

**LEHIGHTON BOROUGH  
CARBON COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2020 -658**

**AN ORDINANCE OF THE BOROUGH COUNCIL OF  
LEHIGHTON BOROUGH AMENDING CHAPTER 111 OF THE  
LEHIGHTON BOROUGH CODE REGULATING THE  
ISSUANCE OF A PERMIT FOR THE POSSESSION AND USE OF  
FIREWORKS AND ESTABLISH A PERMIT FEE AND TO  
PROVIDE PENALTIES FOR VIOLATIONS OF CHAPTER 111.**

**WHEREAS**, The Pennsylvania General Assembly enacted Act 43 of 2017 on or about October 30, 2017 regulating; among other things, the issuance of a permit from a municipality for the possession and use by a person of display fireworks; and

**WHEREAS**, Lehighton Borough is authorized to regulate the safety of persons and property within the Borough, and to make such regulations as may be deemed necessary for the health, safety, morals and general welfare of the Borough and its inhabitants and make and adopt all such ordinances as may be deemed expedient or necessary for the maintenance of peace, good government and welfare of the Borough.

**NOW THEREFORE**, the Borough Council of Lehighton Borough hereby enacts a new Chapter 111 of the Lehighton Borough Code, replacing the existing Chapter 111 entitled "FIREWORKS" to establish the following regulations:

**SECTION 111-1 DEFINITIONS:**

**APA 87-1** The American Pyrotechnics Association Standard 87-1: *Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics*, 2001 edition, or any subsequent edition.

**Consumer Fireworks.**

(1) Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, 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 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 this Commonwealth.

(2) The term does not include devices 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 this Commonwealth.

(3) By way of example, but not limitation, consumer fireworks are ground based or hand held devises that produce a shower of white, gold or colored sparks as their primary pyrotechnic effect Additional effects may have colored flame, audible crackling, audible whistling and smoke. Consumer fireworks include M-80s, roman candles, 10 ball cannons and bottle rockets.

**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 terms 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 composition.
- (2) 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).

**SECTION 111-2: PERMIT OR LICENSE REQUIRED:**

From and after the passage of this Ordinance, it shall be unlawful to possess or use display fireworks or consumer fireworks without obtaining a permit from Lehighon Borough to do so.

**SECTION 111-3: PERMIT ISSUANCE: CONSUMER FIREWORKS**

Permits for Consumer Fireworks shall be issued by the Lehighon Borough Fire Chief, or his or her Designee, upon application therefore setting forth the identify of the pyrotechnician, the identify of the surety providing the bond referred to in Section 111-5 below and the time and place of display covered by the Permit or for any other purpose authorized by Act 43 of 2017 or its successor of law.



#### **SECTION 111-4: PERMIT ISSUANCE: DISPLAY FIREWORKS**

Permits for display fireworks shall be issued by the Borough Council, upon consultation with the Borough Fire Chief, or his or her designee, upon application therefore setting forth the identity of the professional pyrotechnician, the identify of the surety providing the bond referred to in Section 111-5 below and the time and place of display covered by the permit or for any other purpose authorized by Act 43 of 2017 or its successor law.

#### **SECTION 111-5: BOND:**

At the time of application for a permit to either Borough Council or the Borough Fire Chief, or his or her designee, as applicable, the Applicant shall submit a bond deemed adequate by the Borough in a sum of not less than \$10,000.00 for consumer fireworks and \$50,000.00 for display fireworks conditioned for payment of all damages which may be caused to a person or property by reason of the display and arising from an act of permittee or an agent, employee or sub-contactor of the permittee.

#### **SECTION 111-6: REQUEST FOR EXTENSION:**

If, because of unfavorable weather, a 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 Borough Fire Chief, or his or her designee. 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 (1) week after the date originally designated in the permit. Upon receiving the request for an extension, the Borough Fire Chief, or his or her designee, if he/she 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 (1) week after the date originally designated in the permit. 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 on the date originally designated in the permit.

#### **SECTION 111-7: FIREWORKS PERMITTED WITHOUT PERMIT:**

The only fireworks permitted without a permit from the Borough Council or the Borough Fire Chief shall be novelty fireworks as defined in ATA-87-1. Novelty fireworks include party poppers, toy smoked devises, snakes, glow worms, and wire sparklers, dipped sticks.



**SECTION 111-8 PERMIT APPLICATION:**

Any person applying for a permit must complete the permit application form presented by the Borough. At a minimum, the applicant must provide:

1. Name and address of applicant.
2. Time and place of planned display of fireworks.
3. Name and credentials of pyrotechnician.
4. Bonding/Insurance Information.
5. Fireworks types which will be displayed.

This application must be accompanied by the fee set by resolution of Borough Council.

**SECTION 111-9: VIOLATIONS OF CIVIL PENALTIES:**

Any person, firm, association or corporation who or which shall violate or fail to comply with any of the provisions of this Chapter shall, upon being found guilty before a magisterial district judge, shall pay a fine of not less than \$500.00 nor more than \$1,000.00 for a first offence and not less than \$1,000.00 for a second and subsequent offence.

**SECTION 111-10: SEVERABILITY:**

The provisions of this Ordinance are intended to be severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

**SECTION 111-11: DISCLAIMER:**

Nothing in this Ordinance shall limit, in any manner whatsoever, the Borough's right to enforce any ordinance or law of the Borough, Carbon County or the Commonwealth of Pennsylvania, or be a defense to any citation issued by the Borough or the Commonwealth of Pennsylvania pursuant to any other law or ordinance.



**SECTION 111-12: - FAILURE TO ENFORCE NOT A WAIVER.**

The failure of the Borough to enforce any provision of this Ordinance shall not constitute a waiver by the Borough of its rights of future enforcement hereunder.

**SECTION 111-13. REPEALER.**

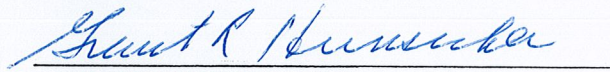
All ordinances, or parts of ordinances, of the Borough which shall be inconsistent with this Ordinance shall be, and the same expressly are, repealed.

**SECTION 111-14. EFFECTIVE DATE.**

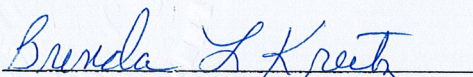
This Ordinance shall take effect and be in force from and after its enactment as permitted by law.

**ENACTED AND ORDAINED**, this 5th day of October, 2020.


**BOROUGH OF LEHIGHTON**

  
GRANT HUNSICKER, President

ATTEST:

  
BRENDA KREITZ, Secretary

Examined and approved this 5th day of October 2020

  
CLARK RITTER Mayor