

ORDINANCE RECORD
COUNCIL OF THE VILLAGE OF BROOKLYN HEIGHTS

Ordinance No. 50-2022

By WHS

**AN EMERGENCY ORDINANCE AMENDING SECTION 678.10(f) OF CHAPTER 678
CONCERNING FIREWORKS, OF PART SIX- GENERAL OFFENSE CODE OF THE
CODIFIED ORDINANCES OF THE VILLAGE OF BROOKLYN HEIGHTS;
ADDRESSING AND OPTING OUT OF THE PROVISIONS OF AMENDED
SUBSTITUTE HOUSE BILL 172 AND REAFFIRMING THE BAN IN THE VILLAGE OF
BROOKLYN HEIGHTS ON DISCHARGING, IGNITING, OR EXPLODING OF
FIREWORKS, AS SET FORTH IN CHAPTER 678 OF THE CODIFIED ORDINANCES OF
THE VILLAGE OF BROOKLYN HEIGHTS**

WHEREAS, on October 27, 2021, the Ohio General Assembly passed Amended Substitute House Bill 172 (“HB 172”) concerning, among other things, the regulation, possession, discharge, ignition, and exploding of fireworks in the State of Ohio, which was signed by Governor DeWine on November 8, 2021; and

WHEREAS, various aspects of HB 172 will, without legislative action, permit the discharge, ignition and/or exploding of what are commonly referred to as “fireworks” on certain conditions and on certain days of the year; and

WHEREAS, provisions of HB 172 (including, effective July 1, 2022, what will be R.C. §3743.45(D) and (E), and R.C. §3743.451(B)) expressly grant municipalities the home rule authority to retain all or any municipal ordinances that regulate and/or prohibit the discharge, ignition, and/or exploding of fireworks and to retain all Ordinances that regulate noise, disturbance of the peace and disorderly conduct; and

WHEREAS, the Fire Chief and Police Chief recommend that the Council of the Village of Brooklyn Heights opt-out of HB 172, and reaffirm the existing complete ban on discharging, igniting, and/or exploding of fireworks as set forth in Chapter 678 of the Village of Brooklyn Heights Codified Ordinances; and

WHEREAS, the discharge, ignition, and/or exploding of fireworks poses significant danger to the public and will cause injuries, as well as property damage, especially in densely populated residential areas; and

WHEREAS, the Village of Brooklyn Heights desires to preserve its residents’ quiet enjoyment of their residential properties; and

WHEREAS, Council desires to opt-out of HB 172 before its provisions take effect on July 1, 2022, and to reaffirm the existing ban on discharging, igniting, and/or exploding of fireworks as set forth in Chapter 678 of the Brooklyn Heights Codified Ordinances; and

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WHEREAS, in this regard, Section 678(f) of Chapter 678- Fireworks, of the General Offense Code of the Codified Ordinances of the Village of Brooklyn Heights will, therefore, be amended to reflect such changes in the law.

THE VILLAGE OF BROOKLYN HEIGHTS HEREBY ORDAINS THAT:

Section 1. That Section 678.10(f)(1) of Chapter 678 concerning Fireworks, of Part Six of the General Offense Code of the Codified Ordinances of the Village of Brooklyn Heights, be and is hereby amended to read in its entirety as follows:

678.10(f) Possession, Sale, Discharge, and Advertising: Falsification.

(1) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 through 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 through 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, an out-of-state resident as authorized by Ohio R.C. 3743.44, ~~a resident of this State as authorized by Ohio R.C. 3743.45~~, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 through 3743.55, or as authorized by any municipal ordinance that is substantially equivalent to any of these statutes, and except as provided in Ohio R.C. 3743.80 or a substantially equivalent municipal ordinance.

Section 2. That Section 678.10(f)(2) of Chapter 678 concerning Fireworks, of Part Six of the General Offense Code of the Codified Ordinances of the Village of Brooklyn Heights, be and is hereby amended to read in its entirety as follows:

678.10(f) Possession, Sale, Discharge, and Advertising: Falsification.

(2) Except as provided in Ohio R.C. 3743.80 or a substantially equivalent municipal ordinance, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 through 3743.55 or a substantially equivalent municipal ordinance, no person shall discharge, ignite, or explode any fireworks in this Municipality, **including a prohibition of the discharge, ignition or explosion of fireworks purchased pursuant to Ohio R.C. Section 3743.45. This section shall be construed to prohibit the discharge, ignition, or explosion of fireworks on private property on any of the days and conditions set forth in Ohio R.C. Section 3743.45(b).**

Section 3. That Section 678.10(f)(5) of Chapter 678 concerning Fireworks, of part Six of the General Offense Code of the Codified Ordinances of the Village of Brooklyn Heights, be and is hereby amended to read in its entirety as follows:

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678.10(f) Possession, Sale, Discharge, and Advertising: Falsification.

(5) Except as otherwise provided in R.C. § 3743.44, no person other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder shall possess 1.3G fireworks **or 1.4G fireworks** in this Municipality.

Section 4. That Chapter 678, as amended herein, and any other ordinances of the Village of Brooklyn Heights that govern the possession, discharge, ignition, and/or explosion of fireworks are hereby reaffirmed and ratified and shall be in full force and effect as permitted by the terms of HB 172 and the Ohio Revised Code, and the Village of Brooklyn Heights affirmatively opts out of the provisions of HB 172 that would and do otherwise allow for the use of fireworks as specified herein.

Section 5. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 6. That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety, and welfare of the Village of Brooklyn Heights. The reason for this emergency is that it is immediately necessary to amend Section 678.10(f) and to regulate the possession, discharge, ignition and/or explosion of fireworks for the safety and protection of all, and to do so before the effective date of HB 172. Therefore, this Ordinance shall become immediately effective upon receiving the affirmative vote of four (4) members elected to Council and approval of the Mayor and/or Clerk/Treasurer; otherwise from and after the earliest period allowed by law.

PASSED: 4-0 6/7/12

ATTEST: 
Aaron D. Frank
Clerk/Treasurer

APPROVED: 

Michael S. Procuik
Mayor