

**ORDINANCE NO 2022 –**

**BOROUGH OF PHOENIXVILLE  
CHESTER COUNTY, PENNSYLVANIA**

**“Fire and Emergency Services Ordinance”**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE  
BOROUGH OF PHOENIXVILLE FOR THE PURPOSE OF REPEALING  
THE CURRENT CHAPTER 7 “FIRE PREVENTION AND FIRE  
PROTECTION” IN ORDER TO ENACT AN UPDATED CHAPTER 7  
“FIRE PREVENTION AND EMERGENCY SERVICES”**

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The Borough Council of the Borough of Phoenixville does hereby **ENACT** and **ORDAIN**:

**SECTION 1. - Amendment to the Code**

Chapter 7, “Fire and Ambulance Services” of the Code of Ordinances of the Borough of Phoenixville is hereby repealed in its entirety and replaced in its entirety as follows:

**CHAPTER 7 FIRE AND EMERGENCY SERVICES**

**PART 1 TITLE, OPERATION AND MAINTENANCE, AND CONTROL**

**§ 7- 101 Title.**

This Chapter shall be known as and may be cited as the "Fire and Emergency Services Ordinance."

**§ 7- 102 Operation and maintenance.**

The Phoenixville Fire Department of the Borough of Phoenixville, as it is now constituted or shall hereafter, as the Borough Council shall be operated and maintained under the provisions of this Chapter, subject to the authority of the Borough at any time to amend, alter, change or repeal the same.

**PART 2 DEFINITIONS**

**§ 7-201 Definitions.**

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

**ALARM**

A communication to a Public Safety Department indicating that a crime, fire or other emergency situation warranting immediate action by the Public Safety Department has occurred or is occurring.

**BOROUGH**

The Borough of Phoenixville, Chester County, Pennsylvania.

**CAREER PERSONNEL**

The Chief, other officers and other personnel that are employees of the Department as approved by Borough Council. This term shall exclude the members of the Company, who are volunteers.

**CHIEF or CHIEF OF FIRE AND EMERGENCY SERVICES**

The chief executive and operational officer of the Department.

**CIVIL SERVICE REGULATIONS**

Rules and Regulations adopted by the Civil Service Commission providing for examinations for positions subject to civil service in the Department and for appointments and promotions therein and for such other matters as are necessary to carry out the purposes of this Chapter.

**COMPANY**

The volunteer fire company appointed by the Borough as identified in Section 7-302 of this Chapter, if any, to provide emergency fire services in support of the Department.

**EQUIPMENT**

All firefighting vehicles and equipment used by the Department in emergency service operations.

**DEPARTMENT**

The Phoenixville Fire Department.

**FALSE ALARM**

An alarm activated in the absence of an emergency, whether willfully or by inadvertence, negligence, or unintentional act, including the malfunction of the alarm system; the intentional activation of a holdup alarm for other than a holdup in progress; the intentional activation of a burglary alarm for other than a burglary; the intentional activation of a medical alarm for other than a medical emergency; or the intentional activation of a fire alarm for other than a fire or hazard to which the Police or Fire Department responds. Exceptions are: an alarm caused by the testing or repairing of telephone or electrical lines or equipment outside the premises; acts of God, such as earthquake, flood, windstorm, thunder

or lightning; an attempted illegal entry of which there is visible evidence; a crime in progress; or, in the case of an emergency medical alarm, an actual medical emergency requiring police, fire and/or medical personnel is excluded.

### **FIRE MARSHAL**

The Chief or the person appointed by the Council as such officer, which officer shall have primary authority and responsibility within the Borough for all fire pre-planning and fire scene investigations. If the Council does not employ and/or designate another officer to be the Fire Marshal, the Chief shall also be the Fire Marshal. The office of Fire Marshal shall have jurisdiction over all fire code related issues.

### **SERVICE FEE**

A fee for the sole purpose of funding emergency medical services.

### **STANDARD OPERATING GUIDELINE(S) [SOG(S)]**

Guidelines known as "SOGs" established by the Chief that set forth Department guidelines in writing and that establish requirements, mandatory procedures and practices and directives relative to the operation of the Department.

## **PART 3 FIRE DEPARTMENT**

### **§ 7-301 Department Established.**

The Phoenixville Fire Department is a department within the municipal government of the Borough of Phoenixville established pursuant to Section 1202 of the Pennsylvania Borough Code, 8 Pa.C.S.A. §1202, as amended. The Department, under the supervision of the Chief, shall use a combination of the services provided by volunteers as set forth in § 7-302 and Career Personnel to provide fire prevention/suppression and emergency medical services, which combination shall be at the discretion of the Chief. The Department is responsible for providing emergency services within the Borough.

### **§ 7-302 Company.**

1. Phoenix Hose, Hook & Ladder Co., No. 1 is the Company chartered in the Borough and authorized to provide emergency services in the Borough and recognized as the official Company of the Borough.
2. Notwithstanding the Borough's right to establish minimum requirements and administrative guidelines for any volunteer providing emergency services within the Borough, the Company establishes and controls its own bylaws, membership requirements, policies or procedures, officers, discipline, service or training requirements, and other rules or regulations established by the Company.

**§ 7-303 Department Agreement.**

Any volunteer fire company or emergency services provider, as a precondition to its operation in the Department, shall enter into an Agreement with the Borough, which Agreement shall implement the terms and intent of this Chapter. The Agreement shall be in writing and subject to Borough Council approval.

**§ 7-304 Civil Service.**

1. The Career Personnel include the Chief and other officers as may be determined and approved by Borough Council and not subject to Civil Service Commission Rules and Regulations.
2. Captains, Lieutenants, and any Career Personnel other than those identified in Section 7-304.1., above, shall be working supervisors and subject to Civil Service Commission Rules and Regulations.
3. The Department Career Personnel shall consist of no less than two employee firefighters, which two employee firefighters shall not be subject to the Civil Service Commission Rules and Regulations.
4. In its sole discretion, Brough Council may hire a third or more employee firefighter (2) as Department Career Personnel to, which Borough Council shall approve by formal action at a public meeting. Such third or more employee firefighter(s) shall be subjected to Civil Service Commission Rules and Regulations.

**§ 7 – 305 Emergency Medical Services.**

1. The Department, under the supervision of the Chief, shall provide emergency medical services through its Career Personnel (full-time and part-time). The personnel providing emergency medical services are required to meet minimum requirements and administrative guidelines recommended by the Chief and promulgated by the Borough Manager.
  - A. The Department shall provide Basic Life Support (BLS) Quick Response Service within the Borough of Phoenixville.
  - B. The Department shall provide Advanced Life Support (ALS) services within the Borough of Phoenixville.
  - C. The Department may provide mutual aid BLS and/or ALS services to neighboring municipalities.

D. The Department shall provide BLS and/or ALS services within the Borough of Phoenixville by either:

- (1) Contracting with a BLS and/or ALS service provider through an Agreement.
- (2) Designating the Department as a BLS and/or ALS service provider.

**§ 7-306 Department Control of Fire and Other Emergency Incident Scenes; Interference with Department Emergency Operations and Orders Prohibited.**

1. Department Personnel's Authority Involving an Emergency Incident. When the Department is responding to and/or engaged in an emergency incident, Department personnel, when displaying their badge and/or wearing equipment identifying them as Department personnel, shall have the right-of-way and authority to control access to and movement around the incident scene as they determine necessary to protect property and public safety, and to facilitate safe and efficient Department, police and emergency service operations in connection with the incident.
2. Unlawful Interference with Department Operations. No person shall interfere or allow interference, in any way, with any Department personnel and/or equipment engaged in and/or responding to an emergency incident. No person, without proper authority and/or authorization, shall cross any fire line or enter the area of Department operations at an emergency incident. No person shall disobey the proper order of any Department personnel when such order is issued in connection with an emergency incident.
3. Fines and Penalties. Any person who violates the provisions of this Section 7-306, upon conviction thereof, shall be subject to a fine of up to \$600 and costs of prosecution, and in default of payment of such fines and costs, to imprisonment for not more than 10 days.

**§ 7-307 Reimbursement Authorization.**

The Department and, to the extent that the Borough in conjunction with the Department elects to contract or otherwise have service agreements with non-Department organizations for the provision of related services, contracted non-Department service emergency service providers, including but not limited to emergency medical service (EMS), dive rescue and water recovery or other operations, are all hereby authorized to recover the reasonable cost of firefighting materials, hazardous abatement equipment and abatement materials involved in any hazardous materials incident, environmental incident or safety and rescue incident or operation, including vehicular accidents from the property owner and/or person(s) causing the need for such emergency services, as authorized by

law. In addition to the aforementioned reasonable costs, such Department or non-Department organizations shall be authorized to collect reasonable interest as well as a reasonable administrative fee for collecting the same and any and all additional fees authorized by any statute, case law or common law.

**§ 7-308 Authority of Borough Manager.**

The Fire Department will be subject to the control and direction of the Borough Manager in accordance with Chapter 1, Section 1-206 of the Code of Ordinances of the Borough of Phoenixville.

**PART 4 FIRE CHIEF AND OTHER PERSONNEL**

**§ 7-401 Creation of Office.**

The office of Chief of Fire and Emergency Services is hereby created by the Borough of Phoenixville, who shall be considered a member of the Department Career Personnel.

**§ 7-402 Appointment of Chief of Fire and Emergency Services.**

The Borough Manager, with the concurrence of the Borough Council, shall appoint the Chief of the Fire and Emergency Services, to the extent that this position is determined to be needed or required by state law. The Chief, if appointed, shall work under the supervision of the Borough Manager and shall be appointed in accordance with the qualifications hereinafter provided. The Chief shall work for the Borough upon terms agreed upon between the Borough and the person so appointed, with or without compensation, and at hours determined by agreement between the parties.

**§ 7-403 Powers and duties of Chief.**

The Chief shall have full control of the Department, subject to the ordinances and regulations established by Borough Council. The Chief shall see to the enforcement of all ordinances and rules and regulations governing the Department.

**§ 7-404 Removal of Chief.**

The Borough Manager, upon concurrence of Borough Council, may remove the Chief for incompetence, neglect of duty or any other cause involving the powers and duties of such officer, on charges preferred and sustained, in addition to the natural expiration of any contract for the then-acting Chief's employment. The Borough Manager shall, upon any vacancy of the Chief, appoint an acting Chief until such time as a permanent Chief shall be appointed. The acting Chief shall

have the same responsibilities, powers and duties assigned to the permanent Chief.

**§ 7-405 Fire Marshal.**

The office of Fire Marshal is hereby created for the Borough of Phoenixville. Such officer shall be appointed by the Borough Manager and confirmed by Council. The office of Fire Marshal shall be under the direction and supervision of the Borough Manager. If so appointed, the title of Chief and Fire Marshal may be held by a single person.

**PART 5 FALSE ALARMS**

**§ 7-501 Intent and Purpose.**

1. A property owner shall be notified, in writing by the Chief, of each and every false alarm activated in the absence of an emergency, whether willfully or by inadvertence, negligence or unintentional act, including the malfunction of the alarm system to which the Police or Fire Department responds. Each twenty-four-hour period during which such an alarm occurs shall constitute a separate offense, and each offense shall accumulate over a twelve-month period, as follows:

First Alarm	Written Warning
Second Alarm	\$100
Third Alarm	\$150
Fourth Alarm	\$200
Fifth Alarm	\$250
Each Additional Alarm	\$300

2. In the event that a second and subsequent false alarm(s) occurs within a twelve (1) month period, the Chief shall, within five (5) business days from the date of the false alarm, notify the owner in writing that a false alarm charge is due and payable and the amount thereof. Such notice shall be forwarded by certified and regular mail to the property owner at their last known address.
3. A false alarm charge shall be due and payable to the Borough fifteen (15) days from the date of the mailing of the notice of assessment of the charge. The Borough shall be exempt from payment of all fees.
4. Failure of the permittee to pay a false alarm charge on or before the due date shall constitute a violation of this Chapter and shall subject said person to the penalties set forth in Section 7-502 hereof.

5. If doubt exists as to the cause of the false alarm, the Chief or Chief of Police, or their designee, shall make a decision regarding the circumstances of the activation.
6. Multiple fire alarms and/or response requests received by and/or forwarded to the Fire Department before the system can be deactivated within a reasonable period of time shall be considered a single alarm.

#### **§ 7-502 Violations and Penalties.**

1. Should any person fail to pay the false alarm charges, as required under Section 7-501 of this Chapter, such failure shall constitute a violation of this Chapter and such unpaid charges may be collected as fines by civil suit, criminal summary proceeding brought in the name of the Borough before any District Justice of this Commonwealth having jurisdiction, municipal lien, or any other manner provided in law or equity. The proceedings for such violations and for the collection of such fees imposed herein and unpaid may be commenced by warrant, complaint or by summons, at the discretion of the District Justice before whom such proceedings are begun. Each twenty-four-hour period during which failure to comply continues shall constitute a separate violation of the terms of this ordinance.
2. Any person who is convicted of a violation in a criminal summary proceeding shall be subject to prosecution in a summary proceeding brought before a District Justice having jurisdiction and, upon conviction, shall be liable for a fine of not less than \$100 nor more than \$1,000, plus costs of prosecution, and, in default thereof, may be sentenced and committed to imprisonment for a period not exceeding 30 days.

### **PART 6      KEY BOXES**

#### **§ 7-601      Key/Knox Boxes.**

1. Mandatory key boxes for fire suppression and standpipe systems. When a building within the Borough is protected by an automatic fire suppression or standpipe system, it shall be equipped with a key box. The key box shall be installed at a location approved by the Chief. The key box shall be a UL type and size approved by the Chief.
2. Mandatory Key Boxes for automatic alarm systems. When a building is protected by an automatic alarm system and/or access to or within a building or portion thereof is unduly difficult because of secure points of ingress/egress, and where immediate access is necessary for lifesaving or firefighting purposes, the Chief may require a key box to be installed at an approved location. The key box shall be a UL type and size approved by the

Chief.

3. Key Box Tamper Switch. The Chief may require a key box tamper switch connected to the building's fire alarm/security system.
4. Security Padlocks. When a property is protected by a locked fence or gate where immediate access to the property is necessary for lifesaving or firefighting purposes, the Chief may require a security padlock to be installed at an approved location. The padlock shall be a UL type and size approved by the Chief.
5. Security Caps. When a building is protected by an automatic sprinkler system or standpipe system and the Department connection is exposed to undue vandalism, the Chief may require Department connection security cap(s) be installed. The security cap(s) shall be a type approved by the Chief.
6. Rapid Response Key Boxes. The rapid response key boxes shall contain the following:
  - A. Keys to locked points of ingress/egress, whether in the interior or exterior of such buildings.
  - B. Keys to locked mechanical rooms.
  - C. Keys to locked elevator rooms.
  - D. Keys to elevator controls.
  - E. Keys to any fenced or secured areas.
  - F. Keys to other areas that may be required by the Fire Marshal/Chief.
  - G. A card containing the emergency contact people and phone numbers for such building.
7. Compliance Time. All existing buildings shall comply with this Chapter within six months from its effective date. All newly constructed buildings not yet occupied, buildings currently under construction and all buildings or businesses applying for a certificate of occupancy shall comply immediately.
8. The operator of the building shall immediately notify the Chief and provide the new key(s) when a lock is changed or rekeyed. The key shall be secured in

the key box.

**§ 7-602 Penalties.**

Any person who violates any provision of this section shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$1,000, plus costs, and, in default of payment of such fine and costs, be imprisoned for not more than 30 days for each offense.

**PART 7 INTERNATIONAL FIRE CODE (IFC)**

**§ 7-701 Adoption.**

The Borough of Phoenixville hereby adopts, for the purpose of establishing rules and regulations for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the occupancy of buildings and premises in the Borough of Phoenixville, including administration, enforcement and penalties, the following provisions of the International Fire Code, 2018 Edition, save and except such portions as are hereinafter deleted, modified, or amended by this Chapter, of which three copies have been and are now filed in the office of the Code Official, and the same is hereby adopted and incorporated by reference as fully as if set out at length herein.

**§ 7-702 Effect on New Construction; Conflicts With UCC.**

1. This Part shall not apply to new construction that is otherwise regulated or under construction through permits issued under the Pennsylvania Uniform Construction Code and the international codes which are mandatorily adopted by the Borough of Phoenixville thereunder (collectively the "UCC").
2. To the extent of any conflict between the provisions of the UCC (including, without limitation, the International Fire Code to the extent the International Fire Code is referenced by the International Building Code), the provisions of the UCC shall apply.

**§ 7-703 Amendments and Additions to Code.**

1. The 2018 International Fire Code, as adopted, is amended as hereafter set forth:
  - A. Section 101.1, Title: Insert "Borough of Phoenixville, Chester County, Pennsylvania" in place of the bracketed phrase [Name of Jurisdiction].

- B. Section 109.4, Violations penalties: Insert "summary offense" in place of the bracketed phrase [specify offense] and insert "\$1,000" in place of bracketed phrase [amount] and insert "30 days" in place of the bracketed phrase [number of days].
2. The 2018 International Fire Code, Chapter 56, Explosives and Fireworks, is hereby amended by modifying and amending portions thereof as hereinafter set forth:
- A. Statement of Purpose. This Part has as its purpose the protection of the health, safety and welfare of the general public through limiting the use of fireworks. Fireworks contain explosives, which can damage property and endanger human life when misused, or used under conditions which create hazards which would not exist for the presence of such conditions. This Part will allow for outdoor display of fireworks to be put on by professional competent pyrotechnicians in a safe manner.
- B. Definitions.
- (1) Words employed herein which are defined in the International Fire Code, 2018 Edition, shall have the same definition as that employed in the International Fire Code, 2018 Edition.
- (2) Consumer fireworks.
- a. The term includes any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, 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 complies with the provisions for "consumer fireworks" as defined in American Pyrotechnics Association ("APA") Standard 87-1, the sale, possession and use of which shall be permitted throughout this Commonwealth.
- b. The term does not include devices such as "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.
- (3) Display fireworks.

- a. Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as “consumer fireworks.” Display fireworks are classified as fireworks UN0333, UN0334 or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101.
- b. This term also includes fused set pieces containing components which together exceed 50 mg of salute powder.

(4) Display Property. The lot, parcel or tract of real estate on which a permitted outdoor display of fireworks is to be conducted.

C. Incorporation of International Fire Code. Chapter 56, Explosives and Fireworks, of the International Fire Code, 2018 Edition, shall constitute reasonable rules and regulations for displays of consumer fireworks and display fireworks, as set forth in the Act 74 of 2022, House Bill 2157, P.N. 3332 adopted by the General Assembly on July 6, 2022, was signed by the Governor on July 11, 2022, amended Title 3 Pa.C.S. Chapter 11 (hereafter, “Fireworks Law” or “Law”), and became effective on September 9, 2022, incorporated into this Part by reference. Supervised public displays permitted; permits, and the provisions thereof are hereby incorporated by reference as if set forth here at length. In the event of any irreconcilable conflict between the provisions of the International Fire Code and this section, those provisions which provide greater safety and protection to person and property or which is more restrictive on the conduct of outdoor display of fireworks shall apply.

D. Delegation of Authority.

(1) The Borough Council of Phoenixville Borough hereby authorizes the Chief to act as its duly authorized agent to enforce the requirements of Title 3 Pa.C.S. Chapter 11 supervised public displays permitted; permits, to grant permission and issue permits for outdoor displays of fireworks, provided that the permit applicant fully meets the requirements of the International Fire Code, including, without limitation, the requirements of Chapter 56, Explosives and Fireworks, and including, but not limited to, Section 5608, Fireworks Displays, thereof, and the additional rules and regulations set forth in this section.

- (2) The Fireworks Law governs the sale, purchase and use of Consumer Fireworks and Display Fireworks in the Commonwealth.
- (3) The Fireworks Law authorizes Pennsylvania municipalities to restrict or prohibit certain uses of Consumer Fireworks as defined in the Law if the municipality determines that certain conditions are met.

E. Display Fireworks.

- (1) In accordance with the Fireworks Law, a permit is required before any use of Display Fireworks within the Borough of Phoenixville limits. Permit application forms are available during normal business hours. The application must include facts sufficient to establish that the Display Fireworks will not be ignited within 300 feet of sales locations for Consumer Fireworks and that the Display Fireworks will be handled by a competent operator at least 21 years of age who demonstrates evidence of fireworks handling and safety training, all in accordance with Sections 1102 and 1107 of the Fireworks Law. The application must include the approval of the chief of the fire department or other appropriate official as may be designated by the Phoenixville Borough Council and that the Display Fireworks will not be located, discharged or fired in such a manner as to be hazardous to property or an endangerment to any person. The application shall be accompanied by a certificate of insurance in accordance with Subsection 1102(d) of the Law. The applicant must acknowledge acceptance of the requirements otherwise established by state and federal law. Permit extensions shall be permitted in accordance with Subsection 1102(e) of the Law provided the extension sought receives a renewed approval by the designated official that the extended use would not be hazardous to property or an endangerment to any person.
- (2) Permit Applications. All applications for a permit for an outdoor display of fireworks shall be made in writing by use of a Phoenixville Borough application form and submitted to the Chief, with all required information, documentation and plans, not later than 45 days prior to the scheduled display. No permit shall be issued for any late application.
- (3) Permittee to be Owner of Display Property. The permittee (operator) shall be the record owner of the display property, other

than displays conducted on Borough property with the permission of the Borough.

- (4) Structures Disallowed in Display Site. The permittee shall ensure that there are no dwellings, buildings, or any other structures (including tents) located within the display site, whether or not the dwelling, building or structure will be unoccupied during the display, and whether or not the dwelling, building or other structure provides protection through substantial noncombustible or fire-resistant construction for the occupants. No permit shall be issued for any outdoor display of fireworks where plans submitted to the Chief evidence, at the sole discretion of the Chief, that there are or will be dwellings, buildings, or any other structures (including tents) located within the display site.
- (5) Location of Display Site on the Display Property. The display site shall be situated on the display property at such location as is the greatest distance from the nearest dwelling, building, structure (including tents), or public street while still meeting the International Fire Code clearance and separation distance requirements.
- (6) Revocation of Permit; Cancellation or Discontinuance of Display. The permit for any outdoor display of fireworks may be immediately revoked and the display immediately canceled or discontinued at any time deemed necessary by the Chief or any authorized representative of the Department, at their sole and absolute discretion, as a result of any noncompliance with any legal requirements, including, without limitation, the requirements of this section, or due to weather conditions such as drought, extremely low humidity, or wind factors. Any permitted outdoor display of fireworks shall be canceled if wind gusts exceed 25 miles per hour as measured immediately prior to the commencement of the display, and shall be discontinued if wind gusts exceed 25 miles per hour at any time prior to the end of the display. The display may also be ordered discontinued immediately whenever, in the sole and absolute discretion of the Chief, an authorized representative of the Department, or the operator, determines that a hazardous condition exists and shall not resume until such time as the hazardous condition is corrected to the sole and absolute satisfaction of the Chief or the Department representative. The permit shall be immediately revoked and the display shall be discontinued in the event of accidental ignition of any form of combustible or flammable materials as a result of falling debris from the display.

- (7) Fire Department Presence at, and Call for Emergency Medical Services to Display Property. The permittee shall make arrangements with the Department to ensure the presence at the display property of a Department fire pumper and/or other firefighting equipment as determined by the Chief, and a minimum of three firefighters, for a period beginning 30 minutes prior to the display and ending 30 minutes after the display is concluded. All costs related to the provision of fire personnel and apparatus, and calls for emergency medical services and apparatus, shall be paid by the permittee in an amount determined by Phoenixville Borough.
- (8) Traffic Control Arrangements with Phoenixville Borough Police Department. Not less than 10 business days prior to conducting the display, the permittee shall make arrangements acceptable to the Phoenixville Borough Police Department for traffic control. Traffic control shall be conducted by Phoenixville Borough police officers. Traffic control measures shall be sufficient to prevent motorists, whether or not attending the display, from parking, stopping or standing motor vehicles within the right-of-way or shoulder of that portion of any public street abutting the display property, or that portion of any public street in sufficiently close proximity to the display property to be affected by the traffic to be generated thereby, as determined by the Phoenixville Borough Police Department. The permittee shall submit to the Phoenixville Police Department for its review and approval its traffic control plans. Such plans shall include provisions for handling ingress and egress of motor vehicles to and from the display property and interior circulation of vehicles within the display property and demonstrate adequate parking on the display property. In the event that the permittee anticipates the necessity for additional parking facilities, other than those available on the display property, the permittee may contract with a nearby property owner or owners for overflow parking, provided that either: shuttle service from the overflow parking site to the display property is provided; or safe pedestrian pathways are available from the overflow parking to the display property. Such plans shall be sufficiently detailed so as to permit meaningful review by the Phoenixville Police Department. All costs related to the provisions of police officers and police vehicles shall be paid by the permittee in an amount determined by Phoenixville Borough. The permittee shall not conduct the display unless such traffic control measures and plans have been approved in writing by the Phoenixville Police Department.
- (9) Enforcement of Requirements. The Chief and Phoenixville Borough police officers are authorized to enforce all legal

requirements relating to outdoor displays of fireworks, including the requirements of this section or other Borough ordinances and/or state law, and, in addition to criminal sanctions or civil remedies, they may revoke any permit and order the cancellation and/or discontinuance of a display upon any failure or refusal of the permittee to comply with such legal requirements, including, without limitation, this Part, other Borough ordinances and/or state law, or upon any failure or refusal to comply with the orders and directives of the Chief, a Phoenixville Borough police officer, or an authorized representative of the Department.

(10) Property Owners to be Notified.

(a) The permittee shall notify, in writing, the owners of all real estate located within 2,000 feet of all boundaries of the display property. The notice shall be mailed by USPS certified mail, return receipt requested, to such owners not later than 10 days prior to the date on which the display is to take place, and proof of such mailing shall be delivered to the Chief not later than three days prior to the date on which the display is to take place. The notice shall contain not less than the following information:

(i) The name, address and phone number of the permittee and of its contact person responsible for the display;

(ii) The name, address and phone number of the operator and of its contact person directly responsible for conducting the display;

(iii) The date, time and location of the display; and

(iv) A general statement describing the display.

(b) The permittee shall not conduct the display unless such proof of mailing has been delivered to the Chief.

(11) Removal of Debris and Trash from Display Area. The permittee shall remove all combustible debris and trash from the display areas prior to the commencement of the display.

(12) Inspection and Approval of Discharge Site Setup. After the discharge site has been completely set up, and prior to the commencement of the display, the permittee shall cause the discharge site to be inspected and approved by an authorized representative of the Department. The permittee shall not conduct the display unless such approval has been obtained.

- (13) Removal of Display Debris. In the event that any property owner or occupant notifies the Borough, the permittee, or the operator that debris from the display has fallen on such property, the permittee shall remove such debris from such property within 24 hours' of notice to the permittee or the operator from the owner, occupant, or the Borough.

F Consumer Fireworks

- (1) In accordance with the Fireworks Law, and based upon legislative findings that there is no location within the Borough of Phoenixville limits that meets statutory requirements, including but not limited to the prohibition of use within 150 feet of a building or vehicle, the use of Consumer Fireworks within those limits in accordance with Section 1104(b)(5) of the Law is hereby prohibited.
- (2) Upon proper application as hereafter prescribed, a use within the Borough of Phoenixville limits may be permitted as an exception when it is demonstrated that the proposed use by exception can be conducted without violating the prohibitions set forth in paragraph (1) above and Section 1104(b)(5) of the Law.
- (3) Permit application forms for a use by exception are available through the Borough during normal business hours. The application for use by exception must include facts sufficient to establish in accordance with Section 1104 of the Law that the provisions relating to Consumer Fireworks will not be violated, including facts sufficient to demonstrate (1) that no one under the age of 18 will purchase, possess or use Consumer Fireworks; (2) that Consumer Fireworks will not be used on private property or on public property, including, but not limited to, streets, parking lots, sidewalks and parks, without the express permission of the owner or entity that controls the property; (3) that the Consumer Fireworks will not be used within, directed at or directed from a "vehicle" or "building" as those two terms are defined in the Law; (4) that the Consumer Fireworks will not be directed at another person; (5) that the Consumer Fireworks will not be used by a person who is under the influence of alcohol, a controlled substance or another drug; and (6) that the Consumer Fireworks will not be used within 150 feet of a building or vehicle, whether or not the building or vehicle is owned by the user of the Consumer Fireworks.
- (4) In accordance with Section 1104 of the Fireworks Law, no permit shall be granted for the use by exception of Consumer Fireworks

within 150 feet of an Animal Housing Facility as defined in the Law, or a fenced area designed to confine livestock owned or managed by another person. A permit may be granted on the basis of an application that meets the requirements of Section 1104 for use of Consumer Fireworks at a distance of 150 to 300 feet if the prospective user of the Consumer Fireworks provides proof of notification in writing to the owner or manager of the animals or livestock of the prospective use at least 72 hours in advance.

- (5) Applications for use by exception of Consumer Fireworks shall be received at least 45 days prior to the date of proposed use. Permits for the use by exception of Consumer Fireworks may be granted by the Phoenixville Borough Council, by the Borough Manager, or by such official or officials as are so designated by upon approval of the application and payment of a fee as set in accordance with the Borough of Phoenixville Master Schedule of Fees.
- (6) The permit shall restrict the use by exception of Consumer Fireworks to the day and time listed in the application but in no event shall the permit allow use later than 10:00 P.M.
- (7) No permission is granted by the Phoenixville Borough Council to any person to ignite or discharge Consumer Fireworks on the streets or sidewalks in the Borough of Phoenixville or on any property owned or occupied by the Borough of Phoenixville or other governmental entity, including without limitation, all of the Borough of Phoenixville's parks and buildings.

G. Fines.

- (1) 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 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.
- (2) Any person selling Consumer Firework in violation of the Law is punishable in accordance with Section 1114(2) be punishable by a fine of not less than \$10,000.

- (3) Any person selling or using Display Fireworks in violation of the Law is punishable in accordance with Section 1114(3) by a fine of not less than \$10,000.

**§ 7-704 State Regulations to Control; Effect on Other Provisions; Publication; When Effective.**

In all matters that are regulated by the laws of the Commonwealth of Pennsylvania or by regulations of departments or agencies of the commonwealth promulgated by authority of law, such laws or regulations, as the case may be, shall control where requirements thereof are more restrictive than the provisions of this International Fire Code.

**§ 7-705 Enforcement of International Fire Code; Inspections.**

1. The International Fire Code shall be enforced by the Chief for purposes of the administration and enforcement of the International Fire Code.
2. Periodic Inspections of Commercial, Industrial and Multi-residential Buildings. The Chief is authorized to inspect existing commercial, industrial and/or multifamily residential buildings, structures and premises periodically to determine compliance with the International Fire Code. The Chief's belief that a violation may exist is not a precondition to any such inspection.

**§ 7-706 Fees and Charges.**

Borough Council may, from time to time, by written resolution, adopt and amend its Master Schedule of Fees and charges for inspections, compliance work, application processing, permits, and other work of the Chief related to the enforcement of the International Fire Code.

**SECTION 2.**

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, parts, or section hereof. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, part or section thereof not been included herein.

**SECTION 3.**

All Ordinances or parts of Ordinances conflicting or inconsistent herewith are hereby repealed.

**SECTION 4.**

This Ordinance shall become effective upon enactment as provided by law.

**PASSED** by Borough Council this 1st day of November, 2022.

By: \_\_\_\_\_  
Jonathan M. Ewald  
President, Borough Council

**APPROVED** by the Mayor, this 1st day of November, 2022.

By: \_\_\_\_\_  
Peter J. Urscheler, Mayor

**ENACTED**, this 1st day of November, 2022.

By: \_\_\_\_\_  
E. Jean Krack, Borough Manager/Secretary

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of the said Ordinance duly adopted at a regular meeting of Borough Council held on the 1st day of November, 2022.

By: \_\_\_\_\_  
E. Jean Krack, Borough Manager/Secretary