

**BOROUGH OF MAYFIELD
ORDINANCE NO. 2020-09**

**AN ORDINANCE REGULATING THE DISPLAY OF ANY FIREWORKS OF ANY KIND
WITHIN THE LIMITS OF THE BOROUGH OF MAYFIELD**

Be It Enacted by the Council of the Borough of Mayfield and it is hereby ordained by the authority of the same.

Section 1. Scope – In order to protect life and property in the Borough of Mayfield, the Borough has been granted specific powers under the Borough Code, Title 8 C.S.A., Section 1202 (17) of Chapter 12, Subsection (ii) which permits boroughs to adopt rules and regulations governing the display of fireworks by ordinance.

Section 2. Definitions.

Code Officer – Such official designated by Borough Council to carry out the duties under this ordinance.

“Consumer Fireworks” – Consumer fireworks are defined in 27 CFR 555.11, in part, as any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition and labeling regulations of the U.S. Consumer Product Safety Commission. Some small devices designed to produce audible effects are included, such as whistling devices; ground devices containing 50 mg or less of flash powder; and aerial devices containing 130 mg or less of flash powder. Consumer fireworks are generally marked with brightly colored and decorated paper and include, in part, a trade name and manufacturing information.

Some examples include firecrackers, Roman Candles, bottle rockets, and any fireworks that contain a maximum of 50 milligrams of explosive material.

“Display Fireworks” – Display fireworks, also defined in 27 CFR 555.11, are large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of flash powder, aerial shells containing more than 40 grams of pyrotechnic compositions (excluding the lift charge) and other display pieces which exceed the limits of explosive materials for classification as consumer fireworks.

Public Officer – Any Mayfield Borough Police Officer, sometimes herein referred to as Public Officer designated by the municipality to enforce the Borough ordinances, and also to the extent permitted by Interjurisdictional Agreement(s) such other Police Officers duly authorized thereunder.

Occupied Structure – A structure, vehicle or place adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.

Section 3. Discharge of Consumer Fireworks

- Discharge of Fireworks shall be by permit with the exception of the 4th of July (between the hours of 9:00 a.m. and 10:30 p.m.).
- Permits for Consumer Fireworks may be granted upon application to the Borough Secretary and approval of the Code Officer. The application shall specify the composition, character, and proposed location, and manner of discharge or firing. No such permit shall be issued to a person younger than eighteen (18) years of age, as provided under Act 43 of 2017.
- Applications for permits shall be made in writing at least seven (7) days in advance of the date of the display. After such privilege has been granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only for 30 days from the time of the issue of the permit. No permit granted hereunder shall be transferable. An extension may be determined by the Code Officer when display prevented by unfavorable weather. The permit **MUST** be displayed publicly and **MUST** be shared with neighbors of the applicant on either side of the applicant. The Borough may from time to time adopt an Application and Fees by Resolution, and the initial Application Fee for a Consumer Fireworks permit shall be fifteen dollars (\$15.00) per permit.
- The possession and use of fireworks for consumer grade purposes shall be conducted so as to be reasonably safe to persons and property. As such, the following restrictions will be enforced. Consumer-grade Fireworks: cannot be ignited or discharged on a public or private property without express permission of the property owner; cannot be discharged from or within a motor vehicle or building; cannot be discharged towards a motor vehicle or building; cannot be discharged within 150 feet of an occupied structure; cannot be discharged while the person is under the influence of alcohol, a controlled substance, or another drug; cannot be discharged by a person younger than eighteen (18) years of age without the direct supervision of the permit holder. Further, to the extent allowed by law the Code Officer and Borough shall have no liability for harm or injury and the Applicant and permittee shall indemnify and hold harmless the Code Officer and Borough from all claims based upon the Application composition, character, location, transportation, distribution, discharge or firing.
- No Consumer Fireworks may be discharged after 10:30 PM or before 9 AM at any time, with the exception of December 31 to January 1st at which the time frame shall be 11:45 p.m. on December 31st to 12:15 a.m. on January 1st.

Section 4. Discharge of Display Fireworks

- (a) Discharge of fireworks shall be by permit.
- (b) Permits for Display Fireworks may be granted upon application to the Code Officer and filing of a bond and/or certificate of insurance by the applicants as provided in Section 4
 - (a). The application shall specify the composition, character, and proposed location,

manner of discharge or firing, current registration with the Pennsylvania Attorney General inclusive of name of such entity/person. Every display shall be handled by a competent operator registered as noted above and approved by the Code Officer and shall be of such composition, character, and so located, discharged or fired as in the opinion of the Code Officer, and after proper inspection, and shall not be hazardous or endanger any person or persons. Further the Applicant must certify to the Code Officer that the possession, transportation, use and distribution of fireworks for display purposes will be conducted in accordance with the applicable standard specified in NFPA No. 1122L, NFPA 1123 and 1126 as may be amended. No such permit shall be issued to a person younger than twenty-one (21) years of age, as provided under Act 43 of 2017. All Permittees must be registered with the Pennsylvania Attorney General Office under the Pennsylvania Fireworks Law 72 P.S. §9411, as may be amended.

- (c) Applications for permits shall be made in writing at least thirty (30) days in advance of the date of the display. After such privilege has been granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. An extension may be determined by the Code Officer, when a display is prevented by unfavorable weather. The Borough may from time to time adopt an Application and Fees by Resolution, the initial Application fee shall be one hundred dollars (\$100.00) per permit.
- (d) The possession and use of fireworks for display purposes shall be conducted so as to be reasonably safe to persons and property. Evidence by way of certification in the application that the possession, transportation, use and distribution of fireworks for display purposes will be conducted in accordance with the applicable standard specified in NFPA No. 1122L, NFPA 1123 Code for Fireworks Display and NFPA Standard for the use of Pyrotechnics Before a Proximate audience 1126, as may be amended, shall be evidence that such design, construction, and use provides reasonable safety to persons and property. Further to the extent allowed by the law the Code Officer and Borough shall have no liability for harm or injury based upon such certification and the Applicant and permittee shall indemnify and hold harmless the Code Officer and Borough from all claims based upon the Application composition, character, location, transportation, distribution, discharge or firing.
- (e) No fireworks may be discharged after 10:30 PM or before 9 AM at any time.

Section 5. Bond and Responsibility for Display Fireworks Required.

- (a) The Code Officer shall require a bond and/or a certificate of insurance from the permittee in a sum not less than Two hundred and fifty Thousand (\$250,000.00) Dollars conditioned on compliance with the provisions of this article, naming the Code Officer and Borough of Mayfield as an additional insured with a notice of cancellation to the additional insured. Failure of the Borough to require or lapse of a Bond/Insurance shall not be grounds for liability to Additional Insured.

- (b) Before any permit for a pyrotechnic display shall be issued, the person, firm or corporation making application therefore shall furnish proof of financial responsibility to satisfy claims, for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof, in such amount, character and form as the Public Officer determines to be necessary for the protection of the public.

Section 6. Disposal of Fireworks – Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining.

Section 7. Seizure of Fireworks – The Public Officer may seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored to hold in violation of state law as surrendered under 72 P.S. §9415, as may be amended

Section 8. Authority for Issuance of Violation – Upon finding a violation, any Police Officer, as previously defined herein, may proceed under 72 P.S. §9414, as may be amended.

Section 9. Enforcement.

- (a) The provisions of this Ordinance shall be enforced by the Mayfield Borough Police or Public Officer assigned by the Borough of Mayfield, and as such phrase is otherwise defined above or the Pennsylvania State Police.
- (b) Any violation of the provisions of this Ordinance may be cause for a citation to be issued to the violator in conformance with law, with a fine of no less than two hundred and fifty (\$250.00) dollars and no more than six hundred dollars (\$600.00); also enforcement may include but not limited to 72 P.S. §9414, as may be amended, as may be amended, as well as, no limitation is intended under the Crimes Code or other law having application.

Section 10. Separate Offense – Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

Section 11. Fines and Penalties.

- (a) Any person who violates this Ordinance may be issued a citation for each offense as noted above, however, nothing herein limits the Public Officer(s) ability to act under to 72 P.S. §9414, as may be amended, Pa Crimes Code or other law having application.
- (b) Nothing herein is intended to impede the prosecution of any criminal offense for any person continuing to violate the terms of the Ordinance or any order to stop or desist from any illegal conduct or from being charged with any separate offense under the criminal codes or otherwise.

Section 12. Conflicting Ordinances – All relevant ordinances, regulations, and policies of the Borough of Mayfield, Pennsylvania not amended shall remain in full force and effect. Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be subordinate to this Ordinance to the extent of such conflict, and the language contained in the Ordinance shall control. Nothing herein is intended to repeal the Mayfield Borough Zoning Ordinance. Further nothing herein is intended or limiting the Public Officers' authority under Title. 72 P.S. §9401 et seq.; 72 P.S. Ch. 5, Art. XXIV et seq.


Section 13. Severability – If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of the Ordinance so long as it remains legally enforceable minus the invalid portion. The Borough reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interests in the promotion of the purposes & intent of this Ordinance, & the effective administration thereof.

Section 14. Effective Date – This ordinance shall be effective at the earliest time permitted by law after adoption.

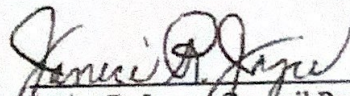
Section 15. This Ordinance is enacted by the Council of the Borough of Mayfield under the Borough Code and any other applicable law arising under the laws of the State of Pennsylvania, including but not limited to 72 P.S. §9406.

Ordained and Enacted this 12th day of August, 2020.

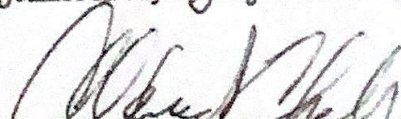
Attest:



Phyllis Jaskowiec, Secretary



Janice R. Joyce, Council President



Alexander J. Chelik, Mayor