

VALLEY TOWNSHIP

CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 03 – 2024

AN ORDINANCE OF THE TOWNSHIP OF VALLEY, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE VALLEY TOWNSHIP CODE OF ORDINANCES, AS AMENDED, AT CHAPTER 10, "HEALTH AND SAFETY," BY THE CREATION OF NEW PART VIII, "FIREWORKS"; AND OTHER MISCELLANEOUS PROVISIONS CONTAINED HEREIN.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Valley Township that the Valley Township Code of Ordinances, as amended, is amended as follows:

SECTION 1. Chapter 10, "Health and Safety", shall be amended by the addition of Part VIII "Fireworks", to read as follows:

Part 8. FIREWORKS

§ 10-801. Authority and intent.

A. The part is adopted pursuant to legislation provided for in Title 3, "Agriculture" of the Pennsylvania Consolidated Statutes by Act 74 of 2022, as codified at 3 Pa. C.S §§ 1101 through 1115, as hereinafter amended, and pursuant to the authority to regulate fireworks as set forth in the Second Class Township Code at 53 P.S. § 66534. This part is adopted with the intent to comply with the Pennsylvania State Fireworks Law, as amended, and to properly regulate firework use within the Township in order to protect the public health, safety and welfare.

§ 10-802. Definitions.

The following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

APA 87-1

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

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, 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, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

DISPLAY FIREWORKS

Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "consumer fireworks." Display fireworks are classified as fireworks UN0333, UN0334 or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused set pieces containing components which together exceed 50 mg of salute powder.

PERSON

Any natural person, association, partnership, firm, club, society, company, corporation or any organization of any kind. Whenever used in connection with prescribing or imposing a penalty, or both, the term as applied to a partnership shall include the individual partners, or any of them, and as applied to corporations or associations shall include the individual officer(s) thereof.

§ 10-803. Use, sale and storage of consumer fireworks.

1. The use, sale and storage of consumer fireworks within the Township shall comply with all applicable state and federal laws, including the provisions set forth in Title 3 of the Pennsylvania Consolidated Statutes at 3 Pa. C.S §§ 1101 through 1115, as hereinafter amended.
2. Prohibitions found in Pa. C.S. 1101 through 1115 include, but are not limited to the following:
 - A. A person may not intentionally use consumer fireworks:
 - 1) On private property or on public property, including, but not limited to, streets, parking lots, sidewalks and parks, without the express permission of the owner or entity that controls the property.
 - 2) Within, directed at or directed from a vehicle or building.
 - 3) Directed at another person.
 - 4) While the person is under the influence of alcohol, a controlled substance or another drug.
 - 5) Within 150 feet of a building or vehicle, whether or not the building or vehicle is owned by the user of the consumer fireworks.

- B. No person may use consumer fireworks within 150 feet of an animal housing facility or a fenced area designed to confine livestock owned or managed by another person. If a person uses consumer fireworks at a distance of 150 to 300 feet from an animal housing facility or fenced area designed to confine livestock owned or managed by another person, the user of consumer fireworks shall notify in writing the owner or manager of the livestock at least 72 hours in advance of the use that consumer fireworks will be used in the area.

- C. Consumer fireworks may only be used between the hours of 10:00 a.m. and 10:00 p.m. except:
 - 1) on July 2, 3, and 4 and December 31, when consumer fireworks may be used until 1:00 a.m. the following day.
 - i. when July 4 falls on Tuesday, Wednesday or Thursday, consumer fireworks may be used until 1:00 a.m. on the immediately preceding and following Friday and Saturday.
 - 2) Memorial Day, including the preceding Saturday and Sunday.
 - 3) Labor Day, including the immediately preceding Saturday and Sunday.

- 3. Sale and storage of consumer fireworks. The sale and storage of consumer fireworks is licensed and regulated by the Pennsylvania Department of Agriculture and required to comply with the Pennsylvania State Fireworks Law. Any person who intends to sell or store consumer fireworks within the Township shall provide proof of such licensure prior to such use being conducted within the Township, in addition to compliance with all other applicable Township ordinances and regulations.

§ 10-804. Display fireworks; permits and use provisions.

- 1. The possession and use of display fireworks within the Township shall comply with all applicable state and federal laws as well as the Fire Code.

- 2. Display fireworks may be possessed and used by a person (age 21 or older) holding a permit from the Township at the display covered by the permit, or for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage. The Township may set a permit fee by resolution, as may be amended from time to time.

- 3. Insurance. The Township shall require insurance from the permittee in a sum not less than \$1,000,000 conditioned on the payment of all damages which may be caused to a person or property by reason of the display fireworks and arising from an act of the permittee or an agent, an employee or a subcontractor of the permittee.

4. Extension of permit.

- A. Authorization. If, because of unfavorable weather or other circumstances beyond the control of the permittee, the display fireworks for which a permit has been granted do not occur at the time authorized by the permit, the person to whom the permit was issued may within 24 hours apply, in writing, for a request for extension to the Township. The requested continuance of the permit shall be not later than one week after the date originally designated in the permit.
- B. Conditions. The extension of time shall be granted without the payment of an additional fee and without requiring insurance other than the insurance provided for in the original permit, so long as the provisions of which shall extend to and cover all damages which may be caused by reason of the display occurring at the extended date and in the same manner and to the same extent as if the display had occurred at the date originally designated in the permit.

§ 10-805. Permits granted for agricultural purposes.

- 1. Authorization. The Township may grant permits for the use of display fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
- 2. Duration of permit. A permit under this section shall remain in effect for the calendar year in which it was issued.
- 3. Conditions. After a permit under this section has been granted, sales, possession and use of fireworks of the type and for the purpose mentioned in the permit shall be lawful for that purpose only.

§ 10-808. Authority and confiscation or removal of materials.

Any Township police officer holding a current certificate under 53 P.a. C.S. Ch 21, Subch. D, is authorized to take, remove or cause to be removed, at the expense of the owner, all stocks of consumer fireworks, display fireworks or combustibles offered or exposed for sale, stored or held in violation of this part. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.

§ 10-809. Violations and penalties.

- 1. A person using consumer fireworks in violation of the provisions of this part for the first offense commits a summary offense and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not more than \$500. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a summary offense and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not more than \$1,000.

2. A person selling consumer fireworks in violation of the provisions of this part for the first offense commits a misdemeanor of the second degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$10,000. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a misdemeanor of the second degree and, upon conviction, in addition to any other penalty authorized by law, shall be punishable by a fine of not less than \$15,000 and a revocation of a license issued under section 1108 (relating to fees, granting of licenses and inspections).
3. A person selling or using display fireworks in violation of the provisions of this part for the first offense commits a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$10,000. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$15,000.

SECTION 2. 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 that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

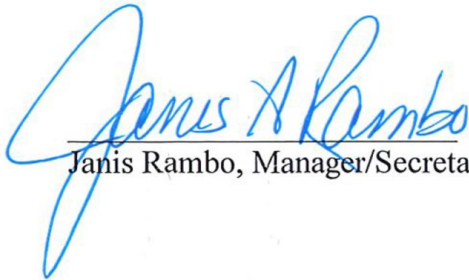
SECTION 3. REPEALER. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance. Notwithstanding the foregoing, the adoption of this amendment and the repeal of ordinances shall not affect the any right or liability established, accrued or incurred under any legislative provision of the Township prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.

SECTION 4. GENERAL CODE. General Code is hereby authorized to make non-substantive formatting and numbering changes necessary to clarify references to other sections of the Valley Township ordinances and/or codification and to bring the Ordinance into conformity with the Valley Township ordinances/codification.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective five days after enactment as provided by law.

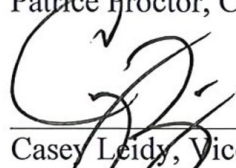
ENACTED AND ORDAINED this 19th day of MARCH, 2024.


ATTEST:

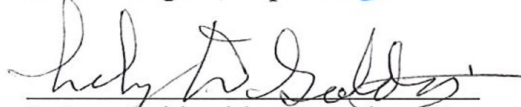

Janis Rambo, Manager/Secretary

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