

**BEFORE THE BOARD OF COMMISSIONERS OF
THE TOWNSHIP OF WHITEHALL**

ORDINANCE NO. 3142

(BILL NO. 12-2019)

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE I, FIREWORKS, BY ELIMINATING SECTIONS 6-1 (DISCHARGE OF ROCKETS AND FIREWORKS, OTHER CONDUCT), 6-2 (SALE, USE, ETC.), 6-3 (RESERVED), AND 6-4 (VIOLATIONS AND PENALTIES), AND REPLACING THEM WITH SECTIONS 6-1 (DISCHARGE OF ROCKETS; OTHER CONDUCT), 6-2 (SALE, USE, ETC.), 6-3 (USE AND SALE OF FIREWORKS, LIMITATIONS) AND 6-4 (VIOLATIONS AND PENALTIES).

WHEREAS, the Township of Whitehall is a Township organized and operating under the laws of the Commonwealth of Pennsylvania and the Home Rule Charter of the Township of Whitehall; and

WHEREAS, the Board of Commissioners of the Township of Whitehall may, under the general authority of the Home Rule Charter, enact regulations to ensure the health, safety, and general welfare of the citizens of the Township of Whitehall; and

WHEREAS, the State has enacted House Bill 542, Act No. 2017-43, which provides in 72 P.S. § 9401 et seq. the imposition of amended restrictions with respect to the sale of fireworks, as defined in the statute, and the repeal and replacement in its entirety of the Fireworks Act of 1939; and

WHEREAS, the Board of Commissioners of the Township of Whitehall has determined that it would be in the best interest of the Township of Whitehall to provide for certain amendments to Chapter 6, Article I, which established a statutory framework for discharge and sale of fireworks, to account for Pennsylvania's new statute and to implement time restrictions for the discharge of fireworks in the Township of Whitehall; and

WHEREAS, the Board of Commissioners of the Township of Whitehall has determined that the health, safety, and general welfare of the citizens of the Township of Whitehall will be promoted and served by enacting this Ordinance.

NOW, THEREFORE, Chapter 6, **Conduct**, Article I, **Fireworks**, is hereby repealed in its entirety and replaced by the following:

Section 6-1. Discharge of rockets; other conduct.

Except as hereinafter provided, it shall be unlawful for any person to use and/or discharge rockets, powder or any other dangerous combustible material not included within the definition of

“Consumer Fireworks” as defined below, within the corporate limits of the Township of Whitehall, County of Lehigh, Commonwealth of Pennsylvania.

Section 6-2. Sale, use, etc.

It shall be unlawful for any person or entity of any nature whatsoever, to bargain and sell, offer for sale, sell, possess, barter, furnish, procure, use or store, rockets, or any mixture of compound of any explosive character not included within the definition of “Consumer Fireworks” as defined below, within the corporate limits of the Township of Whitehall, County of Lehigh, and Commonwealth of Pennsylvania.

Section 6-3. Use and sale of Fireworks; limitations.

A. Definitions. – As used in this section, the following terms shall have the meanings indicated:

- (1) Consumer Fireworks. Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion that is suitable for use by the public and permitted to be sold, possessed and used through the Commonwealth of Pennsylvania.
- (2) 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.
- (3) Pyrotechnic device. Any device not classified as a firework which produces a visible or audible effect by combustion for the purpose of entertainment, including novelty devices.

B. Restrictions on the Use of Fireworks. – Fireworks are permitted in the Township of Whitehall provided they are used and sold in compliance with House Bill 542, Act No. 2017-43 and subject to the following restrictions:

- (1) No person shall discharge fireworks on any public or private property within 150 feet of any occupied structure. In the absence of any occupied structure, use or storage of fireworks on public or private property requires the express permission of the property owner.
- (2) No fireworks may be purchased, possessed, used or stored by any person under eighteen (18) years of age.
- (3) No fireworks or pyrotechnic device shall be discharged within, out of or toward any vehicle or building, or directed at any person.
- (4) No fireworks or pyrotechnic device shall be used by any person under the influence of alcohol, controlled substance, or other drug.
- (5) No fireworks or pyrotechnic device shall be discharged between 22:30 hours (10:30 p.m.) and 06:00 hours (6:00 a.m.), with the exception of New Year’s Eve, when fireworks or pyrotechnic devices may be discharged until 00:30 hours on New Year’s Day (January 1 at 12:30 a.m.) but not between the hours of 00:30 (12:30 a.m.) and 6:00 (6:00 a.m.).

C. Restrictions on the Sale of Fireworks. – Fireworks are permitted in the Township of Whitehall provided they are used and sold in compliance with House Bill 542, Act No. 2017-43 and subject to the following restrictions:

- (1) Fireworks may be purchased at any licensed facility, including temporary ones as may be permitted under Pennsylvania law, with the licenses being issued by the Pennsylvania Department of Agriculture.
- (2) Temporary structures, including but not limited to tents and other structures found in parking lots, to the extent permitted to sell fireworks under Pennsylvania law, are permitted to sell fireworks in the Township of Whitehall between the dates of June 15 – July 8, and December 21 – January 2, each year.
- (3) Any temporary structures must comply with the current International Fire Code as well as any building codes adopted or enacted by the Township of Whitehall.

Section 6-4. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this Article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Article continues shall constitute a separate offense.

This Ordinance shall become effective five (5) days after enactment by the Board of Commissioners and approval by the Mayor.

DULY ORDAINED AND ENACTED this 11th day of March, 2019, at a regular public meeting in lawful session duly assembled.

**BOARD OF COMMISSIONERS
TOWNSHIP OF WHITEHALL**

By: _____
Dennis C. Hower, President

ATTEST:

Thomas Slonaker, Secretary

AND NOW, to wit, this ____ day of _____ 2019, the above is approved.

Michael P. Harakal, Jr., Mayor