

ORDINANCE NO. 3 OF 2018

AN ORDINANCE OF THE BOROUGH OF LARKSVILLE, LUZERNE COUNTY, PENNSYLVANIA, AMENDING CHAPTER 221 OF THE CODE OF THE BOROUGH OF LARKSVILLE, ENTITLED "FIRE PREVENTION", BY REORGANIZING THE PROVISIONS THEREOF AND ADDING AN ARTICLE II FOR THE PURPOSE OF ESTABLISHING REGULATIONS PROHIBITING THE IGNITION OR DISCHARGE OF CONSUMER FIREWORKS ON THE STREETS AND SIDEWALKS OF THE BOROUGH OF LARKSVILLE OR ON ANY PROPERTY OWNED BY THE BOROUGH OF LARKSVILLE.

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF LARKSVILLE ACKNOWLEDGING THE ADOPTION BY THE COMMONWEALTH OF PENNSYLVANIA OF THE PENNSYLVANIA FIREWORKS LAW, ACT 43 OF 2017, ACKNOWLEDGING THAT THE FIREWORKS LAW PROHIBITS THE IGNITING OR DISCHARGE OF CUNSUMER FIREWORKS ON PUBLIC OR PRIVATE PROPERTY WITHOUT THE EXPRESS PERMISSION OF THE OWNER, PROVIDING THAT THE BOROUGH OF LARKSVILLE DOES NOT GRANT PERMISSION FOR ANYONE TO IGNITE OR DISCHARGE CONSUMER FIREWORKS ON THE STREETS OR SIDEWALKS OF THE BOROUGH OF LARKSVILLE OR ON PROPERTY OWNED BY THE BOROUGH OF LARKSVILLE INCLUDING, WITHOUT LIMITATION, ALL OF THE BOROUGH OWNED PARKS AND PUBLIC BUILDINGS; DIRECTING THAT THE BOROUGH OF LARKSVILLE PROVIDE A CERTIFIED COPY OF THE ORDINANCE TO THE OFFICE OF THE MAGISTERIAL DISTRICT JUDGE WHOSE DISTRICT INCLUDES THE BOROUGH OF LARKSVILLE; AND PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT IN ACCORDANCE WITH PENNSYLVANIA LAW.

WHEREAS, it is the desire and intention of the Borough Council of the Borough of Larksville to pass legislation within the Borough of Larksville by amending Chapter 221 of the Code of the Borough of Larksville, entitled "Fire Prevention"; and,

WHEREAS, the Pennsylvania Fireworks Law, Act 43 of 2017, 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, suitable for use by the public, complies with the construction, performance, composition, and labeling requirements promulgated by the Consumer Products Safety Commission in 16 C.F.R. (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 such 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 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, the Borough Council of the Borough of Larksville has determined that the use of consumer fireworks and sparkling devices in an urban/suburban setting such as the Borough of Larksville constitutes safety, fire and health hazards if the terms of the Pennsylvania Fireworks Law are not specifically complied with; and

NOW, THEREFORE, it is hereby ENACTED and ORDAINED by the Borough Council of the Borough of Larksville, Luzerne County, Pennsylvania, as follows:

SECTION 1. The heretofore enacted and presently existing provisions of Chapter 221 of the Code of the Borough of Larksville, (the said Chapter being entitled "FIRE PREVENTION"), shall be retained in effect and continued in force, unaffected by this Ordinance; except that all of the said provisions shall now be preceded by the following language:

ARTICLE I
Fire Code - Adoption and Amendments

SECTION 2. The following provisions are hereby enacted and ordained as amendments or additions to the said Chapter 221:

ARTICLE II
Consumer Fireworks

§221-5 - Prohibitions.

(a) No permission is granted by the Borough of Larksville to any person to intentionally ignite or discharge "consumer fireworks", as defined in the Pennsylvania Fireworks Law, Act 43 of 2017, on the streets of the Borough of Larksville, the sidewalks of the Borough of Larksville, or on any property owned by the Borough of Larksville, including, without limitation, all of the Borough's parks and public buildings.

(b) The Borough Manager's Office is hereby directed to provide a certified copy of this Ordinance to the Office of the Magisterial District Judge whose district includes the Borough of Larksville, to provide judicial notice that no permission has been granted by the Borough of Larksville for any person to intentionally ignite or discharge consumer fireworks on the Borough streets and sidewalks or on any real estate owned by the Borough of Larksville.

§221-6 - Severability.

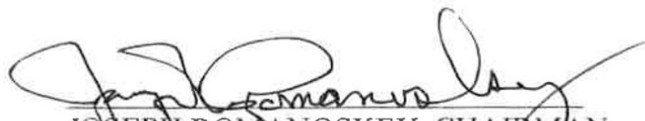
The provisions of this Ordinance are hereby declared to be severable. In the event that any one or more of the provisions of this Ordinance shall, for any reason, be held to be unconstitutional, invalid, illegal or unenforceable in any respect, such unconstitutionality, invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. It is the intention of Larksville Borough Council that this Ordinance would have been adopted had such unconstitutional, invalid, illegal or unenforceable provision or provisions had not been included herein.

§221-7 - Repealer.

All ordinances and/or parts of ordinances inconsistent with the provisions of this Ordinance shall be, and the same are, hereby repealed. All ordinances not specifically amended hereby shall be and remain in full force and effect.

SECTION 3. This Ordinance shall take effect immediately upon its final advertisement, passage and enactment by Larksville Borough Council.

ENACTED and ORDAINED at a regular meeting of Larksville Borough Council, this 28 day of November, 2018.


JOSEPH ROMANOSKEY, CHAIRMAN
LARKSVILLE BOROUGH COUNCIL

ATTEST:

Melissa Jones
BOROUGH SECRETARY

APPROVED, as having been duly enacted and ordained this 28 day of
November, 2018.


JOSEPH ZAWADSKI, MAYOR
LARKSVILLE BOROUGH