

ORDINANCE NO. 2022 - 3

**AN ORDINANCE OF THE BOROUGH OF LEWISTOWN, MIFFLIN COUNTY,
PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE
BOROUGH OF LEWISTOWN, BY THE ADDITION OF CHAPTER 161,
FIREWORKS, AND CONTAINING SEVERABILITY, SAVINGS AND REPEALER
PROVISIONS.**

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED, AND IT IS
HEREBY ORDAINED AND ENACTED,** by the Borough Council of the Borough of
Lewistown, Mifflin County, Pennsylvania, as follows:

**SECTION 1: Amendment to the Code of Ordinances by the addition of Chapter 161,
Fireworks.** The Code of Ordinances of the Borough of Lewistown is hereby amended by the
addition of the following Chapter 161, Fireworks:

Chapter 161

FIREWORKS

§ 161-1. Adoption.

A. The Borough of Lewistown hereby adopts Act 43 of 2017 (72 P.S. § 9401 et seq.), and as amended, as its Fireworks Law within the jurisdiction of the Borough of Lewistown for regulating the use of consumer fireworks.

B. The Borough of Lewistown adopts the following definition from Act 43 of 2017: "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.

C. In the event that there is a conflict between this ordinance and Act 43 of 2017, it is the intention of the Borough Council of the Borough of Lewistown that the provisions of this ordinance shall be applicable.

§ 161-2. Ignition or discharge of fireworks prohibited.

A. Whereas the Borough Council of the Borough of Lewistown finds that the use of fireworks within the Borough constitute a threat to health and safety that requires regulation, it is hereby ordained and enacted that no person shall be permitted to ignite or discharge consumer fireworks or allow the ignition or discharge of consumer fireworks from any real property in the Borough of Lewistown, except as set forth in Section 161-3.

B. A person may not, at any time, intentionally ignite or discharge:

- (1) Consumer fireworks on public or private property without the express written permission of the owner or tenant.
- (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 or building or at 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.

§ 161-3. Permitted use.

Only during the first week of July of each year (from July 1 up to and including July 7 of each year) consumer fireworks may be ignited or discharged between the hours of 7:00 p.m. and 10:00 p.m., on private property, and under the supervision of an adult. Provided, however that no person shall be permitted to ignite or discharge consumer fireworks on the streets of the Borough of Lewistown, the sidewalks of the Borough of Lewistown or any property owned by the Borough of Lewistown, including, without limitation, all of the Borough's parks and public buildings.

§ 161-4. Removal, storage and destruction.

Pursuant to Section 2415 of Act 43 (72 P.S. § 9415) the Borough of Lewistown police shall take, remove or cause to be removed and destroyed at the expense of the owner all stock of consumer fireworks or display fireworks or combustibles in the owner's possession when an owner is in violation of this chapter. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of those fireworks.

§ 161-5. Penalties.

Any person who fails to comply with the provisions of this chapter commits a summary offense, and upon conviction shall pay a fine to the Borough of Lewistown not to exceed \$1,000 per violation and may be imprisoned to the extent allowed by law for the punishment of a summary offense.

SECTION 2: Severability. If any sentence, clause or section or any part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted if such unconstitutional, illegal and invalid sentence, clause, section or part thereof had not been included therein.

SECTION 3: Repealer and Savings. Any Ordinance or part of any Ordinance, or Resolution or part of any Resolution or Motion or part of any Motion conflicting with the provisions of this Ordinance is hereby repealed insofar as the same affects this Ordinance or is inconsistent with this Ordinance; otherwise, those provisions of Ordinances, Resolutions or Motions not hereby repealed or amended and not conflicting or not inconsistent herewith are confirmed and incorporated herein by reference as if fully set forth.

SECTION 4: Location, Renumbering and Relettering. The location and numerical or alphabetical designation of this Ordinance and the sections and subsections included therein shall be delegated to the discretion of then appointed Codifier of the Code of the Borough of Lewistown (presently the Codifier is "General Code") which may renumber and/or reletter this Ordinance and the sections and subsections therein as are necessary to accommodate this Ordinance in the Code of the Borough of Lewistown. The Codifier shall make no substantive changes to this Ordinance. Any such rearranging, renumbering, relettering and editing shall not affect the validity of this Ordinance or the provisions of the Code affected thereby.

SECTION 5: Effective Date. This Ordinance shall take effect immediately.

ORDAINED AND ENACTED by the Borough Council of the Borough of Lewistown, Mifflin County, Pennsylvania, in public session assembled, this 22nd day of June, 2022.

BOROUGH OF LEWISTOWN
Mifflin County, Pennsylvania

Borough Secretary
(SEAL)

By _____
(Vice) President of
Borough Council

This Ordinance was read and is hereby approved by me this ____ day of _____, 2022.

Mayor
(SEAL)