

BOROUGH OF BROOKHAVEN, DELAWARE COUNTY, PENNSYLVANIA

Ordinance No. 806

AN ORDINANCE OF THE BOROUGH OF BROOKHAVEN, DELAWARE COUNTY, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING REGULATIONS PERTAINING TO CONSUMER FIREWORKS IN THE BOROUGH, ESTABLISHING RULES AND SETTING TIME LIMITATIONS, ESTABLISHING REGULATIONS REGARDING PENALTIES FOR VIOLATIONS, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HEREWITH TO THE EXTENT OF SUCH INCONSISTENCY ONLY.

WHEREAS, Borough Council is empowered under the Borough Code to enact, revise, repeal, and amend ordinances and resolutions as it deems beneficial to the Borough; and

WHEREAS, the Borough Council of Brookhaven Borough deems it in the best interest of the health, safety, and welfare of the Borough and its residents to regulate fireworks within the Borough;

BE IT ENACTED and it is hereby enacted and ordained by the Council of Brookhaven Borough, Delaware County, Pennsylvania, as follows:

1. CHAPTER 670 – CONSUMER FIREWORKS

§ 670.01	Definitions
§ 670.02	Use or possession of Consumer Fireworks
§ 670.03	Confiscation
§ 670.04	Violations and Penalties

§ 670.01 DEFINITIONS

As used in this Chapter, the words and phrases herein defined shall have the following meanings unless the context otherwise requires:

**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, complies with the

construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in Title 16 of the Code of Federal Regulations (relating to commercial practices) or any successor regulation which complies with the provisions for consumer fireworks as defined in American Pyrotechnics Association Standard 87-1 or any successor standard. The term Consumer Fireworks does not include devices listed as "ground and hand-held sparkling devices," "novelties," or "toy caps" in American Pyrotechnics Association Standard 87-1 or any successor standard, the sale, possession, and use of which is permitted within the 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:

- (1) salutes that contain more than two grains 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 UN0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

#### § 670.02 USE OR POSSESSION OF CONSUMER FIREWORKS

- (A) It shall be unlawful, and it is hereby forbidden and prohibited, for any person or persons under the age of 18 to possess or use Consumer Fireworks.
- (B) Consumer Fireworks or sparkling devices may not be intentionally ignited, discharged, or thrown on public or private or private property without the express permission of the owner.
- (C) Consumer Fireworks or sparkling devices may not be intentionally ignited, discharged, or thrown from, within, toward, or into a motor vehicle or building.
- (D) Consumer Fireworks or sparkling devices may not be intentionally ignited, discharged, or thrown by any person who is under the influence of alcohol, a controlled substance, or another drug.
- (E) Consumer Fireworks or sparkling devices may not be intentionally ignited, discharged, or thrown within 150 feet of an occupied structure.
- (F) Consumer Fireworks may not be used, ignited, or discharged after 10:00p.m.
- (G) The use of Consumer Fireworks shall be in strict compliance with the provisions of Chapter 652 (Noise Control) of the Codified Ordinances of the Borough of Brookhaven.

§ 670.03 CONFISCATION

Any Brookhaven Borough Police Officer, Code Enforcement Officer, Fire Code Official, Borough Fire Marshall, and/or Public Safety Officer may seize, take, remove or cause to be removed at the expense of the owner, all stocks of Consumer Fireworks, other fireworks, or other combustibles offered or exposed for sale and/or stored or held in violation of this Ordinance.

§ 670.04 VIOLATIONS AND PENALTIES

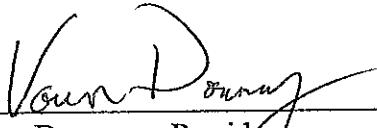
- (A) Any person, firm, association, or corporation using Consumer Fireworks in violation of any provisions of this Ordinance shall, upon summary conviction, pay a fine not exceeding \$500.00 and costs of prosecution, and in default of one payment of the fine and costs, the violator may be sentenced to the county jail for a term of not more than 30 days. Each and every day in which any person, firm or corporation shall be in violation of the Ordinance shall constitute a separate offense.
- (B) Any person, firm, association, or corporation selling Consumer Fireworks in violation of the provisions of this Ordinance or the Pennsylvania Fireworks Law, Act 43 of 2017 (72 P.S. § 9401, et. seq.), commits a misdemeanor of the second degree.
- (C) Any person, firm, association, or corporation selling Display Fireworks in violation of the provisions of this Ordinance or the Pennsylvania Fireworks Law, Act 43 of 2017 (72 P.S. § 9401, et. seq.), commits a felony of the third degree.
- (D) Any person, firm, association, or corporation selling explosives or other devices described in 49 CFR 173.54 (relating to forbidden explosives) or those devices that have not been tested, approved, and labeled by the Federal 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 Ordinance or the Pennsylvania Fireworks Law, Act 43 of 2017 (72 P.S. § 9401, et. seq.), commits a felony of the third degree.

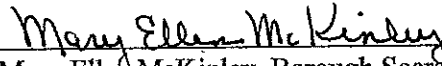
2. **Effective Date.** This Ordinance shall be effective upon its adoption by Brookhaven Borough Council and its approval by the Mayor.

3. **Repealer.** All Ordinances, Resolutions, or parts thereof, inconsistent herewith are repealed, rescinded, cancelled, and annulled to the extent of such inconsistency.

4. Severability. The provisions of this Ordinance and Code sections adopted hereby are severable, and if any clause, sentence, or section thereof shall be adjudged invalid or unconstitutional, such decision or judgment shall not affect the validity of the remaining provisions.

DULY ENACTED THIS 3<sup>rd</sup> DAY OF December,  
2018, BY THE COUNCIL OF THE BOROUGH OF BROOKHAVEN.

By:   
Vawn Donaway, President  
Brookhaven Borough Council

Attest:   
Mary Ellen McKinley, Borough Secretary

EXAMINED AND APPROVED THIS 3<sup>rd</sup> DAY OF  
December, 2018.

By:   
Michael Hess, Mayor