

**BERWICK TOWNSHIP
FIREWORKS ORDINANCE**

ORDINANCE NO. 2018-05

AN ORDINANCE REGULATING THE USE OF CONSUMER FIREWORKS AND 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

WHEREAS, under Section 4506 of the Second Class Township Code, the Board of Supervisors has the specific power to enact ordinances as may be necessary for the maintenance of peace, good government, health and welfare of the Township and its citizens; and

WHEREAS, as additionally authorized by the Fireworks Law, Act 43 of 2017, 72 P.S. §9401 et seq., the Township may regulate the use of display and consumer fireworks within the Township.

NOW, THEREFORE, it is hereby **ORDAINED** and **ENACTED** by the Board of Supervisors of Berwick Township, Adams County, Pennsylvania, as follows:

SECTION 1. DEFINITIONS.

Consumer Fireworks — Shall mean the terms "Consumer Fireworks" as defined in 72 P.S. §9401, as may be amended.

Display Fireworks — Shall mean the terms "Display Fireworks" as defined in 72 P.S. §9401, as may be amended.

Fireworks Law — Shall mean Act 43 of 2017, 72 P.S. §9401 et seq., as may be amended.

Fire Chief The Fire Chief of United Hook & Ladder Co. 33 or the Chief of the Fire Company which has entered into agreement with the Berwick Township for protection.

SECTION 2. No Consumer Fireworks may be discharged within the Berwick Township before 9:00 a.m. or after 11:00 p.m. except for New Year's Eve, when 11:00 p.m. shall be extended to 1:00 a.m., New Year's Day.

SECTION 3. It shall be unlawful for any persons, firms, or corporations to possess or use Display Fireworks within the limits of the Township unless a permit is first granted by the Township.

SECTION 4. 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.

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 4 of this ordinance are waived.

SECTION 5. Every use of Display Fireworks within the Township shall be handled, arranged, managed, and directly supervised by a competent operator. The Fire Chief and/or Code Officer, 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 6.

(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 8.

(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 7. 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 \$500,000 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 8. 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 9. 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 10. If any section, clause, provision or portion of this ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The Township reserves the right to amend this ordinance or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 11. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed insofar as they may be inconsistent herewith.

SECTION 12. This Ordinance shall be effective five (5) days following its enactment.

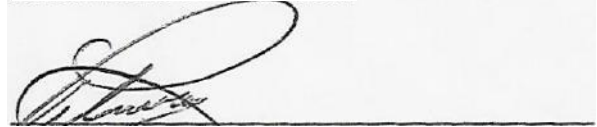
ORDAINED AND ENACTED this e^{ll} day of 0 c-Tr, 2018.

ATTEST:



Secretary

BERWICK TOWNSHIP



ereftiSocks, Chairman