

ORDINANCE NO. 2021-3

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF COALDALE, SCHUYLKILL COUNTY, PENNSYLVANIA, REGULATING THE DISPLAY OF ANY FIREWORKS OF ANY KIND WITHIN THE LIMITS OF THE BOROUGH OF COALDALE AND PROVIDING PENALTIES FOR VIOLATIONS.

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

WHEREAS, under Section 1005 and 1006 of the Code, 8 Pa. C.S.A. Section 1005 and 1006, the corporate power of the Borough is vested in the council (hereinafter, Council); and

WHEREAS, under Section 3301.1(a) of the Code, 8 Pa. C.S.A. Section 3301.1(a), Council has the duty to enact ordinances which it deems beneficial to the Borough;

NOW THEREFORE, the Borough Council of the Borough of Coaldale hereby ordains as follows:

SECTION I- SCOPE

In order to protect life and property in the Borough of Coaldale, the Borough, as authorized by the Fireworks Law, 35 P.S. Section 1275.2, is promulgating rules on the issuance of permits and display of fireworks within the Borough.

SECTION II- DEFINITIONS

The following words and phrases, when used in this chapter, shall have the meanings given to them in this chapter unless the context clearly indicates otherwise:

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

CODE OFFICER Such official designated by the Borough Council to carry out duties under this Ordinance.

CONSUMER FIREWORKS

A. 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 un APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout this Commonwealth

B. The term does not 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 in Coaldale Borough.

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:

A. Salutes that contain more than two grains or 130 milligrams of explosive materials;

B. Aerial shells containing more than 60 grams of pyrotechnic compositions; and

C. 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.)

FIREWORKS LAW

Shall mean Title 35 P.S. ch 13A, Refs & Annos, PA St T 35 P.S. Ch 13A Fireworks Law, 35 P.S. Sections 1271 et. seq.

NFPA 1124

The National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or any subsequent edition.

OCCUPIED STRUCTURE

A structure, vehicle, or place adapted for overnight accommodation

or persons or for conducting business whether or not a person is actually present.

OUTDOOR STORAGE UNIT

A consumer fireworks building, trailer, semitrailer, metal shipping container or magazine meeting the specifications of NFPA 1124.

PERSON Shall include any natural person, firm, partnership, trust, association, corporation, limited liability company, company, or any other organization of any kind.

PUBLIC OFFICER Any Police Officer, Constable, or Code Enforcement Officer, sometimes herein referred to as a Public Officer, designated by the municipality to enforce the Borough Ordinances,, and also to the extent permitted by intra-jurisdictional Agreement(s) such other Police Officers duly authorized hereunder.

TEMPORARY STRUCTURE

A Structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of consumer fireworks and related items. The term includes temporary retail sales stands, tents, canopies, and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not licensed to sell consumer fireworks under Article XXIV of the Tax Reform Code.

SECTION III – PERMITS

A. Permissible purposes. As a prerequisite to possess and use display fireworks, a person must hold a permit from Coaldale Borough. The permit must be available at the display covered by the permit or available when used as authorized by the permit.

B. Permit Conditions.

- (1) Each display shall be handled by a competent operator; and
- (2) The fire department chief or other appropriate officer, as designated by the governing body of the municipality, must deem the character and location of each display, prior to being fired or discharged, not to be either hazardous to property or dangerous to any person; and
- (3) After permission is granted under this section, possession and use of display fireworks

for display shall be lawful for that purpose only.

(4) A permit shall not be transferrable.

(5) Any person, persons, firms or corporations, amusement parks, fair associations, or any other organizations or groups of individuals desiring to explode any fireworks, as defined in the above stated Act, in a public display must complete an application for a Fireworks Display Permit and submit the completed application to the Borough at least twenty (20) days in advance of the proposed display.

(6) The permit application will contain as a minimum the following:

(i) Name, address, telephone number and fax number (if applicable) of the applicant and, if the applicant is an organization, the name, address, telephone number and fax number (if applicable) of the contact person for the organization;

(ii) Name of the individual or organization that will be responsible for providing the fireworks and detonation;

(iii) Proposed site and date and time of the fireworks display;

(iv) Number and kinds of fireworks to be discharged;

(v) The manner and place of storage of such fireworks prior to display; and,

(vi) Site plan explaining all structures, structures occupied, overhead transmission lines, streets, parking areas, and areas where spectators for the display will be gathered. The site plan should also contain a symbol defining North and a sketch of the general area where the fireworks will be set off and the area they will be directed.

(7) Cost of the permit will be One Hundred Dollars (\$100.00) for each display held by the permittee, payable to the Borough prior to the issuance of the permit.

C. Age limitation. A display fireworks permit may not be issued to a person under 21 years of age.

D. Bond. Coaldale Borough shall require a bond deemed adequate by it from the permittee in a sum not less than \$50,000 naming the Borough as an additional insured and conditioned for the payment of all damages which may be caused to person or property by reason of the display and arising from an act of the permittee or an agent, an employee, or a subcontractor of the permittee.

(1) The permittee shall agree to hold harmless and indemnify the Borough, its officers, agents and/or employees from any liability arising from the display for which the permit is issued. This language shall appear on the permit as issued.

E. If because of unfavorable weather, the display for which the permit has been issued 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 an extension to Coaldale Borough.

(1) If the Borough believes that the extension request is justifiable, then the request shall be granted without the payment of an additional fee and without requiring a bond in addition to the original bond or insurance provided.

SECTION IV —CONSUMER FIREWORKS

A. Conditions . A person who is at least 18 years and meets the requirements of this section may purchase, possess and use consumer fireworks. A person under 18 years of age may intentionally ignite or discharge consumer fireworks only when under the direct supervision of a parent, guardian, or responsible adult acting in loco parentis.

(1) The Borough designates the area along Phillips Street and known as the Black Diamond Park near the Schuylkill Housing Authority units as a public permitted area for the ignition and/or discharge of fireworks within the Borough.

B. Prohibitions. A person may not intentionally ignite or discharge:

(1) Consumer fireworks on public or private property without the express permission of the property owner.

(2) Consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from a motor vehicle or building.

(3) Consumer fireworks or sparkling devices into or at a motor vehicle, building, or another person.

(4) Consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug.

(5) Consumer fireworks within 150 feet of an occupied structure.

(6) Consumer fireworks between the hours of 12:00 midnight and 8:00 A.M. between January 2 and December 31.

(7) Consumer fireworks between the hours of 12:30 A.M. and 8:00 A.M. on January 1.

(8) Consumer fireworks on a date that is not within seven calendar days of a recognized federal holiday.

SECTION V – VIOLATIONS AND PENALTIES

A. A person using consumer fireworks in violation of the provisions of this chapter commits a summary offense and, upon conviction, shall be punished by a fine not exceeding Six Hundred Dollars(\$600.00).

B. A person using display fireworks in violation of the provisions of this chapter commits a summary offense and, upon conviction, shall be punished by a fine of not more than \$2,000.

C. The improper storage, sale, or use of consumer or display fireworks may be prosecuted under state and/or federal law or regulations.

SECTION VI — REMOVAL, STORAGE AND DESTRUCTION

The Pennsylvania State Police, a Coaldale Borough Officer or Coaldale Borough Fire Department Chief may seize, remove or cause to be removed at the expense of the owner of all stocks of consumer fireworks or display fireworks or combustibles offered or exposed for sale, stored, or held in violation of this chapter. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.

SECTION VII— REPEALER

Any Ordinance or part thereof which is inconsistent herewith is hereby repealed to the extent of the inconsistency.

SECTION VIII--VALIDITY

Should any part of this Ordinance be found to be unconstitutional, illegal or invalid such parts shall not affect, impair or otherwise prevent the enforcement of the remainder of this Ordinance.

SECTION IX — EFFECTIVE DATE

This Ordinance shall be effective immediately upon its adoption.

DULY ORDAINED AND ENACTED this 13 day of July,
2021, by the Borough Council of the Borough of Coaldale, Schuylkill County, Pennsylvania, in
lawful session duly assembled.

BOROUGH OF COALDALE

BY:

Angela Krapp
President

ATTEST:

Suzanne Webb
Secretary

Examined and Approved this 13 day of July, 2021.

Scott H. Anhalt
Mayor

BOROUGH OF COALDALE
APPLICATION AND PERMIT FOR FIREWORKS DISPLAY

APPLICANT INFORMATION:

Name: _____
Address: _____
Phone No. _____ Fax No. _____
(If Applicant is an organization, a corporation or firm, also list the contact person's information)
Name: _____
Address: _____
Phone No. _____ Fax No. _____

FIREWORKS DISPLAY INFORMATION:

Name of individual or organization that will be responsible for providing the fireworks: _____

Name of the individual or organization that will be responsible for detonating the fireworks: _____

Proposed site of the fireworks display: _____

Date and time of fireworks display: _____
(date) (time)

Number and kinds of fireworks to be discharged: _____

The manner and place of storage of such fireworks prior to display: _____

APPLICANT MUST ATTACH A SITE PLAN TO THIS APPLICATION

The applicant hereby agrees to hold harmless and indemnify the Borough, its officers, agents and/or employees from any liability arising from the display for which the permit is issued.

Date: _____ Signature of Applicant: _____

This application has been reviewed and a site inspection has been performed by the Coaldale Fire Department by _____
on _____.

THIS APPLICATION IS : APPROVED: _____ DENIED: _____

Date: _____
Fire Commissioner or designee

This permit is : Approved _____ Denied _____

Date: _____
Coaldale Borough Secretary