BOROUGH OF OAKMONT
ORDINANCE NO. O5 of 2024

AN ORDINANCE OF THE BOROUGH OF OAKMONT, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, TO AMEND CHAPTER 106, FIREWORKS AS TO REGULATE THE USE OF FIREWORKS IN ACCORDANCE WITH PENNSYLVANIA LAW

WHEREAS, the Borough of Oakmont is authorized by the Borough Code at Section 1202 to regulate fireworks and inflammable articles; and

WHEREAS, the Pennsylvania Fireworks Law, 3 Pa.C.S. § 1101 *et seq.*, allows for the Borough to adopt reasonable rules and regulations for the use and sale of consumer and display fireworks within the Borough; and

WHEREAS, Oakmont Borough has determined that such rules will facilitate the safe and festive execution of the same;

BE IT ORDAINED AND ENACTED, by the Council of Oakmont Borough, Allegheny County, that the following amendments are adopted.

I. Chapter 106, Fireworks, shall be repealed in its entirety and replaced with the following:

§ 106-1 Definitions.

CONSUMER FIREWORKS

(1) Any combustible or explosive composition or any substance or combination of 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.

(2) The term does not include devices as "ground and hand-held 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.

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 40 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).

§ 106-2 Restrictions and Regulations for Display Fireworks.

1. Permit Required. A permit shall be obtained from the Borough for the display or discharge of display fireworks in compliance with the provisions of the Fireworks Law, 3 Pa.C.S. § 1102.

2. Permit Applications. Application for permits shall be made in writing at least 15 days in advance of the date of the display. Application for said permit shall be made pursuant to the procedure provided in the International Fire Prevention Code. The possession, use and distribution of fireworks for such display shall be lawful under the terms and conditions approved with the permit and for that purpose only. A permit granted hereunder shall not be transferable. Permit extensions may be granted if the permittee shows that the original display date was canceled due to unfavorable weather or other circumstances beyond the control of the permittee. Permit applications shall be administered by the officer of the Borough charged with enforcement of the International Fire Code or such other officer of the Borough who may be designated to perform such administration.

a) A nonrefundable permit application fee of $100.00 shall accompany the application, which fee may be adjusted from time to time by Resolution of Borough Council.

b) Any person aggrieved by the grant or denial of a permit may appeal and request a Local Agency Law hearing by submitting such request to the Oakmont Borough Manager within ten (10) days of the date of the action being appealed from. Such request for a hearing must be accompanied by a nonrefundable appeal fee in the amount of $50.00 and must state the grounds for the appeal. The appellant shall also be responsible for the cost of advertising a Local Agency Law hearing and any court reporter costs incurred by the Borough in connection therewith. Borough Council may serve as the hearing tribunal and render a decision or may appoint a hearing officer or other hearing body to hold the hearing and render a decision.

c) No application shall be accepted from, nor shall a permit be issued to, an applicant under 21 years of age.

d) Permit applications may be denied if the applicant fails to show that the applicable requirements set forth in this Chapter. Permit denials shall state the reasons for denial and the deadline for appeal.

3. General; Responsibilities of Permittee for Display Fireworks. It shall be a violation of this Part for any person to conduct a public or private display of display fireworks within the Borough except in accordance with a permit issued upon application as provided in this Chapter.

a) Every such display shall be handled by a competent operator and shall be of such a character and so located, discharged or fired as, in the opinion of the officer of the Borough charged with enforcement of the International Fire Code, or such other officer of the Borough as may be designated from time to time, in writing, after proper inspection, to not be hazardous to property or endanger any person or persons. After such privilege shall have been granted, possession and use of display fireworks for such display shall be lawful for that purpose only.

b) Permitee is responsible for reimbursement of any expenses incurred by the fire department or other Borough officer responsible for inspecting the display.

c) Only after a display has been inspected, or where the chief of the fire department or his designee attend the event, may the display be set off.

d) The Permitee agrees to remove any debris or other litter relating to the display from public spaces, streets and ways with twenty-four (24) hours of the display. Failure to do so may result in the partial forfeiture of the bond for the cost of Borough employees to perform the work.

e) The Permitee, by applying for and receiving a permit, agrees to indemnify the Borough from any claims, lawsuits or other legal challenges arising from Permitees's display.

4. Bond for Display. The permittee shall furnish a bond in an amount deemed adequate by the Borough but not less than $50,000, conditioned for the payment of all damages

which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, the permittee's agents, employees or subcontractors.

5. Seizure of Fireworks. Any police officer of any police force serving the Borough shall take, remove or cause to be removed at the expense of the owner, all stocks of display fireworks or combustibles offered or exposed for sale, stored, or held in violation of this Part or the Fireworks Law, 35 P.S. § 1271 et seq. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.

§ 106-3 Restrictions and Regulations for Consumer Fireworks

1. General Restrictions. All use of consumer fireworks within the Borough must meet the following requirements

a) Consumer fireworks may only be used on public or private property with the express permission of the owner.
b) Consumer fireworks or sparkling devices may not be used within, directed at or directed from a vehicle or building.
c) Consumer fireworks may not be directed at another person.
d) Consumer fireworks or sparkling devices may not be used while the person is under the influence of alcohol, a controlled substance or another drug.
e) Consumer fireworks may not be used within 150 feet of a building or vehicle, whether the building or vehicle is owned by the user of the consumer fireworks.

2. Hours of Use.
   a) Consumer fireworks may not be used between the hours of 10:00 p.m. and 10:00 a.m. except:
      i. on July 2, 3, and 4 and December 31 when consumer fireworks may be used until 1:00 a.m. the following day
      ii. 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.

II. **Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than $600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each section of this Part which shall be found to have been violated shall constitute a separate offense.

III. **Effective Date.** This Ordinance shall take effect immediately.

BE IT ORDAINED AND ENACTED this 17th day of June, 2024.

ATTEST:

THE BOROUGH OF OAKMONT ALLEGHENY COUNTY, PENNA.

Secretary

BOROUGH OF OAKMONT

By: Nancy A Sile
President, Borough Council

Examined and approved the _____ day of _____, 2024.

This Ordinance recorded in the Borough Ordinance book at Volume/Page _____, on _____, 2024, by the undersigned.

Borough Secretary

Sophia Tsarros
Mayor, Borough of Oakmont