

**BOROUGH OF MONTGOMERY
LYCOMING COUNTY, PENNSYLVANIA**

ORDINANCE NO.: 2019-1

**AN ORDINANCE OF THE BOROUGH OF MONTGOMERY,
LYCOMING COUNTY, PENNSYLVANIA, PROHIBITING
FIREWORK IGNITION; AMENDING CHAPTER 31,
FIREWORKS, OF THE CODE OF ORDINANCES OF
MONTGOMERY BOROUGH, SECTION F-3101.2 UPDATING
THE PROHIBITION AND REGULATION OF FIREWORKS**

WHEREAS, the Pennsylvania Borough Code provides to the Borough Council of Montgomery Borough (the "Borough Council") the ability to make regulations as may be necessary for the health, safety, and general welfare of the Borough and its residents;

WHEREAS, the Borough finds that it is in the best interest of residents to amend its Ordinance pertaining to fireworks and inflammable articles;

WHEREAS, the Pennsylvania General Assembly recently passed Act 43 of 2017 (formerly SB 542), which the Governor approved on October 30, 2017;

WHEREAS, the Act inter alia contains certain provisions regarding regulation of fireworks, including sales of consumer fireworks, as defined by Act 43 of 2017;

WHEREAS, the Borough's prior Ordinance concerning fireworks declared it unlawful for any person to offer for sale, sell at retail or use or explode any fireworks in the Borough except as permitted by the State Fireworks' Law, as amended; and

WHEREAS, in light of Act 43 of 2017, the Borough desires to update its fireworks ordinances accordingly.

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough Montgomery, Lycoming County, Pennsylvania, as follows:

Section 1. Chapter 31, "Fireworks," Section F-3101.2 of the Code of Ordinances of the Borough of Montgomery shall be and hereby is amended to add a new Section F-3101.2, "Prohibition and Regulation," as follows:

F-3101.2 Prohibition and Regulation

- (a) The manufacture of fireworks is prohibited everywhere in the Borough.

(b) As a result of the foregoing recitals, which are incorporated herein, it shall be unlawful for any person to ignite or discharge consumer fireworks, as defined under 72 P.S. §9401, et seq., on the streets of the Borough of Montgomery, the sidewalks of the Borough of Montgomery, or any property owned by the Borough of Montgomery, including, without limitation, all of the Borough's parks and public buildings.

(c) It shall be unlawful to ignite, discharge, light, fly, release into the atmosphere, or otherwise use an aerial luminaire in the Borough corporate limits. As used herein, "aerial luminaire" shall mean, and refer to, an airborne paper lantern containing a fuel source that heats air from inside the lantern causing the lantern to rise into the air and remain airborne until the heat source is not sufficient to cause it to remain airborne at which point it descends until it come to rest in a tree, in vegetation, or on the ground or it comes in contact with other objects which stop its descent. For purposes of further identification, aerial luminaires are commonly sold by vendors as a "sky lantern," "Chinese sky lantern," "Hawaii sky lantern," "Kongming lantern," "flying lanterns," "floating lanterns," "sky candles;" and/or "wish candles."

(d) No fireworks of any variety – whether consumer fireworks, display fireworks, combustible substance, or other explosive product – shall be ignited within the Borough corporate limits between the hours of 11:00 P.M. (Eastern Standard Time) and 8:00 A.M. (Eastern Standard Time).

(e) The storage of consumer fireworks and display fireworks, as defined under 72 P.S. §9401, et seq., shall be prohibited everywhere in the Borough corporate limits except for temporary storage in advance of, during and in connection with supervised public display of fireworks; and, for that purpose, a permit shall be obtained from the Council; that permit shall clearly specify the place where the fireworks shall be stored, shall limit and state the period of time in advance of the supervised public display when the fireworks shall be so stored, and shall require and provide for the supervision over the removal of any unexploded fireworks remaining after the supervised public display. In all other respects, supervised public displays of fireworks shall be governed by the State Fireworks Law (72 P.S. §§9401-9416, as amended) and by regulations adopted by Council under that Law.

(f) It shall be unlawful for any person or entity to offer for sale, expose for sale, or sell at retail any consumer fireworks or display fireworks in the Borough corporate limits, unless such person or entity has received a permit from Borough Council for such sale. Application for permits shall be made in writing to the Borough Secretary at least sixty (60) days in advance of the date the person or entity desires to sell such consumer fireworks or display fireworks, setting forth the proposed location of the sale location, the name and address of the operator for such location. All applicants shall pay to the Borough Treasurer the sum of fifty dollars (\$50.00) before issuance of a permit.

Section 2. The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the Borough of Montgomery that this ordinance would have been adopted had such unconstitutional, illegal, or invalid part not been included.

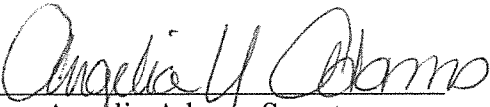
Section 3. All other Ordinances currently in force in the Borough that are inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency.

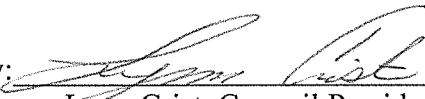
Section 4. This Ordinance shall become effective on the earlier of (a) the date when the mayor approves it; (b) the date when council enacts it over the mayor's veto; or (c) if the mayor does not return it at or before the next scheduled meeting of council occurring at least ten (10) days after its approval by council, the date of that next scheduled meeting of council.

DULY ENACTED AND ORDAINED this 19th day, of February, 2019, by Borough Council of the Borough of Montgomery, Lycoming County, Pennsylvania, in lawful session duly assembled.

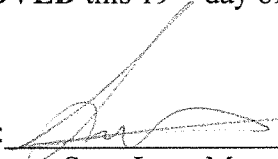
ATTEST:

BOROUGH OF MONTGOMERY

By: 
Angelia Adams, Secretary

By: 
Eynn Crist, Council President

APPROVED this 19th day of February, 2019.

By: 
Sean Leet, Mayor