

FILE OF COUNCIL

NO. 11 of 2022

Presented in City Council on October 13, 2022

AN ORDINANCE

**OF THE CITY OF WILKES-BARRE, PENNSYLVANIA AMENDING
CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF WILKES-
BARRE ENTITLED “FIRE PREVENTION AND PROTECTION”
BY REPEALING ARTICLE V. ENTITLED “CONSUMER FIREWORKS” AND
REPLACING IT WITH A NEW ARTICLE V. ENTITLED “CONSUMER
FIREWORKS.”**

WHEREAS, Act 74 of 2022, House Bill 2157, P.N. 3332 was adopted by the General Assembly on July 6, 2022, was signed by the Governor on July 11, 2022, amends Title 3 Pa.C.S. Chapter 11 (hereafter, “Fireworks Law” or “Law”), and became effective on September 9, 2022;

WHEREAS, the Fireworks Law authorizes Pennsylvania municipalities to prohibit or restrict certain uses of Consumer Fireworks as defined in the Law; and

WHEREAS, the City of Wilkes-Barre has determined that the authority provided by the Fireworks Law should be exercised in the interests of public safety; and

WHEREAS, the City of Wilkes-Barre desires to regulate use of Consumer Fireworks within the City of Wilkes-Barre.

NOW, THEREFORE, IT IS HEREBY ORDAINED and enacted by the City Council of the City of Wilkes-Barre, as follows:

CHAPTER 10 FIRE PREVENTION AND PROTECTION

ARTICLE V. CONSUMER FIRE WORKS

Sec. 10-56. Definitions.

For purposes of this Ordinance, the definitions of “Consumer Fireworks” and “Display Fireworks” shall be that set forth in Section 1 of the Fireworks Law, and any successor legislation. As set forth therein, the term “Consumer Fireworks” shall not include devices such as “ground and hand-held sparkling devices,” “novelties” or “toy caps.”

Sec. 10-57. Consumer Fireworks.

In accordance with Section 1104(b) of the Fireworks Law, a person may not intentionally use consumer fireworks:

- (1) On private property or on public property, including, but not limited to, streets, parking lots, sidewalks, city parks, and public buildings without the express permission of the owner or entity that controls the property.
- (2) Within, directed at or directed from a vehicle or building.
- (3) Directed at another person.
- (4) While the person is under the influence of alcohol, a controlled substance, or another drug.
- (5) Within 150 feet of a building or vehicle, whether or not the user of the consumer fireworks owns the building or vehicle.

Sec. 10-58. Copies.

Certified copies of this Ordinance shall be provided to all Magisterial District Court Judges within the City of Wilkes-Barre, posted on the City of Wilkes-Barre's website, and made available to the public at the Office of the City Clerk.

Sec. 10-59. Sale of Consumer Fireworks.

Nothing in this Ordinance governs the sale of Consumer Fireworks for the period of one year from the effective date of the Fireworks Law in accordance with Section 1106(a)(2) of the Law.

Sec. 10-66. Penalties.

In accordance with the provisions of Section 1114(1) of the Law, any person using Consumer Fireworks in violation of the provisions of this Ordinance, for the first offense commits a summary offense, and upon conviction shall, in addition or any other penalty authorized by law, be punishable by a fine of not more than Five hundred (\$500.00) dollars. A subsequent offense under this Ordinance committed within three (3) years of a prior conviction shall constitute a summary offense, and upon conviction shall, in addition to any other penalty authorized by law, be punishable of a fine of not more than One thousand (\$1,000.00) dollars.

Any person selling Consumer Fireworks in violation of the Law is punishable in accordance with Section 1114(2) be punishable by a fine of not less than Ten thousand (\$10,000.00) dollars.

SEVERABILITY.

The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional, illegal, or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the City of Wilkes-Barre that this ordinance would have been adopted had such unconstitutional, illegal, or invalid part not been included.

REPEALER.

All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. All ordinances not specifically amended hereby remain in full force and effect.

Passed finally by the Council of the City of Wilkes-Barre on _____

October 27 2022.

This ordinance shall become effective ten (10) days after final adoption by Wilkes-Barre City Council.

Attest:

Cathy Payne
Cathy Payne, City Clerk

THE UNDERSIGNED RECOMMEND THE PASSAGE OF THE FOREGOING
ORDINANCE.




BARRETT




BROOKS



MARCONI



BELUSKO




GILBERT MCBRIDE

ATTEST:



CITY CLERK

APPROVED:



GEORGE C. BROWN
MAYOR

10-28-22

DATE APPROVED

VETO:

GEORGE C. BROWN
MAYOR

DATE VETOED