

**BOROUGH OF DURYEA
ORDINANCE NO. 2011-6**

**ORDINANCE OF THE BOROUGH OF DURYEA, LUZERNE COUNTY,
PENNSYLVANIA, REGULATING THE USE AND DISPLAY OF FIREWORKS
WITHIN THE BOROUGH OF DURYEA; AND ESTABLISHING PENALTIES
FOR VIOLATION OF THIS ORDINANCE.**

WHEREAS, the Council of the Borough of Duryea hereby declares that the purpose of within Ordinance is to regulate the use and display of consumer and display fireworks and to protect the health, safety and welfare of the citizens of the Borough of Duryea; and

WHEREAS, the Council of the Borough of Duryea finds that it is in the best interests of the general health, safety and welfare of the residents of the Borough of Duryea that reasonable regulations be established to govern the display of fireworks within the Borough of Duryea and to provide for provisions for enforcement of those regulations.

NOW THEREFORE, be it ordained and enacted as follows:

I. PURPOSE:

The purpose of this Ordinance is to regulate fireworks displays in order to preserve and protect the health, safety and general welfare of the citizens of the Borough of Duryea, and to protect the rights of citizens to the quiet enjoyment of their property.

II. DEFINITIONS:

As used in this article, the following terms shall have the meanings indicated:

A. Borough: the Borough of Duryea, including its residents and all land within its territorial boundaries.

B. Consumer Fireworks: The term "consumer fireworks" shall mean and include combustible or explosive composition or any substances intended 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 (relating to commercial practices) or any successor regulation and which complies with the provisions for "consumer fireworks" as defined in the American Pyrotechnics Association (APA) Standard (87-1), or any successor standard. The term does not include such devices as "ground and handheld sparkling devices," "novelties" and "toy caps" in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout this Borough.

C. **Display Fireworks.** The term "display fireworks" shall be defined as provided in 27 CFR Section 555.11 (relating to meaning of terms).

D. **Municipality.** As used herein, refers to any borough, county and/or related authority.

E. **Person:** Any individual, partnership, corporation, association or LLC or similar entity.

III. PERMIT REQUIRED:

A. Any person seeking to display consumer or display fireworks within the territorial limits of the Borough of Duryea must acquire a permit from the Borough and complete an application as provided by the Borough.

B. The applicant shall pay an application fee to the Borough established by the Council of the Borough of Duryea by resolution, which fee must be paid at the time application is made to the Borough.

C. The applicant shall submit to a criminal background check and pay a non-refundable Fifty (\$50.00) Dollar fee to the Duryea Police Department prior to approval of the Permit.

D. No person shall display consumer or display fireworks within the limits of the Borough without first obtaining a permit.

E. The permit shall be issued by the Mayor, or in the Mayor's absence the Chief of Police.

F. Any permit granted hereunder shall not be transferable.

G. The permit shall be valid for the day of the event only, but may be extended at the discretion of the Mayor, or issuing officer, as a result of inclement weather or other extenuating circumstances.

H. No permit shall be issued to any person under the age of 18 years.

IV. PROHIBITED LOCATIONS:

A. The display of consumer and/or display fireworks shall be only at the location provided for in the approved permit.

B. Firework displays are prohibited in all residential zones in the Borough of Duryea, or within Two Hundred Fifty (250') feet of any residential dwelling.

V. RULES AND REGULATIONS:

A. Any person applying for a permit to display fireworks within the Borough of Duryea shall have a minimum of five years' experience in displaying and/or supervising consumer fireworks or display fireworks.

B. Any person wishing to display fireworks within the Borough of Duryea shall be properly licensed by the state or federal government, if so required.

C. Any person displaying fireworks shall have on site during the entire length of the display an ambulance staffed by sufficient personnel and fire equipment staffed by sufficient personnel as determined by the Mayor.

D. Any person wishing to display fireworks within the Borough of Duryea shall provide the Borough with a liability insurance policy in the aggregate sum of at least \$5,000,000 and proof of workers' compensation coverage.

VI. INSPECTION:

A. Prior to the issuance of a permit, the Chief of the volunteer fire company and/or his designee shall inspect the area and render an opinion as to whether the display would present a hazard to property and/or persons. The Chief shall promptly notify the Mayor whether his inspection results in an approval or denial of the permit.

B. The Chief or his designee may impose reasonable conditions upon the display of fireworks and determine whether those conditions have been implemented prior to issuing a permit.

C. If the Fire Chief requires certain accommodations or changes to approve the permit, then the Mayor shall only approve said permit upon the person displaying said fireworks making any and all changes or recommendations as recommended by the Chief.

VII. FEE FOR PERMIT:

A. The fee for the permit shall be \$500 per display event, payable to the Borough of Duryea.

B. Provided herein that, if the person wishing to make the display is a municipality and the municipality displays fireworks on a regular basis at the same location, then that municipality shall pay a one-time permit fee per year for all displays occurring at that one location.

VIII. TRANSFERABILITY:

The permit granted hereunder shall not be transferable.

IX. REQUIREMENTS TO COMPLY WITH STATE and FEDERAL LAW:

The person wishing to conduct the display shall comply with all federal and state laws.

X. PENALTIES:

A. Any person who violates, or permits a violation of this article, upon being convicted before a Magisterial District Justice, shall pay a fine not exceeding \$600, and any costs incurred by the Borough of Duryea, and in default of payment of the fine and costs, shall be subject to imprisonment in for a period not exceeding 30 days. Each day of the violation shall be considered a separate violation and offense.

B. Each day of the violation shall be considered a separate violation and offense.

XI. ENFORCEMENT:

The Duryea Borough Police Department shall have full authority to enforce this ordinance, and impose such fines and other penalties as necessary and appropriate.

XII. SEVERABILITY:

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision of this Ordinance shall be determined to be illegal or invalid by any court or competent jurisdiction, such decision shall not impair or affect the remaining terms, sections and clauses of this Ordinance.

XIII. EFFECTIVE DATE:

This Ordinance shall take effective on the date of enactment.

DULY ENACTED AND ORDAINED into law this 9th day of August, 2011.

**BOROUGH OF DURYEA
LUZERNE COUNTY, COMMONWEALTH OF PENNSYLVANIA**

FIREWORKS DISPLAY PERMIT APPLICATION

Application No.: _____ Date: _____

1. APPLICANT:

Name: _____ SSN: ____-____-____ DOB: ____/____/____

Phone No.: _____ Emergency Contact No.: _____

Address: _____

2. LOCATION:

Address of the location of the Fireworks Display: _____

3. EVENT DATE:

Date of Event: ____/____/____ Time: _____

Rain Date: ____/____/____ Time: _____

4. PROPERTY OWNER:

Name: _____ Phone No.: _____

Address: _____

5. REQUIREMENTS:

* Failure to provide all information requested herein will result in the denial of a permit for a material collection containers.

* Completion of a criminal background check by the Duryea Police Department is required.

* The payment of the permit application fee and criminal background check fee MUST be paid at the time application is made to the Borough. Failure to submit the required application fee will result in the denial this application.

* Prior approval of the Fire Chief is required prior to approval of the issuance of a Permit

* The Fireworks Display Permit is valid for only for the date of the display, but may be extended at the discretion of the Mayor, or issuing officer, as a result of inclement weather or other extenuating circumstances.

6. VERIFICATION:

I do hereby verify that the information provided herein is accurate and current to the best of my knowledge, information and belief.

I acknowledge that in the event that any information provided herein shall be inaccurate, incorrect or false, the Borough of Duryea may revoke the permit applied for herein.

Dated: _____
_____ Applicant.

Approved: _____ Permit No.: _____

Denied: _____

Reason: _____

Mayor.

FIRE CHIEF'S APPROVAL

I, _____, Fire Chief of the _____
Hose Company, do hereby verify that I have inspected the grounds located at
_____, Duryea Borough,
Luzerne County, Pennsylvania, with regards to the application to conduct a
fireworks display at said location on ____/____/_____.

It is my opinion that said display:

_____ would present a hazard to property and persons, and the permit
should be DENIED.

_____ would NOT present a hazard to property and persons, and the
permit should be APPROVED unconditionally.

_____ would NOT present a hazard to property and persons, and the
permit should be APPROVED upon the following conditions:

1. _____

2. _____

3. _____

4. _____

Dated: _____