

BOROUGH OF TOPTON
BERKS COUNTY, PENNSYLVANIA

ORDINANCE No. 7-2021

AN ORDINANCE OF THE BOROUGH OF TOPTON, BERKS COUNTY, PENNSYLVANIA, AMENDING BOROUGH ORDINANCE No. 3-2019 REGULATING THE USE AND DISPLAY OF FIREWORKS WITHIN THE BOROUGH, TO AMEND SECTION 2 THEREOF, TITLED "USE OF CONSUMER FIREWORKS," SUBSECTION E TO PROHIBIT USE OF CONSUMER FIREWORKS WITHIN TWO HUNDRED FIFTY FEET (250') OF AN OCCUPIED STRUCTURE, AND KEEPING IN EFFECT ALL OTHER PROVISIONS OF ORDINANCE No. 3-2019 NOT SPECIFICALLY MODIFIED BY THIS SECTION

WHEREAS, the Borough of Topton, Berks County, Pennsylvania ("Borough") is a political subdivision of the Commonwealth of Pennsylvania, which is entitled to the rights, privileges and immunities conferred under The Borough Code (hereafter, Code), Act of February 1, 1996, P.L. (1965) 1656, §101, Reenacted May 17, 2012, P.L. 262, §1, codified April 18, 2014, P.L. 432, §1, 8 Pa. C.S.A. §101 et seq.;

WHEREAS, the Commonwealth of Pennsylvania, through 35 P.S. § 1271, *et seq.* authorizes the Borough to grant permits for supervised public displays of fireworks and adopt rules and regulations governing the sale, use, and display of fireworks in the Borough; and,

WHEREAS, Act 43 of 2017, amending the Tax Reform Code of 1971, 72 P.S. § 7101, *et seq.*, added Article XXIV to the Tax Reform Code, 72 P.S. §§ 2401-2416, amending the Fireworks Law, effective October 30, 2017; and,

WHEREAS, the passage of Act 43, and the changes to the Fireworks Law necessitated amendment to the Borough's existing ordinance regulating use and display of fireworks, leading to the adoption of Ordinance No. 3-2019 by Borough Council; and,

WHEREAS, pursuant to the above-cited authority, seeing a need for further regulation of the use of fireworks in the Borough due to real-world experience since the adoption of Act 43, and for the protection of the health, safety, and welfare of the community and the public, the Borough Council of the Borough of Topton amends Ordinance No. 3-2019, regulating the use and display of fireworks in the Borough;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Borough Council of the Borough of Topton, Berks County, Pennsylvania, and it is hereby enacted and ordained as follows:

SECTION 1. Amendment of Ordinance No. 3-2019. Section 2.E of Ordinance No. 3-2019 is hereby repealed and is amended to read as follows:

SECTION 2. Use of Consumer Fireworks. A person who is at least 18 years of age and meets the requirements of the Fireworks Act, as amended, and other applicable law, may purchase, possess, and use Consumer Fireworks, provided that a person may not intentionally ignite or discharge:

E. Consumer Fireworks within two hundred fifty feet (250') feet of an occupied structure.

SECTION 2. Full force and effect. The remainder of Ordinance No. 3-2019 not amended by this Ordinance shall remain in full force and effect.

SECTION 3. Repeal of Ordinances. Any ordinance or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance's provisions.

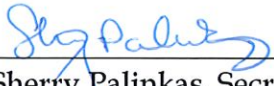
SECTION 4. Severability. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the within Ordinance. The Borough Council of the Borough of Topton, Berks County, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases or word that may be declared illegal, unconstitutional or invalid.

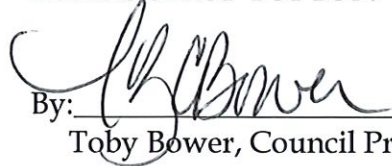
SECTION 5. Effective Date. This ordinance shall become effective on the earliest date permitted by applicable law.

DULY ENACTED AND ORDAINED by the Borough Council of the Borough of Topton this 11th day of October, 2021.

ATTEST:

BOROUGH OF TOPTON

By:  _____
Sherry Palinkas, Secretary

By:  _____
Toby Bower, Council President

APPROVED this 11th day of OCTOBER, 2021.

By:  _____
Thomas A. Biltcliff, III, Mayor