4. DISPLAY FIREWORKS – PERMITS AND USE PROVISIONS.

- (A) No Display Fireworks shall be ignited within 300 feet of a facility selling or dispensing gasoline, propane, or other flammable products
- (B) Permits are required to be issued by the Municipality prior to the use of Display Fireworks. Application for permits shall be made in writing at least 30 days in advance of the planned date of the use of Display Fireworks together with the permit fee. Permit fees shall be as established by resolution of the Municipal Council.
- (C) Permits for Display Fireworks may only be issued to persons age 21 or older.
- (D) Each Display Firework shall be:
1. Handled by a competent operator with the proper authorization to handle, operate or store Display Fireworks;
 2. Inspected by the Police Chief, Fire Chief, Fire Marshal or other appropriate officer, and after proper inspection, deemed to not be hazardous to property or endanger any person prior to the display occurring; and
 3. After permission is granted under this section, possession and use of Display Fireworks shall be lawful for that purpose only.

- (E) License Requirements. Any business entity which performs, provides or supervises Display Fireworks for profit shall provide proof of registration with the PA Attorney General to the Municipality as part of the permitting process.
- (F) Display Fireworks may be possessed and used by a person (age 21 or older) holding a permit from the Municipality at the display covered by the permit, or when used as authorized by a permit for any of the following additional activities:
 - 1. For agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
 - 2. By railroads or other transportation agencies for signal purposes or illumination.
 - 3. In quarrying or for blasting or other industrial use.
 - 4. In the sale or use of blank cartridges for a public show or theater.
 - 5. For signal or ceremonial purposes in athletics or sports.
 - 6. By military organizations or organizations composed of veterans of the armed forces of the United States.

§160-5. DISPLAY FIREWORKS - BONDING AND EXTENSION REQUESTS

- (A) Bond. The Municipality shall require a bond deemed adequate by the Board from the permittee in a sum not less than \$50,000 conditioned on the payment of all damages which may be caused to a person or property by reason of the Display Fireworks and arising from an act of the permittee or an agent, employee or subcontractor of the permittee. The bonding requirement may be deemed unnecessary or reduced by the Board of Commissioners for the additional activities listed under §160-4(F) above.
- (B) Extension of Permit.
 - 1. Authorization. If, because of unfavorable weather, the Display Fireworks for which a permit has been granted does not occur at the time authorized by the permit, the person to whom the permit was issued may within 24 hours apply, in writing, for a request for extension to the Municipality. The requested continuance of the permit shall be not later than one week after the date originally designated in the permit.
 - 2. Conditions. The extension of time shall be granted without the payment of an additional fee and without requiring a bond other than the bond given for the original permit, the provisions of which shall extend to and cover all damages which may be caused by reason of the display occurring at the extended date and in the same manner and to the same extent as if the display had occurred at the date originally designated in the permit.

§160-6. PERMITS GRANTED FOR AGRICULTURAL PURPOSES.

- (A) Authorization. The Municipality may grant permits for the use of suitable fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
- (B) Duration of permit. A permit under this section shall remain in effect for the calendar year in which it was issued.
- (C) Conditions. After a permit under this section has been granted, sales, possession and use of fireworks of the type and for the purpose mentioned in the permit shall be lawful for that purpose only.

§160-7. AUTHORITY AND CONFISCATION OF MATERIALS.

- (A) Any Pennsylvania State Police officer or Municipal police officer shall take, remove or cause to be removed, at the expense of the owner, all stocks of Consumer Fireworks, Display Fireworks or combustibles offered or exposed for sale, stored or held in violation of this Chapter. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.
- (B) Any Pennsylvania State Police officer, Municipal police officer or Municipal Fire Chief or his/her designee is authorized to cease all fireworks activity when there is a determination that there is imminent or immediate danger to any person(s) or any property, buildings, structures or premises, take any steps necessary, within the reasonable performance of their duties to extinguish, mitigate and/or control any fireworks in order to preserve and protect the life, health, welfare or safety of any person(s) and to preserve and protect property, building structures or premises.

§160-8. PENALTIES

- (A) A person using Consumer Fireworks in violation of the provisions of this Chapter commits a summary offense and, upon conviction, shall be punished by a fine of not less than \$100 nor more than \$1,000.
- (B) A person selling Consumer Fireworks in violation of the provisions of this Chapter commits a misdemeanor of the second degree.
- (C) A person selling Display Fireworks in violation of the provisions of this act commits a felony of the third degree.
- (D) A person selling federally illegal explosives such as devices as described in 49 CFR 173.54 (relating to forbidden explosives) or those devices that have not been tested, approved and labeled by the United States Department of Transportation, including, but not limited to, those devices commonly referred

to as "M-80," "M-100," "blockbuster," "cherry bomb" or "quarter or half stick" explosive devices, in violation of the provisions of this Chapter commits a felony of the third degree.

- (E) All prosecutions related to the Chapter shall be the responsibility of the Municipal police or if warranted, the Pennsylvania State Police. "

SECTION II: REPEALER.

All ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of the inconsistency.

SECTION III: SEVERABILITY.

The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance, or the Code of Ordinances of the Municipality of Norristown.

SECTION IV: EFFECTIVE DATE.

This Ordinance shall become effective the sooner of the earliest date for enactment or five (5) days following its legal enactment.

ENACTED AND ORDAINED this 5th day of March, 2019.

Seal:

**Municipality of Norristown
Municipal Council**

By *Sonya D. Sanders*
Sonya D. Sanders
Council President

Attest:

Crandall O. Jones
Crandall O. Jones
Municipal Administrator