

BOROUGH OF EAST STROUDSBURG



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MONROE COUNTY

COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 1350

AN ORDINANCE AMENDING CHAPTER 79 – FIREWORKS OF THE EAST STROUDSBURG BOROUGH CODE OF ORDINANCES.

BE IT ORDAINED by the Borough Council of the Borough of East Stroudsburg that Chapter 79 of the East Stroudsburg Code of Ordinances is hereby amended to include as follows:

§79-1 Title.

This Chapter shall be known and cited as the "Fireworks Ordinance."

§79-2 Purpose.

Recognizing the need within the Borough to establish certain minimum health and safety requirements for the discharge of Consumer Fireworks or Display Fireworks, this Chapter hereby establishes standards which the Borough Council considers to be fair and effective in meeting those minimum requirements.

§ 79-3. Statutory authority.

This Chapter and the objectives leading to its enactment are authorized by Sections _____, _____ of the Borough Code.

§ 79-4 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CONSUMER FIREWORKS

Consumer Fireworks as defined by Act 43 of 2017 and 72 P.S. Section 7101, et seq.

FIREWORKS DISPLAY PERMIT

The term "Fireworks Display Permit" shall mean a permit issued by the East Stroudsburg Borough Zoning Officer authorizing a display of Consumer Fireworks or Display Fireworks within East Stroudsburg Borough.

§ 79-5. Application.

The provisions of this chapter shall supplement the rules, regulations and laws of the

Commonwealth of Pennsylvania. Where a provision of this chapter is found to be in conflict with any provision of the rules, regulations and laws of the Commonwealth of Pennsylvania, the rules, regulations and laws of the Commonwealth of Pennsylvania shall prevail unless the ordinance provision is more stringent and not preempted, then the ordinance prevails.

§ 79-6. Discharge of fireworks.

The discharge of Display Fireworks within East Stroudsburg Borough is prohibited except as provided below:

- A. Permit required: It shall be unlawful for any Person, ~~Persons~~, amusement parks, fair associations, or any other organizations or group of individuals, to have or to hold public displays of Display Fireworks within the limits of Borough of East Stroudsburg Borough, unless a Fireworks Display Permit is first granted by the Zoning Officer.
- B. Application for Permit: Applications for Fireworks Display Permits must be submitted to the Zoning Officer at least twenty (20) days in advance of the proposed display. Permit applications shall contain at a minimum the following:
- (1) Adequate documentation demonstrating that the applicant is a legal entity or, if an individual, is at least twenty-one (21) years of age.
 - (2) Name, address, telephone number, and fax number (if applicable) of the applicant and, if the applicant is an organization, the name, address, telephone number and fax number (if applicable) of the contact person for the organization;
 - (3) Name, address, telephone number and qualifications of the individual or organization who will be the operator responsible for the display;
 - (4) Proposed site and date and time of the fireworks display;
 - (5) Number and kinds of Display Fireworks to be discharged;
 - (6) The manner and place of storage of such fireworks prior to display;
 - (7) Site plan depicting all structures, structures occupied, overhead transmission lines, streets, parking areas, and areas where spectators for the display will be gathered. The site plan should also contain a symbol defining north and a sketch of the general area where the fireworks will be set off, the area they will be directed, and all means of ingress and egress for emergency vehicles;
 - (8) The application shall contain an Agreement by the applicant/permittee to indemnify and hold harmless East Stroudsburg Borough its Borough Council in both their individual and official capacities, its officers, agents, and/or employees from any and all liability arising from the fireworks display for which the requested Fireworks Display Permit is issued. By accepting an issued Fireworks Display Permit, the permittee acknowledges that this obligation to indemnify and hold harmless is incorporated by reference into any Fireworks Display Permit issued supported by the required insurance and bond.
 - (9) A Certificate of Insurance, effective the day of the fireworks display, with the following limits:

- (a) Commercial General Liability (CGL) insurance ISO Coverage Form CG 00 01 covering on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with minimum limits of one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the project/location or the general aggregate shall be twice the occurrence limit. The insurance shall cover or be endorsed to cover liability arising from the proposed event, and the liability assumed by the permit applicant pursuant to this agreement utilizing ISO endorsements CG 20 10 and CG 20 37 or their equivalents. The policy shall include East Stroudsburg Borough, its officers, its employees, and its volunteers, as additional insureds, with primary coverage as respects the same, and shall contain a severability of interests’ provision. The coverage shall be primary and non-contributory.
 - (b) Auto Liability covering any auto with a combined single limit of not less than one million dollars (\$1,000,000).
 - (c) Statutory Workers Compensation as required by the Commonwealth of Pennsylvania. A certificate of insurance with endorsement WC 00 0313 shall be completed by the applicant’s insurance agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect shall be furnished to the Borough at least thirty (30) days prior to the event described in the permit application, and shall be subject to review and approval by the Borough. The certificate shall provide that the coverages afforded under the policies shall not be cancelled, terminated, or materially changed until at least fifteen (15) days prior written notice has been given to the Borough.
- (10) A bond in favor of the Borough, in the amount of fifty thousand dollars (\$50,000.00), conditioned for the payment of all damages which may be caused either to a person or persons, or to property by reason of the display and arising from the acts of the permittee, his/her/its agents, employees or subcontractors. The bond shall be in form and substance acceptable to the Borough Solicitor; and

C. Review and approval of the application.

- (1) The Borough Council shall designate a representative (Designee) to perform proper inspection and oversight of the fireworks display site. The Designee will:
 - (a) Conduct a site inspection of the proposed site to determine whether or not, in the opinion of the Designee, the proposed character and location of the fireworks display constitutes a fire hazard to any property in the immediate area of the display, or will endanger any person or persons, and;
 - (b) Designate the area where the Display Fireworks display will originate from, and fireworks shall be detonated and displayed from that area only, and;
 - (c) Notify the applicant and East Stroudsburg Borough prior to the display as to whether the presence of firefighters and firefighting equipment will be required at the display.

- (2) After a complete application has been received, the Zoning Officer shall forward a copy of the site plan to the Designee with a request for a site inspection.
- (3) The approval of the proposed site for the fireworks display by the Designee shall be required prior to the issuance of a Fireworks Display Permit by the Zoning Officer.

D. Permit issuance.

- (1) The East Stroudsburg Borough Zoning Officer will issue Fireworks Display Permits only after approval of the proposed site for the fireworks display by the Designee. The approved site shall be set forth on the Fireworks Display Permit.
- (2) Fireworks Display Permit issued hereunder shall be transferable contingent on proper bonding and insurance remaining in place.
- (3) After a Fireworks Display Permit is issued, the possession, use, discharge, and display of Display Fireworks shall be lawful only to the extent authorized by the permit.
- (4) Fireworks Display Permits will be valid only for the date of the fireworks display set forth therein; provided, however, that if by reason of unfavorable weather the display for which a Fireworks Display Permit has been issued does not take place at the time so authorized, the Person to whom such Fireworks Display Permit was issued may within twenty-four (24) hours apply to the Zoning Officer who issued the same, setting forth, subject to penalties of perjury or unsworn falsifications, the fact that such display was not made, giving the reason therefor, and requesting a continuance of such Fireworks Display Permit for a day designated therein, not later than one (1) week after the day originally fixed in said Fireworks Display Permit. Upon receiving such application for a continuance, the Zoning Officer, if he/she believes the facts stated therein are true, may extend the provisions of said Fireworks Display Permit to the day fixed in said application, not later than one (1) week after the original day designated in the Fireworks Display Permit, and such extension of time shall be granted without the payment of any additional fee and without requiring any bond other than the one given for the original Fireworks Display Permit, provided the provisions thereof extend to and cover all damages which may be caused by reason of the said fireworks display taking place at such extended date in the same manner and to the same extent as if such fireworks display had taken place at the date originally fixed in the Permit contingent on proper bonding and insurance remaining in place.
- (5) Notwithstanding the issuance of a Fireworks Display Permit, the same shall automatically be rendered null and void, and no fireworks display be permitted, if there is a ban on open burning and/or a declared drought emergency in effect in the Borough on the date of the proposed display.

E. Required Notifications.

Any and all holders of Fireworks Display Permits will be required to telephonically notify the Fire Chief, or his or her designee, at least forty-eight (48) hours in advance of the fireworks display and further telephonically notify the Monroe County Control Center (570-992-9911) at least two (2) hours in advance of the fireworks display, which notification shall advise as to when and where the Display Fireworks will be displayed. Permit holders

shall also telephonically notify the Monroe County Control Center (570-992-9911) at the conclusion of the fireworks display.

F. Consumer Fireworks. A person who is at least eighteen (18) years of age and meets the requirements of this section may purchase, possess and use Consumer Fireworks as defined by Act 43 of 2017 and 72 P.S. Section 7101, et seq.

- (1) Prohibited Use of Consumer Fireworks. A person may not intentionally ignite or discharge:
 - (a) Consumer Fireworks on public or private property without the express permission of the owner;
 - (b) Consumer Fireworks or sparkling devices within, or throw Consumer Fireworks or sparkling devices from, a motor vehicle or building;
 - (c) Consumer Fireworks or sparkling devices into or at a motor vehicle or building or at another person;
 - (d) Consumer Fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug;
 - (e) Consumer Fireworks within one hundred fifty (150) feet of an Occupied Structure.

§ 79-7 Permissible use of signal devices and blank cartridges.

Nothing in this chapter shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or those which are used in quarrying or for blasting or other industrial uses or for the sale or use of blank cartridges for show or theater or for signal or ceremonial purposes in athletics or sports or for use by military organizations or organizations composed of veterans of the United States Army or Navy.

§ 79-8 Seizure of fireworks.

The Chief of Police of the Stroud Area Regional Police Department and/or police officers of that Department shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this chapter.

§79-9 Violations and penalties.

This Ordinance shall be enforced by action before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person who or which violates or permits a violation of the provisions of this Ordinance shall, upon conviction in a summary proceeding, pay a fine of not less than One Hundred and 00/100 (\$100.00) Dollars, nor more than One Thousand and 00/100 (\$1,000.00) Dollars per violation, plus all court costs and reasonable attorney's fees incurred by the Borough in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or a portion thereof that a violation exists or continues shall constitute a separate violation. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this Ordinance. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid to the Borough for its general use.

ENACTED AND ORDAINED THIS 18th day of June, 2019.

BOROUGH OF EAST STROUDSBURG

BY: _____
Council President

ATTEST:

Brian S. Bond, Borough Manager

APPROVED

BY: _____
Armand Martinelli, Mayor

(Seal)