

BOROUGH OF BESSEMER, PENNSYLVANIA
ORDINANCE NO. 1 of 2019
AN ORDINANCE REGULATING THE DISPLAY OF ANY FIREWORKS OF ANY KIND
WITHIN THE LIMITS OF THE BOROUGH OF BESSEMER

WHEREAS, the Borough of Bessemer (hereafter, 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.; and

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

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

NOW, THEREFORE, it is hereby ordained and enacted by the borough council of Bessemer, Lawrence County, Pennsylvania, that:

SECTION 1. SCOPE.

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

SECTION 2. DEFINITIONS.

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

“CONSUMER FIREWORKS”– Shall mean the terms “Consumer-grade Fireworks” as defined in 35 P.S. § 1271 et seq., as may be amended; “Class C” or “consumer-grade” fireworks that include firecrackers, Roman Candles, bottle rockets, and similar fireworks that contain a maximum of 50 milligrams of explosive material. Additionally, per the Fireworks Law, 35 P.S. § 1275.2, “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 throughout this Commonwealth.”

“DISPLAY FIREWORKS” – Shall mean the terms “Display-grade Fireworks” as defined in 35 P.S. § 1271 et seq., as may be amended; which are classified as including salutes that contain more than two grains or 130 milligrams of explosive materials, and professional- grade aerial shells containing more than 60 grams of pyrotechnic compositions.

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. 1271 et. seq.

FIRE CHIEF – The Chief of the Bessemer Fire Department or the Chief of the any company which has entered into agreement with the Borough of Bessemer for protection.

PUBLIC OFFICER – any Police Officer, Constable or Code Enforcement Officer, sometimes herein referred to as 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 thereunder.

SECTION 3. DISCHARGE OF CONSUMER & DISPLAY FIREWORKS.

(a) The possession and use of fireworks for display purposes shall be conducted so as to be reasonably safe to persons and property. As such, the following restrictions will be enforced.

Consumer-grade and Display-grade Fireworks:

- (1) cannot be ignited or discharged on a public or private property without express permission of the property owner;
- (2) cannot be discharged from or within a motor vehicle or building;
- (3) cannot be discharged toward a motor vehicle or building;
- (4) cannot be discharged within 150 feet of any occupied or unoccupied structure;
- (5) cannot be discharged while the person is under the influence of alcohol, a controlled substance, or another drug;
- (6) cannot be discharged by a person younger than eighteen (18) years of age without the direct supervision of an adult twenty-one (21) years of age and older.
- (7) Further to the extent allowed by law the Code Officer, Fire Chief, Public Officer and Borough shall have no liability for harm or injury and they shall indemnify and hold harmless the Code Officer, Fire Chief and Borough from all claims.

(b) No Consumer or Display Fireworks may be discharged after 11 PM or before 7 AM at any time.

SECTION 4. DISPOSAL OF FIREWORKS.

Any fireworks that remain unfired, and all debris from any type of fireworks that are spent after the display is concluded, shall be immediately disposed of in a way safe for the type of fireworks.

SECTION 5. SEIZURE OF FIREWORKS.

The Public Officer may seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored or held in violation of state law as authorized under 35 P.S. § 1278.

SECTION 6. AUTHORITY FOR ISSUANCE OF VIOLATION.

Upon finding a violation, any Public Officer, as previously defined herein, may proceed under 35 P.S. §1277, as may be amended.

SECTION 7. ENFORCEMENT.

The provisions of this Ordinance shall be enforced by the Public Officers assigned by the Borough of Bessemer, and as such phrase is otherwise defined above.

SECTION 8. SEPARATE OFFENSE.

Each call for a violation continued or permitted to continue may constitute a separate offense for which a separate fine may be imposed.

SECTION 9. FINES AND PENALTIES.

- (a) Any person who violates this Ordinance may be issued a citation for each offense as noted above, however, nothing herein limits the Public Officer(s) ability to act under 35 P.S. § 1277, Pa Crimes Code or other law having application.
- (b) Any violation of the provisions of this Ordinance may be cause for a citation to be issued to the violator in conformance with law, with a fine of two hundred and fifty (\$250.00) dollars; also,

enforcement may include but not limited to 35 P.S. § 1277, as may be amended, as well as, no limitation is intended under the Crimes Code or other law having application.

- (c) Nothing herein is intended to impede or restrict the prosecution of any criminal offense for any person continuing to violate the terms of this Ordinance or any order to stop or desist from any illegal conduct or from being charged with any separate offense under the criminal codes or otherwise.

SECTION 10. CONFLICTING ORDINANCES.

All relevant ordinances, regulations, and policies of the Borough of Bessemer, Pennsylvania not amended shall remain in full force and effect. Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be subordinate to this Ordinance to the extent of such conflict, and the language contained in the Ordinance shall control. Nothing herein is intended to repeal the Bessemer Borough Zoning Ordinance. Further nothing herein is intended on limiting the Public Officers authority under Title. 35 P.S., Ch. 13A, Refs & Annos, PA ST T. 35 P.S., Ch. 13A Fireworks Law. 35 P.S. 1271 et. seq.

SECTION 11. SEVERABILITY.

If any section, clause, provision or portion of this ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this ordinance so long as it remains legally enforceable minus the invalid portion. The Borough reserves the right to amend this ordinance or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes & intent of this ordinance, & the effective administration thereof.

SECTION 12. EFFECTIVE DATE.

This Ordinance shall be effective at the earliest time permitted by law after adoption.

SECTION 13.

This Ordinance is enacted by the Council of the Borough of Bessemer under the Borough Code and any other applicable law arising under the laws of the State of Pennsylvania, including but not limited to 35 P.S. § 1275.2.

ENACTED AND ORDAINED by the Borough Council of the Borough of Bessemer on this 9th day of September, 2019.

ATTEST:

BESSEMER BOROUGH COUNCIL

Janet M. Novad, Secretary

Nathan R. Leslie, President of Council

Cody Jackson, Vice-President of Council

Raymond Penwell, Mayor