

WEST NANTMEAL TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 3 - 2018

AN ORDINANCE REGULATING THE USE OF CONSUMER FIREWORKS, PROVIDING FOR THE GRANTING OF PERMITS FOR THE USE OF DISPLAY FIREWORKS, PRESCRIBING SAFEGUARDS CONCERNING SAME, PROHIBITING THE USE OF DISPLAY FIREWORKS WITHOUT OBTAINING A PERMIT THEREFORE, AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED, by the Board of Supervisors of West Nantmeal Township, as follows:

SECTION 1. Definitions. The following words and terms shall, for purposes of this Ordinance, have the meanings shown herein:

Act 43 of 2017- the Pennsylvania Fireworks Law as adopted by the Commonwealth of Pennsylvania General Assembly with an effective date of October 30, 2017.

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 this Commonwealth.
- (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 this Commonwealth.

Display fireworks- shall be defined as provided in Section 2401 of Act 43 of 2017 as large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration or detonation. The term includes, but is not limited to:

- (1) Salutes that contain more than two grains or 130 milligrams of explosive materials;

- (2) Aerial shells containing more than 60 grams of pyrotechnic compositions; and
- (3) Other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

SECTION 2. Use, sale and storage of Consumer Fireworks.

The use, sale and storage of consumer fireworks within the Township shall comply with Act 43 of 2017.

SECTION 3. Use of Display Fireworks.

- (A) It shall be unlawful for any person, firm, or corporations to possess or use display fireworks within the limits of West Nantmeal Township unless a permit is first granted by the Township.
- (B) Holders of permits to possess and use display fireworks within the Township must comply with and abide by all Pennsylvania and federal statutes and regulations governing the use and storage of display fireworks, including, but not limited to, the International Fire Code and the Uniform Construction Code (Act 45 of 1999, as amended) ("UCC"). In the event of an inconsistency between the aforementioned state and federal laws and regulations and this Ordinance, the more stringent statutes and regulations shall apply.
- (C) Before a permit for the possession and use of display fireworks may be issued, the applicant must apply to the Township's building code official for a permit under the UCC. If the building code official indicates in writing that no UCC permit is required, the application shall be processed in accordance with this Ordinance. If a UCC permit is required, the applicant must present the valid UCC permit before a display fireworks permit may be issued under this Ordinance. If an applicant possesses a valid UCC permit, the site inspection requirements in Section 3 of this Ordinance are waived.
- (D) Every use of display fireworks within the Township shall be handled, arranged, managed, and directly supervised by a competent operator. The Township Fire Chief and/or Fire Code Official, or other such officer designated by the Township's Board of Supervisors, shall inspect the proposed site prior to issuing a permit in accordance with the International Fire Code and other applicable regulations and ensure that the site and proposed use of display fireworks are not hazardous to property, will not endanger any person(s) and will be in compliance with said regulations.

SECTION 4. Application for permit for Display Fireworks.

- (A) An application for a permit shall be made in writing to the Township at least 30 days in advance of the date of the proposed use of display fireworks, setting forth the proposed date, time, and location, the character and duration thereof, the name and address of the competent operator, and the name and address of the owner(s) of the grounds on which the display fireworks are to be used, with the written consent of such owner(s) and a copy of any permit application required by the International Fire Code and/or the UCC. The application shall contain copies of all state, federal, and local permits and/or licenses needed for the use of display fireworks. All applicants shall pay the Township the appropriate permit fee identified on the Township's duly enacted fee schedule and provide proof of liability insurance acceptable to the Township and the required bond prior to issuance of a permit. The Board of Supervisors or its designee may attach conditions and/or restrictions on any permit for the use of display fireworks as deemed necessary.
- (B) Permits granted under this section shall be for the approved purpose, date, and time only, unless extended due to unfavorable weather under Section 6.
- (C) No permit for the use of display fireworks shall be issued to an individual under the age of 21.
- (D) No permit for the use of display fireworks shall be issued to an individual unless said individual provides written documentation that he or she has all necessary federal licenses and authorizations to possess, store, and use display fireworks.
- (E) No display fireworks shall be ignited within 300 feet of a permanent or temporary fireworks facility licensed by the Pennsylvania Department of Agriculture.
- (F) No permit shall be issued to a business entity which performs, provides or supervises the use of display fireworks for profit unless it provides proof of registration with the Pennsylvania Attorney General.
- (G) Permits issued pursuant to this Ordinance may be transferred in accordance with Act 43 of 2017. Such transfers shall take effect only after (1) the permit holder provides written notice of the proposed transfer to the Township; and (2) the transferee provides a written statement that he or she agrees to comply with the requirements stated in the permit and this Ordinance. Both must be provided to the Township at least 10 days in advance of the transfer.

SECTION 5. Bond Requirement.

The Township shall require a bond from the applicant in an amount deemed appropriate by the Board of Supervisors or its designee. The bond amount shall be no less than \$1,000,000 and shall be provided for the payment of any and all damages caused to any person(s) and property by reason of the display and arising from any acts of the permittee or the permittee's agents, employees, subcontractors, or volunteers. The bond shall be in a form acceptable to the Township and no permit for the use of display fireworks shall be issued unless an acceptable bond is received by the Township.

SECTION 6. Request for continuance of permit.

If by reason of unfavorable weather the display for which a permit has been granted does not take place at the time authorized, the permittee may apply to the Township within twenty-four (24) hours, setting forth under oath the fact that such display was not made, the reason, and request for a continuance of such permit for a specifically designated day, no later than one week after the day fixed originally in said permit. Upon receiving such application for a continuance, the Township shall extend the provisions of the permit to the day fixed in the application, no later than one week after the original day designated in the permit, if it believes the facts to be true. Such extension of time shall be granted without the payment of any additional fee or requiring any bond other than the one given for the original permit. The provisions of the original bond shall extend to and cover all damages which may be caused by reason of said display taking place at the extended date in the same manner and to the same extent as if such display had taken place at the date originally fixed in the permit.

SECTION 7. Penalties and violations.

Any person or entity that uses or sells Consumer Fireworks in violation of the provisions of this Chapter shall be prosecuted in accordance with Act 43 of 2017. Any person or entity selling Display Fireworks in violation of the provisions of this Chapter shall be prosecuted in accordance with Act 43 of 2017. In addition, any person violating the provisions of this Ordinance shall be guilty of a summary offense, and upon conviction thereof, shall be punished by a fine not exceeding \$1,000.00 or by imprisonment not exceeding 30 days or by both such fine and imprisonment.

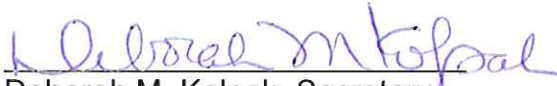
SECTION 8. SEVERABILITY. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors of West Nantmeal Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 9. REPEALER. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 10. EFFECTIVE DATE. This Ordinance shall become effective five days after its enactment as law provides.

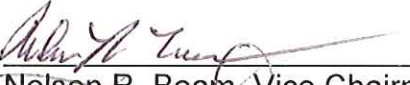
ENACTED AND ORDAINED this 10th day of December, 2018.

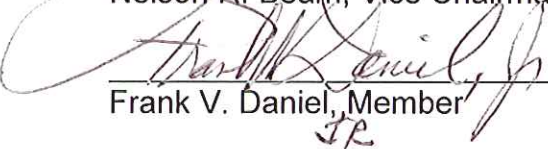
ATTEST:


Deborah M. Kolpak, Secretary

**WEST NANTMEAL TOWNSHIP
BOARD OF SUPERVISORS**


Gary C. Elston, Chairman


Nelson R. Beam, Vice Chairman


Frank V. Daniel, Member
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