

Borough of Carroll Valley, Pennsylvania
Ordinance No. 5-2018

**AN ORDINANCE OF THE BOROUGH OF CARROLL VALLEY, ADAMS COUNTY, PENNSYLVANIA ENACTING
AN ORDINANCE REGULATING THE IGNITION, DISCHARGE, AND USE OF CONSUMER FIREWORKS AND
REQUIRING THE ISSUANCE OF A PERMIT FOR THE POSSESSION AND USE OF DISPLAY FIREWORKS
WITHIN THE BOROUGH OF CARROLL VALLEY**

WHEREAS, the Borough of Carroll Valley (hereinafter the "Borough") is empowered to provide for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough, pursuant to Section 1202(5) of the Borough Code, 8 Pa.C.S.A. §1202(5); and

WHEREAS, the Borough is a densely populated community; and

WHEREAS, the Borough desires to protect residents and visitors of the Borough by regulating the ignition, discharge, and use of Consumer Fireworks within the Borough; and

WHEREAS, the Pennsylvania General Assembly enacted Act 43 of 2017 on or about October 30, 2017 regulating, among other things, the issuance of a permit from a municipality for the possession and use by a Person of Display Fireworks; and

WHEREAS, Section 1202(17) of the Borough Code, 8 Pa.C.S.A. 1202(17), provides the Borough with the authority to require permits for supervised public displays of fireworks and adopt rules and regulations governing the displays; and

WHEREAS, the Council of the Borough of Carroll Valley deems it in the best interest and for the general welfare of the residents and visitors of the Borough to enact the provisions set forth herein.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and Borough Council of the Borough of Carroll Valley, Adams County, Pennsylvania, and it is enacted and ordained as follows:

SECTION I: The Borough of Carroll Valley Code of Ordinances (the "Code") is hereby amended by amending Chapter 6, entitled "Conduct", by adding Part 4, to be entitled "Fireworks", which shall read as follows:

§ 6-401. Purpose.

In the interest of maintaining public health, safety and general welfare and the comfort and repose of Borough residents, the Borough hereby provides for the regulation of firework displays in the Borough.

§ 6-402. Interpretation.

The provisions of the chapter shall be held to be minimum requirements to meet the above stated purposes. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this chapter shall prevail. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than those of this chapter, the provisions of such statute, ordinance, or regulation shall prevail.

§ 6-403. Title.

This chapter may be cited as "The Borough of Carroll Valley Fireworks Ordinance."

§ 6-404. Definitions.

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural.

A. "Church" shall include:

A building used for religious worship, excluding separate buildings used for residential, educational, burial, recreational, or other non-worship uses.

B. "Consumer Fireworks" shall include:

(1) 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 for "consumer fireworks" as defined in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout this Commonwealth.

(2) The term does not include devices as "ground and hand-held sparkling 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 this Commonwealth.

C. "Display Fireworks" shall include large, commercial grade fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration or detonation. The term includes, but is not limited to:

- (1) Salutes that contain more than 2 grams or 130 milligrams of explosive materials;
- (2) Aerial shells containing more than 60 grams of pyrotechnic compositions; and
- (3) Other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UNO333, UNO334 or UNO 335 under 49 Code of Federal Regulations 172.101 (relating to purpose and use of hazardous materials table).

D. "Person" shall include any natural person, firm, partnership, trust, association, corporation, limited liability company, company, or any other organization of any kind.

§ 6-405. Ignition, Discharge, and Use of Consumer Fireworks

A. Subject to the provision of this Ordinance and state and federal law, a Person may ignite, discharge or use Consumer Fireworks within the Borough, or allow the ignition, discharge or use of Consumer Fireworks within the Borough, as follows:

- (1) From 8:00 p.m. on December 31 until 1:00 a.m. on January 1; and
- (2) From 8:00 a.m. on July 4 until 1:00 a.m. on July 5.

B. No Person shall ignite, discharge or use Consumer Fireworks on public property, public or private school property, Church property, or the property of another Person without the express written permission of the property owner. No Person shall ignite, discharge, or use Consumer Fireworks on Borough property.

C. No Person shall recklessly endanger the life, health, safety or well-being of any person or property by the ignition, discharge or use of Consumer Fireworks.

- D. No Person shall discharge Consumer Fireworks within one-hundred and fifty (150) feet of an occupied structure.
- E. No Person shall use Consumer Fireworks while under the influence of alcoholic, intoxicating liquor, a controlled substance, or combination thereof.
- F. No Person shall sell Consumer Fireworks to a person under the age of 18 years.
- G. No Person under the age of 18 years shall buy, be in the possession of, or use Consumer Fireworks.

§ 6-406. Permit or License Required.

From and after the passage of this Chapter, it shall be unlawful to possess or use Display Fireworks within the Borough without obtaining a permit from the Borough to do so. The Borough Code Enforcement Officer is authorized to promulgate regulations regarding the application and issuance of permits consistent with the provisions hereof.

§ 6-407. Permit Issuance.

Permits shall be issued by the Borough Code Enforcement Officer, or his or her designee, upon application therefore setting forth the identity of the professional pyrotechnician, the identity of the surety providing the bond referred to in Section 6-409 below, and the time and place of the display covered by the permit or for any other purpose authorized by Act 43 of 2017 or its successor law. A Display Firework permit will not be issued to a Person under 21 years of age.

§ 6-408. Bond.

At the time of application to the Borough Code Enforcement Officer, or his or her designee, the applicant shall submit financial security deemed adequate by the Borough in a sum not less than fifty thousand dollars (\$50,000.000) to serve as security for the payment of damages which may be caused to a person or property by reason of the display and arising from an act of the permittee or an agent, employee or subcontractor of the permittee.

§ 6-409. Conditions of Permit Issuance

Once a permit is issued by the Borough for the display of display fireworks to be held within the Borough, the following conditions apply:

- A. Each display shall be:
 - (1) handled by a competent operator; and
 - (2) of a character and so located, discharged, or fired as, in the opinion of the chief of the fire department or other appropriate officer as may be designated by the Borough, after proper inspection, not to be hazardous to property or endanger any person.
- B. After permission is granted under this section, possession and use of Display Fireworks for display shall be lawful for that purpose only.

§ 6-410. Use of Display Fireworks.

No Display Fireworks shall be ignited within 300 feet of a facility which is licensed to sell Consumer Fireworks, under Act 43 of 2017.

§ 6-411. Request for Extension.

- A. If, because of unfavorable weather, a display 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 for a request for extension to the Borough Code Enforcement Officer, or his or her designee.
- B. The request for extension shall state under oath that the display was not made, provide the reason that the display was not made, and request a continuance of the permit for a date designated within the request, which shall be not later than one (1) week after the date originally designated in the permit.
- C. Upon receiving the request for an extension, the Borough Code Enforcement Officer, or his or her designee, if he/she believes that the facts stated within the request are true, shall extend the provisions of the permit to the date designated within the request, which shall be not later than one (1) week after the date originally designated in the permit.
- D. The extension of time shall be granted without the payment of an additional fee and without requiring financial security other than the financial security 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 on the date originally designated in the permit.

§ 6-412. Violations and Civil Penalties.

Any Person, firm, or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$25 for a first offense, and not less than \$100 for all subsequent offenses, plus costs, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each separate act that constitutes a violation of this Part shall constitute a separate violation.

SECTION II: REPEALER. All provisions of previous Ordinances of the Borough of Carroll Valley which are contrary to this Ordinance are expressly repealed.

SECTION III: SAVINGS CLAUSE. In all other respects, the Code of the Borough of Carroll Valley shall remain as previously enacted and ordained.

SECTION IV: SEVERABILITY. The provisions of this Ordinance are severable and if any of its sections, clauses, or sentences shall be held illegal, invalid, or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses, or sentences.

SECTION V: EFFECTIVE DATE. This Ordinance shall take effect immediately.

ENACTED, ORDAINED, AND APPROVED this 13th day of November, 2018.

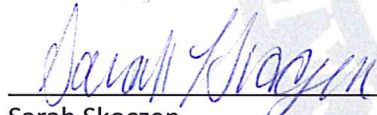
BOROUGH OF CARROLL VALLEY, Adams County, Pennsylvania

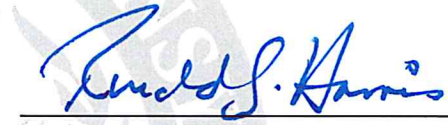
ATTEST:



Gayle R. Marthers, Secretary

(SEAL)



Sarah Skoczen,
Council President, Borough of Carroll Valley

Honorable Ronald J. Harris,
Mayor, Borough of Carroll Valley