

**ORDINANCE NO. 12 OF 2020**  
**AN ORDINANCE RESTRICTING THE USE AND TRANSPORTATION OF FIREWORKS AND RELATED**  
**EXPLOSIVES WITHIN THE BOROUGH OF JERMYN**

I

By the powers granted to the Borough of Jermyn by the Pennsylvania Borough Code, 53 P.S. Section 45101 et seq., be it ENACTED and ORDAINED by the Borough Council of the Borough of Jermyn, Lackawanna County, Pennsylvania, and it is hereby ENACTED and ORDAINED by the authority of the Jermyn Borough Council as follows:

**Section I: Title**

This Ordinance shall be known as the "Fireworks Ordinance."

**Section II: Definitions.**

The following words and phrases when used in this Ordinance shall have the meanings given to them in this chapter unless the context clearly indicates otherwise:

APA 87-1 — The American Pyrotechnics Association Standard 87-a: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition.

**CONSUMER FIREWORKS —**

A. 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.

B. The term does not include devices such 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 in Jermyn Borough.

**DISPLAY FIREWORKS —** Large 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:

A. Salutes that contain more than two grains or 130 milligrams of explosive materials;

B. Aerial shells containing more than 60 grams of pyrotechnic compositions; and

C. Other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

NFPA 1124 — The National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or any subsequent edition.

**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.

**OUTDOOR STORAGE UNIT —** A consumer fireworks building, trailer, semitrailer, metal shipping container, or magazine meeting the specification of NFPA 1124.

**PERSON —** Shall include any natural person, firm, partnership, trust, association, corporation, limited liability company, company, or any other organization of any kind.

**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 Article XXIV of the Tax Reform Code.

### **Section III: Permits.**

A. Permissible purposes. As a prerequisite to possess and use display fireworks, a person must hold a permit from Jermyn Borough. The permit must be available at the display covered by the permit or available when used as authorized by the permit for any of the following: (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 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.

B. Permit conditions. (1) Each display shall be handled by a competent operator; and

(2) The fire department chief, police, code enforcement officer, or other appropriate officer, as designated by the governing body of the municipality, must deem the character and location of each display, prior to being fired or discharged, not to be either hazardous to property or dangerous to any person; and

(3) After permission is granted under this section, possession and use of display fireworks for display shall be lawful for that purpose only.

(4) A permit shall be transferrable.

C. Age limitation. A display fireworks permit may not be issued to a person under 21 years of age.

D. Bond. Jermyn Borough shall require a bond deemed adequate by it from the permittee in a sum not less than \$50,000 conditioned for the payment of all damages which may be caused to person or property by reason of the display and arising from an act of the permittee or an agent, an employee, or a subcontractor of the permittee.

### **Section IV: Requests for extension.**

A. Authorization. If, because of unfavorable weather, the 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 Jermyn Borough.

B. Contents of request. 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 week after the date originally designated in the permit.

C. Determination. Upon receiving the request for extension, Jermyn Borough, if it 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 week after the date originally designated in the permit.

D. 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.

### **Section V: Consumer fireworks.**

A. Conditions. A person who is at least 18 years of age and meets the requirements of this section may purchase, possess, and use consumer fireworks. A person under 18 years of age may intentionally ignite

or discharge consumer fireworks only when under the direct supervision of a parent, guardian, or responsible adult acting in loco parentis.

B. Prohibitions. A person may **not** intentionally ignite or discharge:

(1) Consumer fireworks on public or private property without the express permission of the property 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, building, or 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 an occupied structure.

(6) Consumer fireworks between the hours of 10:00PM and dusk. Use of Consumer Fireworks after 10:00PM is PROHIBITED.

(7) Consumer fireworks on a date OTHER THAN Memorial Day, the day before Memorial Day, July 3<sup>rd</sup>, July 4<sup>th</sup>, the day before Labor Day, and Labor Day.

(8) Consumer fireworks while under the influence of alcohol or drugs.

**Section VI: Display fireworks.**

A. No display fireworks shall be ignited without a permit issued by Jermyn Borough as per this chapter.

B. No display fireworks shall be ignited within 300 feet of a facility that meets the requirements of Sections 2407 and 2410 (relating to permanent and temporary sales locations) of Pennsylvania Act 43 of 2017.<sup>1</sup>

**Section VII: Violation and civil penalties.**

A. A person using consumer fireworks in violation of the provisions of the chapter commits a summary offense and, upon conviction, shall be punished by a fine of not more than \$100.

B. A person using display fireworks in violation of the provisions of this chapter commits a summary offense and, upon conviction, shall be punished by a fine of not more than \$2,000.

C. The improper storage, sale, or use of consumer or display fireworks may be prosecuted under state and/or federal regulations.

**Section VIII: Removal, storage, and destruction.**

The Pennsylvania State Police, a Jermyn Borough Police Officer, or a Jermyn Borough Fire Department Chief (or his designee) may seize, remove, or cause to be removed at the expense of the owner all stocks of consumer fireworks or 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.

**Ordained and enacted into Ordinance this 2<sup>nd</sup> day of July, 2020**

Attest:

\_\_\_\_\_

Daniel Markey, Secretary

\_\_\_\_\_  
Frank Kulick, President

\_\_\_\_\_  
Anthony Fuga, Jr., Mayor