

Ord. # 5 of 2011

DUPONT BOROUGH, PA FIREWORKS

Definitions.

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

COUNCIL

The Borough Council of Dupont, Luzerne County, Pennsylvania.

CONSUMER FIREWORKS

Shall be the same as are defined in 27 CFR 555.11, and they are any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations set forth in the rules of the U.S. Consumer Product Safety Commission (Title 16, Code of Federal Regulations, Parts 1500 and 1507). Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 milligrams or less of explosive materials, and aerial devices containing 130 milligrams or less of explosive materials. Consumer fireworks are classified as fireworks by the United States Department of Transportation, 49 CFR 172.101. This term does not include fused set pieces containing components which together exceed 50 milligrams of salute powder.

DISPLAY FIREWORKS

Large fireworks shall be the same as are defined in 27 CFR 555.11, and they are designed primarily to produce visible or audible effects by combustion, deflagration, and detonation. This term includes, but is not limited to, salutes containing more than two grains (130 milligrams) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the statutory and regulatory limits of explosive materials for classification as consumer fireworks. Display fireworks are classified as fireworks by the United States Department of Transportation (49 CFR 172.101), This term also includes fused set pieces containing components which together exceed 50 milligrams of salute powder.

ENFORCEMENT OFFICER

The enforcement officer, or on his absence or unavailability, the assistant enforcement officer, both being duly designated by the Borough of Dupont.

FIRE CHIEF

Any one of the duly authorized Fire Chiefs of a fire department serving and based in the Borough of Dupont, or in his absence or unavailability, the Assistant Fire Chief.

FIREWORKS

Both consumer and display fireworks, as defined herein, unless specifically identified as either consumer or display fireworks herein.

RESIDENT

An adult Individual who is a bona fide resident of the Borough of Dupont, Luzerne County, Pennsylvania, and who can produce proof thereof upon demand made by any enforcement officer hereunder.

Use Restricted; Consumer Fireworks.

1. Except as herein provided, it shall be unlawful for any person, co-partnership, association or corporation to offer for sale, expose for sale, sell at retail, or use, detonate, or explode any type of fireworks, including, but not limited to, consumer fireworks and display fireworks, at any time or in any place within the Borough of Dupont.
2. Consumer Fireworks, Consumer fireworks may be possessed, used, and detonated by a resident of the Borough of Dupont, subject to the following conditions:
 - A. The consumer fireworks to be possessed, sold, used or detonated hereunder must qualify as strictly as consumer fireworks under the statutes and regulations of the agencies of the United States government and the laws and agencies of the Commonwealth of Pennsylvania. The consumer fireworks hereunder must be manufactured, transported, sold, possessed and used in strict compliance with the aforesaid statutes, regulations, laws and governmental agencies, and the burden to demonstrate such compliance falls upon the resident.
 - B. Any bona fide resident of the Borough of Dupont who desires to possess, sell, use, detonate, or explode any consumer fireworks hereunder must be 18 years of age or older.
 - C. Any adult bona fide resident of the Borough of Dupont who desires to possess, sell, use or detonate any consumer fireworks in the Borough of Dupont must first register the specific type of consumer fireworks with the designated enforcement officer of The Borough of Dupont and specify the identity, age, and address of the resident and the time and place where it is desired to possess, sell, use or detonate such consumer

fireworks and the specific location of the consumer fireworks until the same are used or detonated. Upon registration of such consumer fireworks when transporting such fireworks, the resident must maintain upon his or her person a written authorization of registration issued by the designated enforcement officer stating that the resident is authorized to possess, sell, use, detonate, or explode only the consumer fireworks specified as set forth in detail in the written authorization of registration issued by the designated enforcement officer.

- D. No written authorization of registration of possession, sale, use, or detonation of any consumer fireworks shall be valid for a period greater than 30 days following its original date of issuance by the enforcement officer.
- E. Any aforesaid authorization of registration of consumer fireworks shall be issued only upon the payment to the Borough of Dupont of the consumer fireworks registration fee.
- F. No consumer fireworks shall be used, exploded or detonated without the prior approval of a duly authorized representative of the Borough of Dupont, and no authorized and registered consumer fireworks can be exploded or detonated, as follows:
 - (1) Within any enclosed structure;
 - (2) Within a four-hundred-foot area of any structure, property line, vehicle or roadway;
 - (3) Within a fifty-foot area of any other person or persons than the authorized resident;
 - (4) Within any area of the Borough of Dupont designated by the Borough of Dupont as a residential or commercial zoning district;
 - (5) Before 12:00 noon and after 9:00 p.m. on any day of the week, unless otherwise provided in the written authorization of registration issued by the enforcement officer.
- G. No consumer fireworks may be sold, exploded, or detonated in any location in The Borough of Dupont other than the specific place or location designated therefor in the written authorization of registration.

Display Fireworks.

The Council shall have the power to grant permits for supervised public displays of display fireworks to be held by municipalities, fair associations, civic organizations, religious organizations, amusement parks and other like organizations or groups of individuals. Such displays can be open to the public by admission tickets or no admission tickets. Every such display shall be Implemented and overseen by a competent and licensed pyrotechnic operator to be approved by the enforcement officer or a Fire Chief representing a fire company situated within the Borough of Dupont. Such public displays of display fireworks shall be of such a nature and shall be so located, and shall be discharged or detonated, only so as not to be hazardous to property and shall not endanger any person or persons when displayed as, In the controlling opinion of the enforcement officer and/or the Chief of the Fire Department and/or such other officer, after proper inspection.

Permits.

Applications for permits for public displays of display fireworks shall be made in writing to the Borough of Dupont at least 15 days In advance of the date of the display. After such privilege shall have been granted, the sales, possession and use of the display fireworks for such display event or purposes shall be lawful for that submitted purpose only, No permit granted hereunder shall be transferable.

Bond Required.

The Council of the Borough of Dupont hereby requires a bond to be provided by any permittee hereunder to conduct a fireworks display In The Borough of Dupont In an amount not less than \$250,000, which shall be a condition for approval of the grant of permit and is conditioned for the payment of all damages which may be caused either by or to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his or her agents, employees or subcontractors. The Borough also requires proof of liability insurance issued to the permittee In the amount of at least \$250,000 per claim for the aforesaid purpose from a reputable Insurance company authorized to conduct business In the Commonwealth of Pennsylvania. The Borough of Dupont shall be a named co-Insured In such policy of such liability Insurance. Further, the licensee or permittee shall Indemnify, save harmless and defend The Borough of Dupont from any Injury to persons or damage to property arising out of the use by the permittee of display fireworks by a writing executed prior to the grant of any permit.

Continuance of Permit.

If, by reason of unfavorable weather, the display for which a permit has been granted does not take place at the time so authorized, the person to whom such permit was issued may, within 24 hours, apply to the Borough of Dupont setting forth, under oath, the fact that such display was not made, stating the reason therefor, and requesting the continuance of such permit for a day designated therein, not later than one week after the day fixed originally in said permit.

General Restrictions on All Fireworks.

Each of the restrictions Imposed on the possession, use, explosion or detonation of all types of fireworks, whether consumer fireworks or display fireworks, stated hereunder in §702.2, shall apply equally to all types of fireworks sold, used, possessed, detonated, or exploded in the Borough of Dupont, and, accordingly, §702.2 hereof shall be specific restrictions generally applicable to the sale, possession and use of all fireworks in The Borough of Dupont.

Stopping Fireworks for Violations or Public Safety.

In the event of any violation of this Part or the terms, conditions, or limitations noted on a written registration authorized for the use of consumer fireworks or on a permit for the display of display fireworks, or in the event of any unsafe condition occurring before or during the course of a fireworks public display, or In the event of any unsafe condition occurring as a result of any use of consumer, display, or other fireworks within the Borough of Dupont, the Pennsylvania State Police, the Borough of Dupont police, a Fire Chief of a fire company located in the Borough of Dupont responsible for fire protection at the place of the event or the appropriate Township designee or any other duly authorized Township representative may, before or during the unsafe and/or violating occurrence, order such fireworks use or display to be stopped in the interest of public safety.

Conflicts With Other Provisions.

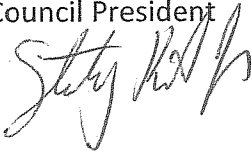
The Borough of Dupont hereby recognizes the authority of the United States government and the Commonwealth of Pennsylvania and the fireworks laws, rules, or regulations of each Jurisdiction, as the same may be amended from time to time, regarding the manufacture, transport, holding, offering or exposing for sale, and the display, use, and possession, of combustible materials and Items commonly referred to as "fireworks." Whenever there is any conflict between the terms of this Part and a statute, rule or regulation of the United States government or the Commonwealth of Pennsylvania, the more strict provision(s) shall apply.

Violations and Penalties.

Any person, Individual, partnership, co-partnership, association or corporation violating the provisions of this Part shall be guilty of a summary criminal offense and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding 60 days, or by both fine and imprisonment.

Approved by Dupont Borough Council at its regular meeting held December 12, 2017.

Stanley Knick Jr.
Council President



Attest:



Patricia McDonald
Secretary



Dan Lello
Mayor

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