

**BOROUGH OF OAKMONT**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE BOROUGH OF OAKMONT, PENNSYLVANIA,  
REGULATING THE USE OF FIREWORKS IN THE BOROUGH OF  
OAKMONT SO AS TO COMPLY WITH PENNSYLVANIA LAW

WHEREAS, the Borough of Oakmont is authorized by the Borough Code at Section 1202 to regulate fireworks and inflammable articles; and

WHEREAS, the Pennsylvania Fireworks Law, 35 P.S. § 1271 *et seq.*, allows for the Borough to adopt reasonable rules and regulations for displays of fireworks held within the Borough; and

WHEREAS, Oakmont Borough has determined that such rules will facilitate the safe and festive execution of the same;

NOW, THEREFORE, the Council of Oakmont Borough, ordains and enacts as follows:

**I. General Provisions.**

1. Scope. The manufacture of fireworks is prohibited within the Borough. The display or discharge of consumer or display fireworks shall comply with the requirements of the Fireworks Law, 35 P.S. § 1271 *et seq.*, and the provisions of the International Fire Code, 2009 edition, as amended, supplemented or replaced, implemented by the Uniform Construction Code [Chapter 5, Part 1].
2. Permit Required. A permit shall be obtained from the Borough for the display or discharge of display fireworks in compliance with the provisions of the Fireworks Law, 35 P.S. § 1271 *et seq.*, and the International Fire Code, 2009 edition, as amended, supplemented or replaced, implemented by the Uniform Construction Code [Chapter 5, Part 1].
3. Permit Applications. Application for permits shall be made in writing at least 15 days in advance of the date of the display. Application for said permit shall be made pursuant to the procedure provided in the International Fire Prevention Code, 2009 edition, as amended, supplemented or replaced. The possession, use and distribution of fireworks for such display shall be lawful under the terms and conditions approved with the permit and for that purpose only. A permit granted hereunder shall be transferable, but may not be extended beyond the dates set out therein. Permit applications shall be administered by the officer of the Borough charged with enforcement of the International Fire Code or such other officer of the Borough who may be designated to perform such administration.

- a. A nonrefundable permit application fee of \$100.00 shall accompany the application, which fee may be adjusted from time to time by Resolution of Borough Council.
- b. Any person aggrieved by the grant or denial of a permit may appeal and request a Local Agency Law hearing by submitting such request to the Oakmont Borough Manager within ten (10) days of the date of the action being appealed from. Such request for a hearing must be accompanied by a nonrefundable appeal fee in the amount of \$50.00 and must state the grounds for the appeal. The appellant shall also be responsible for the cost of advertising a Local Agency Law hearing and any court reporter costs incurred by the Borough in connection therewith. Borough Council may serve as the hearing tribunal and render a decision or may appoint a hearing officer or other hearing body to hold the hearing and render a decision.
- c. No application shall be accepted from, nor shall a permit be issued to, an applicant under 21 years of age.
- d. Permit applications may be denied if the applicant fails to show that the applicable requirements of Sections I.3. and II. herein will be met. Permit denials shall state the reasons for denial and the deadline for appeal.

4. Definitions. The following terms are defined as follows:

#### CONSUMER FIREWORKS

- (1) 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 that 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 which complies with the provisions for "consumer fireworks" as defined in the American Pyrotechnics Association (APA) Standard 87-1, or any successor standard.
- (2) The term does not include devices as "ground and hand-held sparkling devices," "novelties" and "toy caps" in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout this 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).

## **II. Display and Discharge of Display Fireworks.**

1. General; Responsibilities of Permittee for Display Fireworks. It shall be a violation of this Part for any person to conduct a public or private display of display fireworks within the Borough except in accordance with a permit issued upon application as provided in Section I, Subsection 3, of this Part.
  - a. Every such display shall be handled by a competent operator and shall be of such a character and so located, discharged or fired as, in the opinion of the officer of the Borough charged with enforcement of the International Fire Code, or such other officer of the Borough as may be designated from time to time, in writing, after proper inspection, to not be hazardous to property or endanger any person or persons. After such privilege shall have been granted, possession and use of display fireworks for such display shall be lawful for that purpose only.
  - b. Permittee is responsible for reimbursement of any expenses incurred by the fire department or other Borough officer responsible for inspecting the display.
  - c. Only after a display has been inspected, or where the chief of the fire department or his designee attend the event, may the display be set off.
  - d. The Permittee agrees to remove any debris or other litter relating to the display from public spaces, streets and ways with twenty-four (24) hours of the display. Failure to do so may result in the partial forfeiture of the bond for the cost of Borough employees to perform the work.
  - e. The Permittee, by applying for and receiving a permit, agrees to indemnify the Borough from any claims, lawsuits or other legal challenges arising from Permittees's display.
2. Request for Permit 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 the municipality which granted the permit.
  - 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, the municipality, 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.
3. **Bond for Display.** The permittee shall furnish a bond in an amount deemed adequate by the Borough but not less than \$50,000, conditioned for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, the permittee's agents, employees or subcontractors.
4. **Seizure of Fireworks.** Any police officer of any police force serving the Borough shall take, remove or cause to be removed at the expense of the owner, all stocks of display fireworks or combustibles offered or exposed for sale, stored, or held in violation of this Part or the Fireworks Law, 35 P.S. § 1271 et seq. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.

### **III. Display and Discharge of Consumer Fireworks; Prohibitions.**

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 150 feet of an occupied structure.

### **IV. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$100 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each section of this Part which

shall be found to have been violated shall constitute a separate offense.

V. **Effective Date.** This Ordinance shall take effect immediately.

ORDAINED AND ENACTED INTO LAW by the Oakmont Borough Council at a duly assembled public meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

BOROUGH OF OAKMONT

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Council President

Certification of Recording. This Ordinance recorded in the Borough Ordinance book on \_\_\_\_\_, 2018, by the undersigned.

\_\_\_\_\_  
Borough Secretary/Manager