

## **EMERGENCY ORDINANCE 2018- 1**

**AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE MUNICIPALITY OF KINGSTON, LUZERNE COUNTY, PENNSYLVANIA, A HOME RULE MUNICIPALITY, ENACTED PURSUANT TO MUNICIPAL CHARTER SECTION 214 PROHIBITING THE IGNITING OR DISCHARGE OF CONSUMER FIREWORKS ON PUBLIC OR PRIVATE PROPERTY WITHOUT THE EXPRESS PERMISSION OF THE OWNER, PROVIDING THAT THE MUNICIPALITY OF KINGSTON DOES NOT GRANT PERMISSION FOR ANYONE TO IGNITE OR DISCHARGE CONSUMER FIREWORKS ON THE STREETS OR SIDEWALKS OF THE MUNICIPALITY OF KINGSTON OR PROPERTY OWNED BY THE MUNICIPALITY OF KINGSTON INCLUDING, WITHOUT LIMITATION, ALL OF THE MUNICIPAL OWNED PARKS AND PUBLIC BUILDINGS AND PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT AND TERMINATE IN ACCORDANCE WITH THE HOME RULE CHARTER OF THE MUNICIPALITY OF KINGSTON**

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**WHEREAS**, the National Weather Service and local weather forecasters are predicting extreme heat during the summer months, and

**WHEREAS**, dry conditions oftentimes accompany high heat thereby posing a threat of fire, and

**WHEREAS**, the combination of summer heat, dry conditions and summer activities poses a danger of accidental fires, and

**WHEREAS**, the Pennsylvania Fireworks Law, Act 43 of 2017, took effect on October 30, 2017, and

**WHEREAS**, the Pennsylvania Fireworks Law defines consumer fireworks as any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 C.F.R. (relating to commercial practices), or any successors 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 Commonwealth (the term does not, however, include devices as “ground and handheld 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 Commonwealth), and

**WHEREAS**, pursuant to the Pennsylvania Fireworks Law, a person who is at least eighteen years of age and meets the requirements of the law may purchase, possess and use consumer fireworks provided, however, that a person may not intentionally ignite or discharge consumer fireworks on public or private property without the express permission of the owner, may not intentionally ignite or discharge consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from, a motor vehicle or building, may not intentionally ignite or discharge consumer fireworks or sparkling devices into or at a motor vehicle or building or at another person, may not intentionally ignite or discharge consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug, and may not intentionally ignite or discharge consumer fireworks within 150 feet of an occupied structure, and

**WHEREAS**, Paul J. Roberts, Jr., Mayor of the Municipality of Kingston has declared that an emergency exists within the Municipality relating to the heat, dry conditions and probable expanded use of fireworks within the Municipality as a result of the new law and, furthermore, has determined that the use of consumer fireworks and sparkling devices in an urban setting such as the Municipality of Kingston risks safety and health hazards occasioned by the use of such devices unless properly regulated.

**NOW THEREFORE**, it is hereby ordained by the Town Council of the Municipality of Kingston that as a result of the findings set forth in the background paragraphs set forth above, which are incorporated herein, an Emergency Ordinance is hereby approved. Said Emergency Ordinance establishes that no permission is granted by the Municipality of Kingston to any person to ignite or discharge consumer fireworks on the streets of the Municipality of Kingston, the sidewalks of the Municipality of Kingston or any property owned by the Municipality of Kingston, including, without limitation, all of the Municipality's parks and public buildings.

All Ordinances or Resolutions or parts of Ordinances or Resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded during the time wherein this Emergency Ordinance is in effect.

In the event any provisions, section, sentence, clause or part of this Emergency Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Emergency Ordinance; it being the intent of the Municipality of Kingston that the remainder of the Emergency Ordinance shall be and shall remain in full force and effect.

Any person who shall violate any provisions of this Emergency Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300.00 and costs of prosecution and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days.

This Emergency Ordinance shall become effective immediately as authorized by Municipal Charter Section 214 and shall cease to be effective on the 31<sup>st</sup> day following its adoption.

**ADOPTED** at a Regular Meeting of the Town Council of the Municipality of Kingston, Luzerne County, Pennsylvania, held the 2<sup>nd</sup> day of July, 2018.

FOR THE TOWN COUNCIL

BY: \_\_\_\_\_  
Robert Thompson, President

ATTEST:

\_\_\_\_\_  
Julie Norton, Secretary

APPROVED:

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Paul J. Roberts, Jr., Mayor

Date: \_\_\_\_\_