

## ORDINANCE NO. 835

AN ORDINANCE OF PENN TOWNSHIP, YORK COUNTY, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING DEFINITIONS OF VARIOUS CATEGORIES OF FIREWORKS; PROVIDING REGULATIONS FOR THE USE AND DISCHARGE OF CONSUMER FIREWORKS, DISPLAY FIREWORKS, AND AGRICULTURAL FIREWORKS; PROVIDING FOR THE ADMINISTRATION OF THE ORDINANCE; AND SETTING FORTH PENALTIES FOR VIOLATIONS OF THE ORDINANCE PROVISIONS.

### ARTICLE 1 PURPOSE AND DEFINITIONS

#### 1.1 Purpose

The purpose of this Ordinance is to regulate the possession and use of consumer fireworks, display fireworks, and agricultural fireworks, and to provide penalties for violation of the provisions of this Ordinance.

#### 1.2 Definitions and Word Usage

The following words, when used in this Ordinance, shall have the meanings ascribed to them in this section, except in those instances where context clearly indicates otherwise.

**Agricultural Fireworks** – Non-aerial display or consumer fireworks, specifically intended to scare birds and/or animals from damaging agricultural crops.

**APA 87-7** – The American Pyrotechnics Association Standard – 87-1: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition, or any other subsequent edition.

**Board** – The Penn Township Board of Commissioners.

**Burn Ban** – The declaration by any state or local agency or official that prohibits or restricts open or outside burning of any kind.

**Code Official** – The Code Official with regard to this Ordinance shall be the Chief of Police of Penn Township or his or her designated representative.

**Competent Operator** - An operator shall be deemed competent, pursuant to this Section, upon the discretionary approval of the Code Official who shall base the decision on an evaluation of documentation provided by a permit applicant concerning the proposed operator's age; past experiences, which includes the number, type and location of completed displays; training; Attorney General registration; and at least two (2) references for said proposed operator.

## 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 which shall be permitted throughout this Commonwealth.
- (2) The term does not include devices such as “ground and hand-held sparkling devices,” “novelties,” “model rockets” 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.

Detailed Site Plan – This plan shall include a description of the firing site; device layout; a complete and itemized list of all pyrotechnic devices to be displayed, including device and effect descriptions; quantities and sizes of aerial shells and ground display pieces; spectator location; fallout perimeter; distances between discharge area and spectator viewing areas; fireworks storage area; parking area; overhead utilities; streets and location of vehicles or readily combustible materials; proof of fire and police officials/equipment to be notified and present; and cleanup plan for display day and next morning.

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. 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 material for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 and 49 CFR 172.101 (relating to purpose and use of hazardous materials table.)

Display Site - The immediate area where a fireworks display is conducted. The display area includes the discharge site, fallout area, and the required separation distance from the mortars to spectator viewing areas. The display area does not include spectator viewing areas or vehicle parking areas.

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Occupied Structure -A structure, vehicle, or place adapted for overnight accommodation of persons or for conducting business, whether or not a person is actually present.

Person – Every natural person, association, partnership, limited liability company, corporation, or entity of any kind.

Police Chief – The duly appointed Police Chief of Penn Township.

Responsible Party – The lawful owner of real property or a structure or, in the event the real property or structure is leased, the tenant in possession of real property or a structure.

Third Party Inspection Agency – The duly appointed Inspection Agency of Penn Township.

Township – Penn Township, York County, Pennsylvania.

Zoning Officer – The duly appointed Zoning Officer of Penn Township.

## ARTICLE II DISPLAY FIREWORKS

### 2.1 Inspection

Every use of display fireworks within the limits of the Township shall be handled by a Competent Operator, and which display shall be of such character and so located, discharged, or fired, as in the opinion of the third party inspection agency after proper inspection, shall not be hazardous to property or endanger any person or persons.

### 2.2 Permissible Purposes

Display Fireworks may be possessed and used by a person holding a permit from the Township at the display covered by the permit or when used as authorized by a permit for any of the following:

- (1) For agricultural purposes, in connection with the raising of crops and the protection of crops from bird and animal damage.
- (2) By railroads or other transportation agencies for signal purposes or illumination.
- (3) In quarrying or for blasting or other industrial use.
- (4) In the sale or use of blank cartridges for show or theater.
- (5) For signal or ceremonial purposes in athletics or sports.
- (6) By military organizations or organizations composed of veterans of the Armed Forces of the United States.

### 2.3 Permit Application

An application for Display Fireworks permits(s) shall be made in writing to the Township at least forty-five (45) days in advance of the date of display, setting forth the proposed location

of the display, the character thereof, a Detailed Site plan, the names and addresses of all property owners located within 500 feet of the outermost edges of a proposed display's fallout perimeter, the name and address of the operator, and the name and address of the owner(s) of the grounds on which the display is to be held, with the consent of such owner(s) thereto in writing attached. All applications, prior to the issuance of a permit shall: (a) pay the Township an application fee of One Hundred (\$100) dollars; (b) provide proof of the required bond as set forth in §1.7 of this Ordinance; and all such fees identified herein may be amended by resolution of the Board from time to time; and (c) pay the cost of Inspection fees from third party inspection agency.

#### 2.4 Transferability

If and after such permit shall have been granted by the Board, or designee, possession and use of fireworks for such display shall be lawful for that purpose only. A permit granted hereunder shall be transferable, provided that the transferrer files a written request with Penn Township to transfer the permit and provided further that the transferee meets and complies with the provisions of this ordinance.

#### 2.5 Bond

The Board shall require a bond given by the permittee or licensee in an amount deemed appropriate by the Board, but will not be in a sum less than two million dollars conditioned on the payment of all damages caused to any person or person, and to any property, by reason of the licensed display, and arising from any acts of the licensee, his or its agents, employees, or subcontractors, which bond shall be filed with the Code Official before any permit for a supervised exhibition of Display Fireworks is delivered.

#### 2.6 Continuance

If, by reason of unfavorable weather, the display for which a permit has been granted does not take place at the time so authorized, the person to whom such permit was issued may, within twenty-four (24) hours, apply to the Township, setting forth under oath the fact that such display was not made, giving the reason therefor, and requesting a continuance of such permit for a day designated therein, not later than one (1) week after the day fixed originally in said permit. Upon receiving such application for a continuance, the Township, if it believes the fact stated therein are true, shall extend the provision of said permit to the day fixed in said application, not later than one (1) week after the original day designated in the permit; and such extension of time shall be granted without the payment of any additional fee and without requiring any bond other than the one given for the original permit, the provision of which shall extend to and cover all damages which may be caused by reason of said display taking place at such 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.

#### 2.7 Hours of Discharge

All permitted displays of Display Fireworks must occur between the hours of 5:00 p.m. and 9:30 p.m. Sunday through Thursday, and 5:00 p.m. and 10:30 p.m. Friday and Saturday, but may be extended from 9:30 p.m. or 10:30 p.m. to midnight on December 31 and from midnight

to 12:30 a.m. on January 1, and from 9:30 p.m. or 10:30 p.m. to midnight on Memorial Day, July 4, and Labor Day.

## Article III Consumer Fireworks

### 3.1 Use of Consumer Fireworks

- (a) Conditions – a person who is at least eighteen (18) years of age and meets the requirements of this Article may purchase, possess, and use Consumer Fireworks.
- (b) Prohibitions – a person may not intentionally:
  - (1) Ignite or discharge Consumer Fireworks on public or private property without the express permission of the owner.
  - (2) Ignite or discharge Consumer Fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from, a motor vehicle or building.
  - (3) Ignite, discharge, or throw Consumer Fireworks or sparkling devices into or at a motor vehicle or building or at another person.
  - (4) Ignite or discharge Consumer Fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance, or another drug.
  - (5) Ignite or discharge Consumer Fireworks within 150 feet of an occupied structure.
  - (6) Ignite or discharge Consumer Fireworks from any public roadway, right of way, or sidewalk that is owned, controlled, or maintained by Penn Township.
  - (7) Ignite or discharge Consumer Fireworks during any period in which a Burn Ban has been declared within Penn Township.

### 3.2 Duration and Hours of Discharge

A person shall not discharge Consumer Fireworks from any property for more than (2) two hours, measured on a cumulative basis, in any given twenty-four (24) hour period. Consumer Fireworks usage must occur between the hours of 5:00 p.m. and 9:30 p.m. Sunday through Thursday, and 5:00 p.m. and 10:30 p.m. Friday and Saturday, but may be extended from 9:30 p.m. or 10:30 p.m. to midnight on December 31 and from midnight to 12:30 a.m. on January 1, and from 9:30 p.m. or 10:30 p.m. to midnight on Memorial Day, July 4 and Labor Day.

### 3.3 Responsible Party

It shall be unlawful for a Responsible Party to knowingly or unknowingly permit the possession or use of Consumer Fireworks on real property or a structure within the Responsible Party's possession in violation of this Chapter or the Fireworks law.

## Article IV Agricultural Fireworks

### 4.1 Purpose of Fireworks Use

Every use of Fireworks for an authorized agriculture purpose within the limits of the Township shall be in connection with the raising of crops and the protection of crops from bird and animal damage.

### 4.2 Permit Application

An application for the use of Fireworks for an agricultural purpose shall be made in writing to the Township at least fifteen (15) day in advance of the date of the use of Fireworks, setting forth the agricultural necessity for the discharge of Fireworks, specific type of Fireworks to be discharged, proposed dates and times of the discharge of Fireworks, a Detailed Site Plan, the names and addresses of all property owners located within 500 feet of the outermost edges of a proposed Fireworks' fallout perimeter, the name and address of the operator, and the name and address of the owner(s) of the grounds on which the use of Fireworks is to be held, with the consent of such owner(s) thereto in writing attached. All applicants prior to the issuance of a permit shall; (a) pay the Township an application fee of One Hundred (\$100) dollars; and (b) provide proof of the required bond, which shall be in amount equal to the bond required for Display Fireworks, as set forth in §1.4 of this Ordinance. All such fees identified herein may be amended by resolution of the Board from time to time. A permit for the discharge of Fireworks for an approved agricultural use shall be limited to non-aerial fireworks, dates, times and locations that permit the application to satisfy the purpose of this Article.

## ARTICLE V ADMINSTRATION

### 5.1 Enforcement

This Ordinance shall be enforced by the Police Chief of Penn Township or his officially designated representative.

### 5.2 Penalties

Any person who shall violate any provision of this Ordinance regarding possession and use of Consumer Fireworks commits a summary offense and shall upon conviction thereof, be sentenced to pay a fine of five hundred (\$500) dollars and costs, and in default of payment, to undergo imprisonment for a term not to exceed ten (10) days. All prosecutions shall be brought before the Magisterial District Judge having jurisdiction of summary violations that occur in Penn Township.

### 5.3 Removal, storage, and destruction

The Pennsylvania State Police, a sheriff or police officer shall take, remove or cause to be removed at the expense of the owner all stocks of consumer fireworks or display fireworks or

combustibles offered or exposed for sale, stored or held in violation of this article. The owner shall also be responsible for the storage and, if necessary, the destruction of these fireworks.

#### 5.4 Nonexclusively

All provisions of this Ordinance are applicable in addition to and in accordance with any and all provisions set forth in Pennsylvania State law and any fire code or other rule or regulation duly adopted by the Township.

#### Article 6 Conflicting Provisions.

If any provision of this Ordinance should conflict with provisions of Pennsylvania State law, any fire code, or other rule or regulation duly adopted by the Township, the State law, regulation, or fire code shall prevail.

#### Article 7 Repealer

All ordinances or parts of ordinance that are inconsistent herewith are hereby repealed.

#### Article 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 of this Ordinance. It is hereby declared as the intent of the Board of Commission of Penn Township that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

#### Article 9 Township Code

The articles adopted shall be deemed to be incorporated into the Penn Township Code so that reference shall be understood and intended to include such changes.

#### Article 10 Effective Date

This Ordinance shall be effective five (5) days after enactment.

ENACTED AND ORDAINED this 21<sup>st</sup> day of September 2020.

Board of Commissioners of Penn Township

By: Justin Heiland  
Justin J. Heiland, President

Attest:

Donna M. Sweeney  
Donna M. Sweeney, Secretary

