

**TRAINER BOROUGH
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 23-783

**AN ORDINANCE OF TRAINER BOROUGH COUNCIL REGULATING THE USE OF
CONSUMER FIREWORKS AND DISPLAY FIREWORKS WITHIN TRAINER
BOROUGH AND PROVIDING FOR PERMITS IN CERTAIN CASES.**

WHEREAS, Act 74 of 2022, House Bill 2157, P.N. 3332 was adopted by the General Assembly on July 6, 2022, was signed by the Governor on July 11, 2022, amends Title 3 Pa.C.S. Chapter 11 (hereafter, “Fireworks Law” or “Law”), and became effective on September 9, 2022; and

WHEREAS, the Fireworks Law governs the sale, purchase and use of Consumer Fireworks and Display Fireworks in the Commonwealth; and

WHEREAS, the Fireworks Law authorizes Pennsylvania municipalities to prohibit or restrict certain uses of Consumer Fireworks as defined in the Law if the municipality determines that certain conditions are met; and

WHEREAS, the Fireworks Law authorizes the adoption of local rules and regulations by Trainer Borough that govern permit approvals; and

WHEREAS, Trainer Borough has determined that the full authority provided by the Fireworks Law should be exercised in the interests of public safety; and

WHEREAS, Trainer Borough desires to regulate the use of Display Fireworks and Consumer Fireworks within the Borough limits.

THEREFORE, BE IT RESOLVED by Trainer Borough Council that “Chapter 121 Fireworks” is added to the Borough’s Code and will be reflected as follows:

SECTION 1. Chapter 121-1 Definitions

For purposes of this Ordinance, the definitions of “Consumer Fireworks” and “Display Fireworks” shall be that set forth in Section of the Fireworks Law, appearing here as

Consumer Fireworks: The term includes any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions of “consumer fireworks” as

defined in APA 87-1, the sale, possession and use of which shall be permitted throughout this Commonwealth.

The term does not include devices such as “ground and hand-held sparkling devices, “novelties” or “toy caps” in APA 87-1, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

Display Fireworks: Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as “**consumer fireworks.**” Display fireworks are classified as fireworks UN0333, UN0334 or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused set pieces containing components which together exceed 50 mg of salute powder.

SECTION 2. Chapter 121-2 Display Fireworks

(a) In accordance with the Fireworks Law, a permit is required before any use of Display Fireworks within the Trainer Borough limits. Permit application forms are available through the Borough Manager’s Office during normal business hours. The application must include facts sufficient to establish that the Display Fireworks will not be ignited within 300 feet of sales locations for Consumer Fireworks and that the Display Fireworks will be handled by a competent operator at least 21 years of age who demonstrates evidence of fireworks handling and safety training, all in accordance with Sections 1102 and 1107 of the Fireworks Law. The application must include approval of the chief of the fire department or other appropriate official as may be designated by the Trainer Borough Council and that the Display Fireworks will not be located, discharged or fired in such a manner as to be hazardous to property or an endangerment to any person. The application shall be accompanied by a certificate of insurance in accordance with Subsection 1102(d) of the Law. The applicant must acknowledge acceptance of the requirements otherwise established by state and federal law. Permit extensions shall be permitted in accordance with Subsection 1102(e), provided that the extension sought receives a renewed approval by the designated official that the extended use would not be hazardous to property or endangerment to any person.

(b) In accordance with Section 1105(a) of the Law, the Trainer Borough Council may under this Ordinance grant permits for the use of Display Fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird

and animal damage. The applications for such a permit must meet the requirements of this Section. A permit under Section 1105 shall remain in effect for the calendar year in which it was issued. Sales, possession and use of Display Fireworks for the purpose stated in the permit shall be lawful for that purpose only.

(c) Applications for use of Display Fireworks shall be submitted at least two (2) weeks prior to the date of proposed use. Permits for the use of Display Fireworks may be granted by the Trainer Borough Council, by the Borough Manager, or by such official or officials as are so designated by the Trainer Borough Council, upon approval of the application and payment of a fee of \$250.00.

SECTION 3. Chapter 121-3 Consumer Fireworks

(a) In accordance with the Fireworks Law, a permit is required before any use of Consumer Fireworks with the limits of Trainer Borough. Permit application forms are available through the Office of the Borough Manager during normal business hours.

(b) The application must include facts sufficient to establish in accordance with Section 1104 of the Law that the provisions relating to Consumer Fireworks will not be violated, including facts sufficient to demonstrate (1) that no one under the age of 18 will purchase, possess or use Consumer Fireworks; (2) that Consumer Fireworks will not be used on private property or public property, including, but not limited to, streets, parking lots, sidewalks and parks, without the express permission of the owner or entity that controls the property; (3) that the Consumer Fireworks will not be used within, directed at, or directed from a “vehicle” or “building” as those two terms are defined in the Law; (4) that the Consumer Fireworks will not be directed at another person; (5) that the Consumer Fireworks will not be used by a person under the influence of alcohol, a controlled substance, or another drug; and (6) that the Consumer Fireworks will not be used within 150 feet of a building or vehicle, whether or not the building or vehicle is owned by the user of the Consumer Fireworks.

(c) In accordance with Section 1104 of the Fireworks Law, no permit shall be granted for the use of Consumer Fireworks within 150 feet of an Animal Housing Facility as defined in the Law, or a fenced area designed to confine livestock owned or managed by another person. A permit may be granted on the basis of an application that meets the requirements of Section 1104 for use of Consumer Fireworks at a distance of 150 to 300 feet if the prospective user of the Consumer Fireworks provides proof of notification in writing to the manager of the animals or livestock of the prospective use at least 72 hours in advance.

(d) Applications for use of Consumer Fireworks shall be received at least two (2) weeks prior to the date of proposed use. Permits for the use of Consumer Fireworks may be granted by the Trainer Borough Council, by the Borough Manager, or by such

official or officials as are so designated by Trainer Borough Council upon approval of the application and payment of a fee of \$100.00.

(e) The permit shall restrict use of Consumer Fireworks to the day and time listed in the application but in no event shall the permit allow use later than 10:00 PM (22:00), provided however, that (1) on July 2, 3, and 4 and December 31, Consumer Fireworks may be used until 1:00 AM (1:00) on the following day, and (2) when July 4 falls on a Tuesday, Wednesday or Thursday, Consumer Fireworks may be used until 1:00 AM (1:00) on the immediately preceding and following Friday and Saturday. Pursuant to Subsection 1106(b) of the Law, the hours of use of Consumer Fireworks may not be restricted on the Monday of Memorial Day and the immediately preceding Saturday and Sunday and the Monday of Labor Day and the immediately preceding Saturday and Sunday.

(f) No permission is granted by Trainer Borough Council to any person to ignite or discharge Consumer Fireworks on the streets or sidewalks in Trainer Borough or on any property owned or occupied by Trainer Borough or other government entity, including without limitation, all of the Borough's parks and buildings.

SECTION 4. Chapter 121-4 Penalties

(a) In accordance with the provisions of Section 1114(1) of the Law, any person using Consumer Fireworks in violation of the provisions of this Ordinance, for the first offense commits a summary offense, and upon conviction shall, in addition to any other penalty authorized by law, be punishable by a fine of not more than five hundred (\$500.00) dollars. A subsequent offense under this Ordinance committed within three years of a prior conviction shall constitute a summary offense, and upon conviction shall, in addition to any other penalty authorized by law, be punishable by a fine of not more than one thousand (\$1,000.00) dollars.

(b) Any person selling Consumer Fireworks in violation of the Law is punishable in accordance with Section 1114(2) be punishable by a fine not less than ten thousand (\$10,000.00) dollars.

(c) Any person selling or using Display Fireworks in violation of the Law is punishable in accordance with Section 1114(3) by a fine of not less than ten thousand (\$10,000.00) dollars.

SECTION 5.

Certified copies of this Ordinance shall be provided to the Judges of the Court of Common Pleas and all Magisterial Judges within the Borough of Trainer posted on the Borough's website and made available to the public at the Borough Manager's Office.

SECTION 6.

Nothing in this Ordinance governs the sale of Consumer Fireworks for the period of one year from the effective date of the Fireworks Law in accordance with Section 1106(a)(2).

SECTION 7.

All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

SECTION 8.

In the event any provision, section, sentence clause or part of this Ordinance shall be held to be invalid, such invalidity shall affect or impair any of the remaining provisions, sections, sentences, clauses or part of this Ordinance; it being the intent of the Trainer Borough Council that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 9.

This Ordinance shall take effect immediately and in accordance with the Laws of the Commonwealth of Pennsylvania.

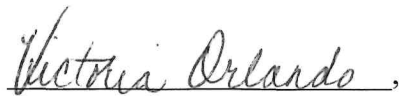
ADOPTED BY COUNCIL

November 9, 2023

Trainer Borough Council

BY: 
Trainer Borough Council President

ATTEST:



Trainer Borough Secretary