

ORDINANCE NO. 2 of 2019

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF FORTY FORT ACKNOWLEDGING THE ADOPTION BY THE COMMONWEALTH OF PENNSYLVANIA OF THE PENNSYLVANIA FIREWORKS LAW, 72 P.S. §9401, ET. SEQ., ACKNOWLEDGING THAT THE FIREWORKS LAW PROHIBITS THE IGNITING OR DISCHARGE OF CONSUMER FIREWORKS ON PUBLIC OR PRIVATE PROPERTY WITHOUT THE EXPRESS PERMISSION OF THE OWNER, PROVIDING THAT THE BOROUGH OF FORTY FORT DOES NOT GRANT PERMISSION FOR ANYONE TO IGNITE OR DISCHARGE CONSUMER FIREWORKS ON THE STREETS OR SIDEWALKS OF THE BOROUGH OF FORTY FORT OR PROPERTY OWNED BY THE BOROUGH OF FORTY FORT INCLUDING, WITHOUT LIMITATION, ALL OF THE BOROUGH OWNED PARKS AND PUBLIC BUILDINGS; SETTING PERMIT AND INSURANCE REQUIREMENTS, DIRECTING THAT THE BOROUGH OF FORTY FORT PROVIDE CERTIFIED COPIES OF THE ORDINANCE TO THE MAGISTERIAL DISTRICT JUDGE WITHIN THE BOROUGH; AND PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT IMMEDIATELY AS PROVIDED BY CONTROLLING LAW

WHEREAS, the Pennsylvania Fireworks Law, 72 P.S. § 9401, et. seq., took effect on October 30, 2017; and

WHEREAS, the Pennsylvania Fireworks Law defines consumer fireworks as 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 the Commonwealth. The term does not, however, 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 the Commonwealth; and

WHEREAS, pursuant to the Pennsylvania Fireworks Law, a person who is at least eighteen years of age and meets the requirements of the law may purchase, possess and use consumer fireworks provided, however, that a person may not intentionally ignite or discharge consumer fireworks on public or private property without the express permission of the owner, may not intentionally ignite or discharge consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from, a motor vehicle or building, may not intentionally ignite or discharge consumer fireworks or sparkling devices into or at a motor vehicle or building or at another person, may not intentionally ignite or discharge consumer fireworks or sparkling

devices while the person is under the influence of alcohol, a controlled substance or another drug, and may not intentionally ignite or discharge consumer fireworks within 150 feet of an occupied structure; and

WHEREAS, Borough Council of the Borough of Forty Fort has determined that the use of consumer fireworks and sparkling devices in an urban setting such as the Borough provides safety and health hazards if the terms of the Pennsylvania Fireworks Law are not specifically complied with; and

WHEREAS, the Borough Council desires to enact additional standards to preserve the peace and tranquility of Borough residents.

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Forty Fort, Luzerne County, Pennsylvania, as follows:

SECTION 1. As a result of the background paragraphs cited above, which are incorporated herein, it is hereby ordained and enacted that no permission is granted by the Borough to any person to ignite or discharge consumer fireworks on the streets of the Borough of Forty Fort, the sidewalks of the Borough of Forty Fort or any property owned by the Borough of Forty Fort, including, without limitation, all of the Borough's parks and public buildings, unless expressly permitted by Council.

SECTION 2. Display fireworks, as defined in the Pennsylvania Fireworks Law cited above, shall be permitted provided that Council approves the display, a permit is secured from the Borough at a cost of \$50.00, and proof of general liability insurance is provided, covering property damage and personal injury, of not less than One Million Dollars and naming the Borough of Forty Fort, it's employees and elected officials as additional insureds.

SECTION 3. In order to preserve the peace and tranquility of the residents of the Borough of Forty Fort, the Borough hereby prohibits anyone from intentionally igniting or discharging any consumer fireworks after 10:00 p.m.

SECTION 4. The Borough Manager is hereby directed to provide a certified copy of this Ordinance to the magisterial district judge within the Borough of Forty Fort to provide judicial notice that no permission has been granted by the Borough for any person to intentionally ignite or discharge consumer fireworks on the Borough streets and sidewalks or on any property owned by the Borough of Forty Fort.

SECTION 5. All ordinances or parts of ordinances insofar as they are inconsistent herewith are hereby repealed and rescinded.

SECTION 6. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the Borough of Forty Fort that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 7. Anyone violating any provisions of this Ordinance commits a summary offence and will be punished by a fine of \$100.00 per occurrence for each violation of this

Ordinance. A violation of more than one provision of this Ordinance shall constitute a separate occurrence.

SECTION 8. This Ordinance shall take effect immediately as provided by law.

ORDAINED and ENACTED by the BOROUGH COUNCIL OF THE BOROUGH OF FORTY FORT, this ____ day of _____, 2019.

ATTEST:

BOROUGH OF FORTY FORT



Borough Secretary



Jeff McLaughlin, Council President