NEW FREEDOM BOROUGH
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 2020 -

AN ORDINANCE AMENDING NEW FREEDOM BOROUGH CODE OF ORDINANCES, ESTABLISHING THE REGULATION OF FIREWORKS WITHIN THE NEW FREEDOM BOROUGH

The New Freedom Borough Council, York County, Pennsylvania, enacts and ordains as follows:

Section 1. The Code of Ordinances of New Freedom Borough is hereby amended to read as follows:

CHAPTER 112
FIREWORKS

ARTICLE I
GENERAL PROVISIONS

§112-1. Purpose. It shall be unlawful for any person, persons, firms or corporations, amusement parks, fair associations or other organizations or groups of individuals, to possess or use Consumer Fireworks and Display Fireworks in violation of this Chapter.

§112-2. Definitions.

BOROUGH – New Freedom Borough, York County, Pennsylvania

BURN BAN – The declaration by any state or local agency or official that prohibits open or outside burning of any kind.

COUNCIL – The Council of New Freedom Borough, York County, Pennsylvania.

COMPETENT OPERATOR – An operator will be deemed competent pursuant to this Section upon the discretionary approval of the Fire Chief who shall base his decision on an evaluation of documentation provided by a permit applicant concerning the proposed operator's age, past experiences, which includes the number, type, and location of completed displays, training, Attorney General registration and at least two (2) references for said proposed operator.

DETAILED SITE PLAN – This plan shall include a description of the firing site, device ·t, a complete and itemized list of all pyrotechnic devices to be displayed, including device ·ect descriptions, quantities and sizes of aerial shells and ground display pieces, spectator fallout perimeter, distances between discharge area and spectator viewing areas,

fireworks storage area, parking area, overhead utilities, streets and location of vehicles or readily combustible materials, proof of fire and police officials/equipment to be notified and present and cleanup plan for display day and next morning.

FIRE CHIEF - The Fire Chief of the Rose Fire Company No.1, or duly authorized representative.

FIREWORKS - Any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "Consumer Fireworks" or "Display Fireworks" as defined by this Section.

A. 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 of Pennsylvania. Consumer Fireworks shall not include devices as "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA 87-1 or any successor standard.

B. 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 UNO333, UNO334 or UNO335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

POLICE CHIEF – The Police Chief of Southern Regional Police Department, or duly authorized representative.

MANAGER – The Borough Administrator of New Freedom Borough, or duly authorized representative.

In this Part, the singular shall include the plural, the plural shall include the singular; and the masculine shall include the feminine and the neuter.

ARTICLE II
DISPLAY FIREWORKS

§112-3. Inspection. Every use of Display Fireworks within the limits of the Borough shall be handled by a Competent Operator, and which display shall be of such character and so located, discharged or fired, as in the opinion of the Fire Chief, after proper inspection, shall not be hazardous to property or endanger any person or persons.

§112-4. Permit Application. An Application for Display Fireworks permit(s) shall be made in writing to the Borough at least forty-five (45) days in advance of the date of display, setting forth the proposed location of the display, the character thereof, a Detailed Site Plan, the names and addresses of all property owners located within 500 feet of the outermost edges of a

proposed display's fall out perimeter, the name and address of the operator, and the name and address of the owner(s) of the grounds on which the display is to be held, with the consent of such owner(s) thereto in writing attached. All applicants, prior to the issuance of a permit, shall (a) pay the Borough an application fee of One Hundred ($100.00) Dollars; (b) provide proof of the required bond; and (c) pay the Borough, for reimbursement to the Rose Fire Company No.1, the sum of Five Hundred ($500.00) Dollars for fire department coverage during the fireworks display. All such fees identified herein may be amended by resolution of the Council, from time to time.

§112-5. Transferability. If and after such permit shall have been granted by the Council, or designee, possession and use of fireworks for such display shall be lawful for that purpose only. A permit granted hereunder shall not be transferable.

§112-6. Bond. The Council shall require a bond deemed adequate by it given by the permittee or licensee in an amount deemed appropriate by the Board, but will not be in a sum less than Two Million ($2,000,000.00) Dollars, conditioned on the payment of all damages caused to any person or persons, and to any property by reason of the licensed display, and arising from any acts of the licensee, his or its agents, employees, or subcontractors, which bond shall be filed with the Manager before any permit for a supervised public display of Display Fireworks is delivered.

§112-7. Continuance. 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 twenty-four (24) hours apply to the authority having granted the same, setting forth under oath the fact that such display was not made, giving the reason therefore, and requesting a continuance of such permit for a day designated therein, not later than one (1) week after the day fixed originally in said permit. Upon receiving such application for a continuance, the said authority, if it believes the facts stated therein are true, shall extend the provisions of said permit to the day fixed in said application, not later than one (1) week after the original day designated in the permit, and such extension of time shall be granted without the payment of any additional fee and without requiring any bond other than the one given for the original permit, the provisions of which shall extend to and cover all damages which may be caused by reason of said display taking place at such extended date in the same manner and to the same extent as if such display had taken place at the date originally fixed in the permit.

§112-8. Hours of Discharge. All permitted displays of Display Fireworks must occur between the hours of 5:00 p.m. and 10:30 p.m., but may be extended to midnight on December 31 and from midnight to 12:30 a.m. on January 1. Additional dates and times may be permitted with prior written approval by the Borough Council.

ARTICLE III
CONSUMER FIREWORKS

§112-9. Hours of Discharge. Any use of Consumer Fireworks must occur between the hours of 5:00 p.m. and 10:00 p.m.

§112-10. Duration of Discharge. A person shall not discharge Consumer Fireworks from any property for more than: (1) one hour, measured on a cumulative basis, in any given twenty-four-hour period; and (2) two hours, measured on a cumulative basis, in any given ten-day period.

§112-11. Prohibited Discharge. The discharge of Consumer Fireworks shall be prohibited during any period during which a Burn Ban has been declared within the Borough.

ARTICLE IV
AGRICULTURAL FIREWORKS

§112-12. Purpose of Firework Use. Every use of Fireworks for an authorized agricultural purpose within the limits of the Borough shall be in connection with the raising of crops and the protection of crops from bird and animal damage.

§112-13. Permit Application. An Application for the use of Fireworks for an agricultural purpose shall be made in writing to the Borough at least forty-five (45) days in advance of the date of the use of Fireworks, setting forth the agricultural necessity for the discharge of Fireworks, specific type of Fireworks to be discharged, proposed dates and times of the discharge of Fireworks, a Detailed Site Plan, the names and addresses of all property owners located within 500 feet of the outermost edges of a proposed Firework's fall out perimeter, the name and address of the operator, and the name and address of the owner(s) of the grounds on which the use of Fireworks is to be held, with the consent of such owner(s) thereto in writing attached. All applicants, prior to the issuance of a permit, shall (a) pay the Borough an application fee of One Hundred ($100.00) Dollars; and (b) provide proof of the required bond. All such fees identified herein may be amended by resolution of the Board, from time to time. A permit for the discharge of Fireworks for an approved agricultural use shall be limited to Fireworks, dates, times and locations that permit the applicant to satisfy the purpose of this Article.

ARTICLE V
ADMINISTRATION

§112-14. Enforcement. This Ordinance shall be enforced by the Manager, Fire Chief and/or Police Chief.

§112-15. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than One Thousand ($1000.00) Dollars and costs and, in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. All prosecutions shall be brought before the Magisterial District Judge having jurisdiction of summary violations that occur in New Freedom Borough.

§112-16. Nonexclusivity. All provisions of this Ordinance are applicable in addition to and in accordance with any and all provisions set forth in Pennsylvania state law and any fire code or other rule or regulation duly adopted by the Borough.

§112-17. Conflicting Provisions. If any provisions of this Ordinance should conflict with provisions of Pennsylvania state law, any fire code or other rule or regulation duly adopted by the Township, the state law, regulation, or fire code shall prevail.

Section 2. All Ordinances or parts thereof that are inconsistent herewith are hereby repealed.

ENACTED AND ORDAINED by the Borough Council of New Freedom Borough this 13 day of June, 2019.

Attest:

Secretary

NEW FREEDOM BOROUGH

BY: _____
President

(SEAL)

Mayor: _____