



Lehigh Valley Planning Commission

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BRIEF

July 31, 2018

Fireworks - Act 43 of 2017; Pennsylvania House Bill 542 of 2017

Introduction

Pennsylvania consumers are now able to purchase and use Class “C” (consumer-grade) fireworks in Pennsylvania, which were previously only available to out-of-state residents. These include firecrackers, Roman Candles, bottle rockets, and similar fireworks that contain a maximum of 50 milligrams of explosive material. House Bill 542 does not alter restrictions on display fireworks, those that contain more than 130 milligrams of explosive materials, and professional-grade aerial shells containing more than 60 grams of pyrotechnic compositions. These are still only to be used by professionals with proper permitting from the municipality in which the display will take place. Further, this law does not alter novelty fireworks.

Summary

- House Bill 542 was enacted on October 30, 2017. The new law repeals and replaces the Fireworks Act of 1939 in its entirety.
- Fireworks can only be purchased at a licensed facility. Permanent structures must be standalone structures that comply with the provisions of the Pennsylvania Construction Code Act. [§2407].
- The Pennsylvania Department of Agriculture is responsible for issuing licenses to permanent facilities for the sale of consumer fireworks.
- The facility shall be a stand-alone permanent structure, and storage areas shall be separated from wholesale or retail sales areas by appropriately rated fire separation.
- Permanent locations shall have a monitored burglar and fire alarm system, along with quarterly fire drills and preplanning meetings as conducted by the primary fire department.
- The facility shall be located no closer than 250 feet from a facility selling or dispensing gasoline, propane or other flammable products and shall be at least 1,500 feet from another facility licensed to sell consumer fireworks.
- A temporary structure may be conditionally licensed to sell consumer fireworks if all temporary structure requirements are met [§2410]:
 - Temporary structures may not exceed 2,500 square feet in size.
 - The outdoor storage unit must be separated from the wholesale or retail sales area by appropriately rated fire separation.
 - The temporary structure shall be located no closer than 250 feet from a facility selling or dispensing gasoline, propane or other flammable products.

- Prior to January 1, 2023 the temporary structure must be located at least five miles away from a permanent facility licensed to sell consumer fireworks.
- Beginning January 1, 2023 the temporary structure must be located at least two miles away from a permanent facility licensed to sell consumer fireworks.
- The sales period for temporary structures is limited to June 15 through July 8 and December 21 through January 2 of each year.
- The sale of consumer fireworks in temporary structures is limited to helicopter, aerial spinner, Roman Candle, and mine and shell devices not exceeding 500 grams.

Municipal Considerations

Following the passing of the new fireworks law, municipalities are looking to regulate the sale of fireworks in temporary structures in various ways that meet the needs of their communities. Some Pennsylvania municipalities close to the state borders already have some experience with the sale of fireworks with out-of-state consumers crossing state lines to buy fireworks in their municipalities. Municipalities also need to be aware of conflicts between the requirements for the license as outlined above and their own zoning ordinances. Special attention should be paid to the dates sales can occur in a temporary structure and required buffer distances.

- Palmer Township in Northampton County handles retail sales in temporary structures, which are permitted as a special exception, by requiring the applicant to submit a site plan. This ensures compliance with state regulations and typically triggers a variance request for parking when the structure is located in a shopping center with limited parking available.
- West Manheim Township in York County restricts temporary retail sales to be permitted only in Commercial or Industrial business districts. Each instance of a temporary retail sale is limited to 15 consecutive days and no more than four separate events per year per property.
- Salisbury Township in Lehigh County requires a conditional use hearing for fireworks sales in temporary structures. Applicants are required to pay a fee, maintain fire extinguishers on site and submit to a Fire Marshall Inspection. During the hearing, the Township also considers the accessibility of restroom facilities, electricity access, police accessibility and security of the site overnight.

Resources

- _____ . House Bill 542. Pennsylvania General Assembly: Harrisburg, PA. October 30, 2017.

Available at:

<http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2017&sInd=0&body=H&type=B&bn=542>

- Interactive mapping tool to determine distance from Permanent Consumer Fireworks Facility (used in determining potential locations of Temporary Structure)

Available at:

<https://padeptag.maps.arcgis.com/apps/webappviewer/index.html?id=b18fdb0451524b2f9e47ffda7f9718de>

- Interactive mapping tool to locate Pennsylvania's currently licensed consumer fireworks locations, permanent facilities and temporary structures.

Available at:

<https://padeptag.maps.arcgis.com/apps/webappviewer/index.html?id=7311c65f7fb84efe a6d09b8766b00c90>