

**OFFICIAL
BOROUGH OF FRANKLIN PARK
ORDINANCE NO. 675-2023**

AN ORDINANCE OF THE BOROUGH OF FRANKLIN PARK, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING CHAPTER 122, "FIRE PREVENTION," IN THE CODE OF THE BOROUGH OF FRANKLIN PARK, TO ADOPT THE 2018 EDITION OF THE INTERNATIONAL FIRE CODE; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; CREATING A NEW ARTICLE III ENTITLED "FIREWORKS" IN ACCORDANCE WITH ACT 74 OF 2022; REPEALING ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH; AND ESTABLISHING SEVERABILITY AND EFFECTIVE DATE PROVISIONS.

WHEREAS, Section 1202(5) of the Borough Code, 8 Pa.C.S. §1202(5), grants the Borough of Franklin Park ("Borough") the specific power to make such regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and the beauty, convenience, comfort and safety of the Borough; and

WHEREAS, Section 1202(15) of the Borough Code, 8 Pa.C.S. §1202(4), grants the Borough the specific power to adopt and enforce a fire prevention code; and

WHEREAS, on June 11, 1986, the Borough Council created Chapter 122 "Fire Prevention" in the Code of the Borough of Franklin Park; and

WHEREAS, on July 15, 1998, the Borough Council enacted Ordinance No. 456-98, which adopted the "BOCA National Fire Prevention Code, Tenth Edition, 1996," as the Borough Fire Prevention Code and to revise the regulations related thereto; and

WHEREAS, on March 15, 2000, the Borough Council enacted Ordinance No. 486-00, which added regulations for Key Lockbox Rapid Entry Systems as Article II to Chapter 122 in the Code of the Borough of Franklin Park; and

WHEREAS, on November 20, 2013, the Borough Council enacted Ordinance No. 608-2013, which created Chapter 97 "Burning, Open" in the Code of the Borough of Franklin Park; and

WHEREAS, on November 19, 2014, the Borough Council enacted Ordinance No. 616-2014 amending Chapter 122 in the Code of the Borough of Franklin Park to adopt the 2009 International Fire Code; and

WHEREAS, on October 16, 2019, the Borough Council enacted Ordinance No. 652-2019 amending Chapter 122 in the Code of the Borough of Franklin Park to adopt the 2015 International Fire Code; and

WHEREAS, on August 18, 2021, the Borough Council enacted Ordinance No. 662-2021 amending Chapter 122 to identify the Fire Prevention Code as Article I and to create a new Article

II on Fire Insurance Escrow; and

WHEREAS, the Borough Council desires to amend and restate Article I in Chapter 122 of the Code of the Borough of Franklin Park, "Fire Prevention," to adopt the 2018 International Fire Code as the Borough Fire Prevention Code and to revise the regulations related thereto in order to maintain, preserve and protect the public health, safety and welfare; and

WHEREAS, on July 11, 2022, Governor Tom Wolf signed into law Act 74 of 2022, P.L. 762, No. 74, ("Act 74") which amends Title 3, Agriculture, of the Pennsylvania Consolidated Statutes to add a new Chapter 11, Fireworks, 3 Pa.C.S. §1101 *et seq.*, effective 60 days therefrom; and

WHEREAS, Act 74 authorizes the Borough to regulate the use of consumer and display fireworks within the Borough's geographic boundaries; and

WHEREAS, Borough Council has considered the use of consumer and display fireworks within the Borough and has determined that regulation of such fireworks within the Borough in accordance with Act 74 is in the best interest of the public health, safety, morals, and general welfare of the Borough and its residents.

NOW, THEREFORE, be it ordained and enacted by the Borough Council of the Borough of Franklin Park, and it is hereby ordained and enacted by and with the authority of the same, incorporating the above recitals by reference:

SECTION 1. Chapter 122, "Fire Prevention," of the Code of the Borough of Franklin Park is amended by restating Article I in its entirety as follows:

**Chapter 122
Fire Prevention**

ARTICLE I FIRE PREVENTION CODE

§ 122-1 Adoption of Fire Prevention Code.

A certain document, three (3) copies of which are on file in the office of the Borough Secretary of the Borough of Franklin Park, being marked and designated as the *International Fire Code*, 2018 edition, including Appendices D and I (see *International Fire Code* Section 101.2.1, 2018 edition) as published by the International Code Council, be and is hereby adopted as the Fire Prevention Code of the Borough of Franklin Park, in the Commonwealth of Pennsylvania 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 as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Prevention Code on file in the office of the Borough Secretary of the Borough of Franklin Park are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 122-2 of this Chapter.

§ 122-2 Modifications to standards.

The following sections and subsections of the International Fire Code, 2018 edition, are hereby added, inserted, deleted, restated or changed as set forth below:

A. Section 101.1 is restated as follows:

101.1 Title. These regulations shall be known as the Fire Prevention Code of the Borough of Franklin Park (hereinafter referred to as "this code").

B. Section 102.4 is restated as follows:

102.4 Application of building code. The design and construction of new structures shall comply with the procedures and provisions of Chapter 99 of the Code of the Borough of Franklin Park, "Construction Code, Uniform," as amended (hereinafter referred to as the "Borough Construction Code"). Any *alterations*, additions, changes in use or changes in structures required by this code, which are within the scope of the Borough Construction Code, shall be made in accordance therewith. Nothing in this code shall be construed to cancel, modify or set aside any provisions of Chapter 212 of the Code of the Borough of Franklin Park, "Zoning," as amended.

C. Section 102.5 is amended by inserting "Borough Construction Code" in place of the reference to "*International Residential Code*."

D. All references to "*International Building Code*" shall be deemed to be a reference to the "Borough Construction Code" within this code.

E. Section 103 is amended by changing the title of the Section to "Code Enforcement."

F. Section 103.1 is restated as follows:

103.1 General. The existing office of Fire Official is hereby continued and the executive official(s) in charge thereof shall be known as the Fire Official (hereinafter *fire code official*), who shall be appointed, together with any assistants, from time to time by Borough Council.

G. Substitute "Fire Official" in all relevant Sections for all references to the "department of fire prevention."

H. All references to "fire department" shall be deemed to be a reference to the "Franklin Park Volunteer Fire Company No. 1" within this code.

I. Section 104.3 is restated as follows:

104.3 Right of entry. Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the *fire code official* has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code, the *fire code official* shall have the right and the power to enter upon and inspect the building or premises at all reasonable hours and in a reasonable manner for the administration and enforcement of this code. If such building or premises is occupied, the *fire code official* shall present credentials to the *occupant* and request entry. If such

building or premises is unoccupied, the *fire code official* shall first make a reasonable effort to locate the *owner* or other person having charge or control of the building or premises and request entry. In the event that entry upon any building or premises is refused by an *owner*, an agent of an *owner* or a tenant, the *fire code official* shall obtain an administrative search warrant from any magisterial district judge within the judicial district where the building or premises to be inspected is located. It shall be sufficient to support the issuance of a warrant for the *fire code official* to provide to the magisterial district judge evidence of any of the following:

1. Reasonable standards and an administrative plan for conducting inspections.
2. The condition of the building, premises or general area and the passage of time since the last inspection.
3. Facts, supported by oath or affirmation, alleging that probable cause exists that a law, regulation or ordinance subject to enforcement by the *fire code official* has been violated.

J. Section 106.2 is restated as follows:

106.2 Schedule of permit fees. The fees for applications and permits referenced in *this code* and for the activities and services performed by the *fire code official* in carrying out his/her responsibilities under this code shall be established, from time to time, by resolution of the Borough Council.

K. Section 109, Board of Appeal, is deleted in its entirety and restated as follows:

SECTION 109 MEANS OF APPEAL

109.1 Application for appeal. Any *person* directly aggrieved by an order, decision, or determination made by the *fire code official* relative to the application and interpretation of this code shall have the right to appeal to the Building Board of Appeals established under the Borough Construction Code provided that a written application for an appeal on a form provided by the Borough is filed within ten (10) days after receipt or posting of such order, decision, or determination, along with the payment of an appeal hearing fee in an amount set from time to time by resolution of the Borough Council. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder has been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The Building Board of Appeals shall have no authority to waive requirements of this code.

109.2 Regulations and procedures for appeals. All appeals under this code shall proceed under the regulations and procedures of the Building Board of Appeals.

L. Section 110.3.3 is restated as follows:

110.3.3 Prosecution of violation. If the person does not comply with the notice of violation within the time period set forth in the notice, the *fire code official*, a Borough police officer, or the Borough Solicitor shall institute the appropriate proceedings at law

or in equity to restrain, correct or abate such violation, or to require removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any person failing to comply with a notice of violation or order served in accordance with the code shall be prosecuted by action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Borough Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 454 (relating to trial in summary cases).

M. Section 110.4 is restated as follows:

110.4 Violation penalties. Any person who shall violate any provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, install, alter, repair, or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be guilty of a summary offense, punishable by a fine not to exceed \$1,000.00 per violation, plus court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings, and in default of payment of such fine and costs to imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion of a day in which a violation is found to exist or for each section of this code which is found to have been violated. All fines, costs, penalties, and fees collected for the violation of this Chapter shall be paid to the Borough Treasurer.

N. Section 110.4.1 is amended by adding a last sentence as follows:

"Any action taken by the Borough in the prosecution or abatement of any violation shall be charged against the real estate upon which the violation exists and shall be a municipal claim and lien upon such real estate."

O. Section 111.3 is restated as follows:

111.3 Summary abatement. Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code and the Borough may collect the cost of abatement, together with a penalty of ten (10%) percent of the cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or may seek relief by bill in equity.

P. Section 112.4 is amended to insert "\$600.00" in the first reference of [AMOUNT] and "\$1,000.00" in the second reference of [AMOUNT].

Q. Section 307, Open Burning, Recreational Fires and Portable Outdoor Fireplaces, is deleted in its entirety and restated as follows:

**SECTION 307
OPEN BURNING, RECREATIONAL FIRES**

AND PORTABLE OUTDOOR FIREPLACES

307.1 General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with Chapter 97, "Burning, Open," in the Code of the Borough of Franklin Park.

R. Section 1103.5.3 is restated as follows:

1103.5.3 Group I-2, Condition 2. In addition to the requirements of Section 1103.5.2, existing buildings of Group I-2, Condition 2 occupancy shall be equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1. The automatic sprinkler system shall be installed by October 16, 2019.

S. The geographic limits referred to in certain Sections are hereby established as follows:

Section 5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): R-1, R-2, R-3, R-4, M-1, and M-2 Zoning Districts.

Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): R-1, R-2, R-3, R-4, M-1, and M-2 Zoning Districts.

Section 5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): R-1, R-2, R-3, R-4, M-1, and M-2 Zoning Districts.

Section 6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): R-1, R-2, R-3, R-4, M-1, and M-2 Zoning Districts.

§ 122-3 More Restrictive Provisions to Apply.

When the provisions of this Chapter are in conflict with other sections of the Code of the Borough of Franklin Park or any other Borough ordinances or any other applicable codes, the more stringent code, ordinance or regulation shall apply.

SECTION 2. Chapter 122, "Fire Prevention," of the Code of the Borough of Franklin Park is amended by creating a new Article III as follows:

Chapter 122 Fire Prevention

ARTICLE III FIREWORKS

§122-8 Definitions.

As used in this article unless the context clearly indicates otherwise, the following terms shall have the meanings indicated:

ANIMAL HOUSING FACILITY

A roofed structure or facility, or a portion thereof, used for occupation by livestock or poultry.

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.

BUILDING

A structure under a roof used for the shelter or enclosure of persons, animals or property. The word "building" shall include any part thereof.

CFR

The Code of Federal Regulations of the United States.

CODE OFFICIAL

The Borough Fire Official or Deputy Fire Official.

CONSUMER FIREWORKS

Any combustible or explosive composition or any substance or combination of substances that 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 is permitted in Pennsylvania. 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 is permitted at all times in Pennsylvania.

DISPLAY FIREWORKS

Large fireworks to be used solely by professional pyrotechnicians and 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 milligrams) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces that exceed the limits of explosive materials for classification as "consumer fireworks" and are classified as fireworks UN0333, UN0334 or UN0335 by the U.S. Department of Transportation under 49 CFR 172.101 (relating to purpose and use of hazardous materials table). This term also includes fused set pieces containing components which together exceed 50 milligrams of salute powder.

FIRE CHIEF

The Fire Chief of the Franklin Park Volunteer Fire Company No. 1 or such successor official fire protection agency providing fire protection services to the Borough.

VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks. The term does not include a self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.

§122-9 Use of Display Fireworks.

- A. The purchase, possession, or use of Display Fireworks is prohibited in the Borough unless a permit has been obtained from the Code Official or the Code Official's designee. Permits shall not be transferrable. The Code Official may grant an extension for a permit issued under this section to a new date for displays canceled due to unfavorable weather or other circumstances beyond the control of the permittee. Permit fees shall be set forth in the Annual Fee Resolution, as amended by Borough Council from time to time.
- B. The Code Official shall not issue a permit for the purchase, possession, or use of Display Fireworks unless the following criteria are met in an application submitted at least forty-five (45) days before the date of the display:
 - (1) No Display Fireworks shall be ignited within 300 feet of a fireworks sales location or facility that meets the requirements of 3 Pa.C.S. §1107;
 - (2) Display Fireworks shall be handled by a competent operator at least 21 years of age who provides evidence of fireworks handling and safety training;
 - (3) Display Fireworks shall only be located, discharged, or fired from a location that is deemed not to be hazardous to property or endanger the health or safety of any person. The Code Official may request the opinion of the Fire Chief or other person with similar training or experience to make such a determination; and
 - (4) The permittee shall carry insurance in an amount not less than \$1,000,000.00 conditioned for the payment of all damages which may be caused to a person or property by reason of the use of Display Fireworks and arising from an act of the handler or an agent, an employee, or a subcontractor thereof.
- C. The Code Official shall not issue a permit for the use of Display Fireworks for agricultural purposes unless the following criteria are met:
 - (1) The Display Fireworks shall only be used in connection with the raising of crops and the protection of crops from bird and animal damage;
 - (2) A permit under this subsection shall only remain in effect for the calendar year in which it is issued; and
 - (3) An application for the use of Display Fireworks for agricultural purposes shall be made in writing to the Code Official at least fifteen (15) days in advance of the date of the intended use, setting forth the agricultural necessity for the use, the specific type of Display Fireworks to be used, the name and address of the operator, and the name and address of the owner of the grounds on which the use is to occur with the consent of such owners thereto in writing attached.

§122-10 Use of Consumer Fireworks.

- A. A person who is at least 18 years of age may purchase, possess, and use Consumer Fireworks.
- B. A person may not use Consumer Fireworks:
 - (1) On public property, including, but not limited to, streets, parking lots, sidewalks and parks except with the express written permission of the Code Official;

- (2) On private property without the express permission of the owner or entity that controls the property;
 - (3) Within, directed at, or directed from a vehicle or building;
 - (4) Directed at another person;
 - (5) While the person is under the influence of alcohol, a controlled substance, or another drug;
 - (6) Within 150 feet of a building or vehicle, whether or not the building or vehicle is owned by the user of the Consumer Fireworks;
 - (7) Within 150 feet of an animal housing facility or a fenced area designed to confine livestock owned or managed by another person; or
 - (8) Within a distance of 150 to 300 feet from an animal housing facility or a fenced area designed to confine livestock owned or managed by another person unless the user of the Consumer Fireworks notifies in writing the owner or manager of the livestock at least 72 hours in advance that Consumer Fireworks will be used in that area.
- C. Consumer Fireworks may not be used between the hours of 10:00 p.m. and 10:00 a.m., except:
- (1) On July 2, 3, and 4, and December 31, when Consumer Fireworks may be used until 1:00 a.m. on the following day; and
 - (2) When July 4 falls on a Tuesday, Wednesday, or Thursday, Consumer Fireworks may be used until 1:00 a.m. on the immediately preceding and following Friday and Saturday; and
 - (3) On Memorial Day and Labor Day, including the immediately preceding Saturday and Sunday, when Consumer Fireworks may be used until 1:00 a.m. on the following day.

§122-11 Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this article or fails to comply therewith or with any of the requirements thereof, upon conviction thereof in an action brought before a Magisterial District Judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs, including reasonable attorneys' fees incurred by the Borough, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this article is found to exist or for each section of this article found to have been violated. The Borough may also commence appropriate actions in equity to prevent, restrain, correct, enjoin or abate violations of this article. All fines and penalties collected for violation of this article shall be paid to the Borough Treasurer. The

initial determination of ordinance violation is hereby delegated to the Borough Manager, the Police Department, the Borough Staff, the Code Official, the Assistant Code Official, the Fire Official, the Deputy Fire Official, the authorized designee of the Borough Manager and to any other officer or agent that the Borough Manager or the Borough Council shall deem appropriate.

SECTION 3. That all other ordinances or parts of ordinances in conflict herewith, including specifically Ordinance No. 652-2019, are hereby repealed.

SECTION 4. That if any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Borough Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 5. That nothing in this Ordinance or in the Fire Prevention Code hereby adopted shall be construed to affect any suit or proceeding impeding in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 6. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect in accordance with applicable law.

ORDAINED AND ENACTED into law by Borough Council of the Borough of Franklin Park, Allegheny County, Pennsylvania, at its meeting held on the ____ day of _____, 2023.

ATTEST:

BOROUGH OF FRANKLIN PARK

Secretary

By: _____
President

Approved by me this _____ day of _____, 2023

Mayor