

INTRODUCED: Sept. 11, 2023

BY: Pat Foley

ENACTED: Nov. 13, 2023

ORDINANCE NO.: 336

BOROUGH OF SOUTH CONNELLSVILLE
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NO. 336

AN ORDINANCE OF THE BOROUGH OF SOUTH CONNELLSVILLE, FAYETTE COUNTY, PENNSYLVANIA, TO ESTABLISH REGULATIONS, PERMITTING REQUIREMENTS, AND DATE AND TIME LIMITATIONS FOR THE USE OF FIREWORKS WITHIN THE BOROUGH; REPEALING ORDINANCE 38 AND ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Borough Council of South Connellsville has determined that there is a substantial risk of public damage to life, public welfare, and property because of public and private nuisances caused by the improper or inopportune use of fireworks; and

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(17), affords the borough of South Connellsville with the power “[t]o provide for fireworks and inflammable articles as follows: (i) To regulate and prohibit, by ordinance, the manufacture of fireworks or inflammable or dangerous articles; (ii) To grant permits for supervised public displays of fireworks and adopt rules and regulations governing the displays; (iii) To adopt, by ordinance, rules and regulations not inconsistent with State regulations relating to the storage of inflammable articles; (iv) To impose, by ordinance, other safeguards concerning inflammable articles as may be necessary;” and

WHEREAS, 3 Pa.C.S.A. § 1106 authorizes the Borough of South Connellsville to “enact conditions, prohibitions and limitations on the use and sale of consumer fireworks” and to “require a permit for the use of consumer fireworks;” and

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(4), affords the Borough of South Connellsville with the power “to prohibit and remove any nuisance;” and

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(5), affords the Borough of South Connellsville with the power “[t]o make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the borough;” and

WHEREAS, the Borough Council of the Borough of South Connellsville previously adopted Ordinance No. 38 regulating the use of fireworks within the Borough of South Connellsville; and

WHEREAS, the Borough Council of the Borough of South Connellsville desires to update its fireworks regulations to limit the number of days and times during which fireworks may be used within the Borough of South Connellsville.

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of South Connellsville, Fayette County, Commonwealth of Pennsylvania, and it is hereby enacted and ordained as follows:

Section 1. Intent and Purpose. The purpose of this chapter is to protect the health, safety and welfare of persons and property in the Borough of South Connellsville regulating the use of fireworks. It is specifically prohibited to use display fireworks (hereinafter defined) without first obtaining a permit through the Borough of South Connellsville.

Section 2. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated:

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

CONSUMER FIREWORKS — Any combustible or explosive composite or any substance or combination of substances intending to produce visible and/or audible effects by combustion and which is suitable for use by the public, that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR, as amended, or any successor regulation, and which complies with the provisions for "consumer fireworks," as defined by the American Pyrotechnics Association Standard 87-1, as amended. The term does not include devices such as "ground handheld sparkling devices," "novelties" and "toy caps."

DISPLAY — The ignition of fireworks as defined herein.

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: (1) salutes that contain more than two grains or 130 milligrams of explosive materials; (2) aerial shells containing more than 60 grams of pyrotechnic compositions; and (3) 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 — Both consumer and display fireworks, as defined herein.

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

OCCUPIED STRUCTURE — A structure, vehicle or place adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.

Section 3. Restrictions on Fireworks and Use of Fireworks.

A. The use of fireworks, whether consumer fireworks, display fireworks, or other types of fireworks, is specifically prohibited at any location within one hundred fifty (150) feet of any occupied structure, structure, property line, vehicle or roadway.

B. The use of fireworks, whether consumer fireworks, display fireworks or other types of fireworks, shall be prohibited within any occupied structure, closed structure, building or tent.

C. The use of fireworks, whether consumer fireworks, display fireworks, or other types of fireworks, is specifically prohibited on any property or right of way owned or held by the Borough without the specific, express authorization of Borough Council.

D. A person may not intentionally use consumer fireworks (i) within, directed at or directed from a vehicle or building or (ii) directed at another person.

D. The use of fireworks, whether consumer fireworks, display fireworks, or other types of fireworks, shall only be in accordance with state, federal, and local laws.

E. The use of fireworks, whether consumer fireworks, display fireworks, or other types of fireworks, shall only be used in accordance with the following date and time limitations:

<u>Dates</u>	<u>Start Time</u>	<u>End Time</u>
January 1 through and including January 7	10:00 a.m.	10:30 p.m.
January 8 through and including June 15*	10:00 a.m.	10:00 p.m.
June 16 through and including July 1	10:00 a.m.	10:00 p.m.
July 2 through and including July 4**	10:00 a.m.	1:00 a.m.
July 15 through and including December 23***	10:00 a.m.	10:00 p.m.
December 24 through and including December 30	10:00 a.m.	10:30 p.m.
December 31	10:00 a.m.	1:00 a.m.

* On Memorial Day, including the immediately preceding Saturday and Sunday, fireworks may be used only from 10:00 a.m. to 1:00 a.m.

** When July 4 falls on a Tuesday, Wednesday or Thursday, consumer fireworks may be used until 1:00 a.m. on the immediately preceding and following Friday and Saturday.

*** On Labor Day, including the immediately preceding Saturday and Sunday, fireworks may be used only from 10:00 a.m. to 1:00 a.m.

Section 4. Display Fireworks.

A. It shall be unlawful for any person, firms or corporations, associations, organizations or individuals to use and/or hold public display of display fireworks in the Borough of South Connellsville unless a permit is acquired from the Borough, and so long as said permit is in compliance with all applicable local, state and federal laws and regulations relating to said proposed fireworks display.

B. Every fireworks display shall be handled by a licensed/certified pyrotechnician. Said display must be conducted in a manner that will not be hazardous to property or endanger persons. The permit officer or his designee shall inspect the site where the event will occur and shall be responsible for issuing the permit.

C. Permit process. An application for a permit shall be made in writing to the Borough at least 30 days in advance of the proposed use and display and shall set forth the date, time and location of the use and display, the character and duration thereof, the name and address of the professional pyrotechnician, the name and address of the site owner, and a copy of the permit required by the International Fire Code. The application shall include copies of any and all local, state or federal permits or licenses for the use and display of fireworks. All applicants shall pay a permit fee as adopted by the Borough, from time to time, by resolution, and shall further provide proof of liability insurance. The Borough Permit Officer or his designee are the only individuals authorized to issue such permits and have the authority to attach reasonable conditions to the permit, if deemed necessary and approved by the Borough.

D. Permits are not transferable and will not be issued to anyone under 18 years of age.

E. Liability insurance and bond. The liability insurance required from the permittee shall be no less than \$2,000,000 and shall name the Borough of South Connellsville as an additional insured. A bond deemed adequate by the Borough of South Connellsville required from the permittee shall be in a sum not less than \$50,000 and conditioned for the payment of all damages which may be caused to a 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.

F. Continuance. If the fireworks display cannot occur on the date it is permitted, the person to whom it is issued may, the following business day, apply to the Borough of South

Connellsville for a continuance of no more than seven days after the original day designated. Said continuance shall be granted without an additional permit fee being paid so long as the liability insurance continues to that new date, so long as it is the same fireworks display as applied for originally.

Section 5. Public Safety. In the event of any violation of this Ordinance or conditions or terms of the permit, or in the event of an unsafe condition before or during the fireworks display, all appropriate law enforcement and Borough representatives are authorized to stop said display in the interest of public health, safety and welfare.

Section 6. Violations and Penalties.

A. Any person who shall violate any of the provisions of this ordinance shall, upon conviction in a summary proceeding brought in the name of the Borough of South Connellsville, before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not less than \$300.00 and not more than \$1,000.00, plus the costs of prosecution, and in default of payment, to imprisonment for a term of not to exceed ninety (90) days, provided that each day's violation of any of the provisions of this ordinance shall constitute a separate offense.

B. No penalty herein shall prevent the Borough of South Connellsville from enforcing this ordinance by equitable, injunctive, and other remedies.

Section 7. Municipal Exemption. Any fireworks display approved, arranged, sponsored, and paid for by the Borough of South Connellsville, by the specific, express approval of the Borough Council, shall be exempt from the requirements of this Ordinance, but shall not be exempt from the requirements of applicable law.

Section 8. Severability. It is herein declared that the provisions of this Ordinance are severable, and if any provisions, portions, or sections of this Ordinance are declared to be illegal, invalid, or unconstitutional, the decisions of any Court, which makes declarations, shall not impair or affect any of the remaining portions of this Ordinance.

Section 9. Repealer. Ordinance 38 and any other ordinance or part of any ordinance that conflicts with the provisions of this ordinance is hereby repealed to the extent of any such conflict on the effective date of this ordinance.

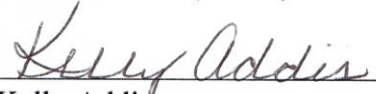
Section 10. Effective Date. This Ordinance shall become effective immediately.

This Ordinance is duly ORDAINED AND ENACTED by a majority of the members of the Borough Council of the Borough of South Connellsville at a duly advertised public meeting held on the 13 day of November, 2023.

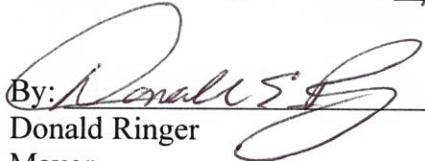
BOROUGH OF SOUTH CONNELLSVILLE

By: 
George Jay
President of Council

ATTEST: (SEAL)


Kelly Addis
Borough Secretary

Examined and Approved this 13 day of November, 2023.

By: 
Donald Ringer
Mayor