

ORDINANCE NO. 15474

FILE OF CITY COUNCIL

BILL NO. 50 – 2018

Introduced by Councilperson Robinson

August 1, 2018

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AN ORDINANCE

Of the City of Allentown establishing Article 712, titled Consumer Fireworks, placing restrictions and regulations on Fireworks between the hours of 10 PM and 7 AM.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION 1: Article 712 of the Codified Ordinances of the City of Allentown, titled "Consumer Fireworks" is hereby established and shall read as follows:

**ARTICLE 712**  
**Consumer Fireworks**

Cross-References

Preventing Riots, 11 Pa.C.S. § 12422  
Disorderly Conduct, 11 Pa.C.S. § 12432  
Disorderly Conduct, 18 Pa.C.S. § 5503  
Fireworks Law, 72 P.S. §§ 9401 - 9416

**712.01. Legislative Intent.**

Council finds that sudden or repeating late-night noise and visual disturbances resulting from the ignition, discharge or launch of consumer fireworks are detrimental to the physical, mental, and social well-being of City residents as well as to their comfort, living conditions, general welfare and safety, and peaceful enjoyment of their residences and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of such noise and visual disturbances within the City.

**712.02. Definitions.**

The following words and phrases when used in this Article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**"APA 87-1."** The American Pyrotechnics Association Standard 87-1: *Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics*, 2001 edition, or any subsequent edition.

**“Consumer fireworks.”** (1) 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 APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout the City of Allentown. (2) The term does not include devices such as “ground and hand-held sparkling devices,” “novelties” or “toy caps” in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout the City of Allentown.

**“Person.”** Any individual, association, general or limited partnership, corporation, limited liability company, professional corporation, and any other similar entity, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state. Whenever used in any clause prescribing and imposing a penalty, “person” includes the individual members, partners, officers, and managers of the association, general or limited partnership, corporation, limited liability company, professional corporation, or other similar entity.

#### **712.03. In General – Restrictions on Use of Consumer Fireworks.**

No person who owns, possesses or has control or supervision of consumer fireworks shall permit, make or cause the ignition, discharge or launch of such consumer fireworks within the City of Allentown between the hours of 10:00 PM and 7:00 AM, except that this Section shall not apply where the City of Allentown Fire Marshall or his designee has issued a special permit, in his discretion upon application therefor, expressly authorizing the ignition, discharge or launch of consumer fireworks for an infrequent event or activity, such as, without limitation, celebratory, memorial, festival and sporting events, during the prohibited hours.

#### **712.04. Violation by Property Owner or Fireworks Owner.**

It shall be a violation of this Section 712.03, for the owner or tenant of real property within the City of Allentown to permit the ignition, discharge or launch of consumer fireworks by another person on or from such property between the hours of 10:00 PM and 7:00 AM.

#### **712.05. No Use of Consumer Fireworks Permitted on City Property.**

It is hereby established that the City does not permit and hereby bans the ignition, discharge or launch of consumer fireworks by any person on or from City of Allentown owned property, including, without limitation, City-owned parks, buildings or structures, streets, sidewalks and rights of way unless such person upon application has secured a special permit for the otherwise banned activity from the Fire Marshall, or his designee.

#### **712.06. Fireworks Prohibited within 150 feet of an Occupied Structure.**

Pursuant to state law a person may not intentionally ignite or discharge consumer fireworks within 150 feet of an occupied residential structure.

#### **712.99. Penalty.**

Any person who violates any provision of this Article shall be subject to the following penalties:

- (a) First violation - A fine of not less than \$50.00 nor more than \$100.00;

(b) Second violation - A fine of not less than \$100.00 nor more than \$300.00; and

(c) Third and Each Subsequent Violation - A fine of not less than \$500.00 nor more than \$1,000.00, or thirty days imprisonment, or both.

SECTION 2: That all ordinances and sections thereof that are inconsistent with this Ordinance are hereby repealed.

AMENDMENT TO CHANGE THE TIME STARTING AT 10:00 PM, NOT 11:00 PM AND ADD PROHIBITION THAT A PERSON MAY NOT INTENTIONALLY IGNITE OR DISCHARGE CONSUMER FIREWORKS WITHIN 150 FEET OF AN OCCUPIED STRUCTURE PASSED, 7 – 0

	Yea	Nay
Candida Affa, VP	X	
Julio A. Guridy	X	
Daryl Hendricks	X	
Cynthia Y. Mota	X	
Courtney Robinson	X	
Ed Zucal	X	
Roger MacLean, Pres.	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council on August 15, 2018 and signed by the Mayor on August 22, 2018.

  
CITY CLERK