

**CAERNARVON TOWNSHIP**  
**BERKS COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 309**

**AN ORDINANCE OF THE TOWNSHIP OF CAERNARVON, BERKS COUNTY, PENNSYLVANIA, TO REGULATE FIREWORKS USE WITHIN THE TOWNSHIP.**

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Caernarvon Township that the Code of the Township of Caernarvon is hereby amended as follows:

Section 1. Authority and intent.

- A. The ordinance is adopted pursuant to the authority granted under Pennsylvania's fireworks regulations and laws as adopted and codified by the Pennsylvania legislature at 72 P.S. §§ 9401 through 9416 (the "Pennsylvania State Fireworks Law") and pursuant to the authority to regulate fireworks as set forth in the Second Class Township Code at 53 P.S. § 66534. This ordinance 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.

Section 2. Definitions.

The following words and phrases when used in this chapter 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**

Shall be defined as provided in Section 2401 of Act 43 of 2017 as follows:

- A. 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.

- B. The term does not include devices such as ground and handheld 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 follows:

- A. 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, the following:
  - (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).

## NFPA 1124

The National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation and Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or any subsequent edition.

## 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.

## Section 3. Use, sale and storage of consumer fireworks.

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

#### Section 4. Display fireworks; applicable laws.

- A. It shall be unlawful for any person, firm or corporation to possess or use display fireworks within the limits of the Township unless a permit is first granted by the Township.
- B. Holders of permits to possess and use display fireworks within the Township shall comply with the Pennsylvania State Fireworks Law, as amended, and any federal and state statutes and regulations governing the use and storage of display fireworks, including, but not limited to, the Uniform Construction Code (Act 45 of 1999, as amended) (the "UCC") and the International Fire Code. In the event of any inconsistency between the aforementioned state and federal laws and regulations, and this chapter, 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 chapter. If a UCC permit is required, the applicant must present the valid UCC permit before a display fireworks permit may be issued under this chapter.

#### Section 5. Display fireworks; permits and use provisions.

- A. Permits are required to be issued by the Township prior to the use of display fireworks. Application for permits shall be made in writing at least 30 days in advance of the planned date of the use of display fireworks together with the permit fee. Permit fees shall be as established by resolution of the Board of Supervisors. 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 to protect the public health, safety and welfare.
- B. Permits granted under this section shall be for the approved purpose, date and time only, unless extended due to unfavorable weather.
- C. 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.
- D. Permits for display fireworks may only be issued to persons age 21 or older.
- E. No display fireworks shall be ignited within 300 feet of a facility selling or dispensing gasoline, propane, or other flammable products or a permanent fireworks facility licensed by the Pennsylvania Department of Agriculture.

- F. Each display firework shall be:
  - (1) Handled, arranged, managed and directly supervised by a competent operator with the proper authorization to handle, operate or store display fireworks;
  - (2) Inspected by the Fire Chief and/or Fire Marshal or other appropriate officer designated by the Board of Supervisors, and after proper inspection, deemed to not be hazardous to property or endanger any person prior to the display occurring; and
  - (3) After permission is granted under this section, possession and use of display fireworks shall be lawful for that purpose only.
- G. License requirements. Any business entity which performs, provides or supervises display fireworks for profit shall provide proof of registration with the Pennsylvania Attorney General to the Township as part of the permitting process.
- H. 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 when used as authorized by a permit for any of the following additional activities:
  - (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 a public 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.
- I. Permits issued pursuant to this section may be transferred in accordance with the Pennsylvania State Fireworks Law.

Section 6. Display fireworks; bonding and extension requests.

- A. Bond. The Township shall require a bond deemed adequate by the Board from the permittee in a sum of not less than \$50,000 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. The above bonding requirement may be increased in amount by the Board of Supervisors.
- B. Extension of permit.
  - (1) Authorization. If, because of unfavorable weather, the display fireworks for which a permit has been granted does 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.

(2) Conditions. The extension of time shall be granted without the payment of an additional fee and without requiring a bond other than the bond given for the original permit, 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.

#### Section 7. Permits granted for agricultural purposes.

- A. Authorization. The Township may grant permits for the use of suitable fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
- B. Duration of permit. A permit under this section shall remain in effect for the calendar year in which it was issued.
- C. 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.

#### Section 8. Authority and confiscation of materials.

- A. Any Township police officer 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 chapter. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.
- B. Any Township police officer or the Township Fire Chief is authorized to cease all fireworks activity when there is a determination that there is imminent or immediate danger to any person(s) or any property, buildings, structures or premises, take any steps necessary, within the reasonable performance of their duties to extinguish, mitigate and/or control any fireworks in order to preserve and protect the life, health, welfare or safety of any person(s) and to preserve and protect property, building structures or premises.

#### Section 9. Violations and penalties.

- A. Any person who violates or permits the violation of any provision of this chapter shall, upon conviction thereof in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense, and shall be subject to the payment of a fine of not less than \$100 and not more than \$1,000, plus the costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days. Each section of this chapter violated shall constitute a separate offense, and each day or portion thereof in which a violation of this chapter is found to exist shall constitute a separate offense, each of which

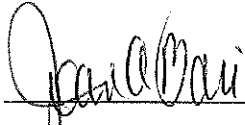
violations shall be punishable by a separate fine imposed by the District Justice of not less than \$100 and not more than \$1,000, plus the costs of prosecution, or upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days. All fines and penalties collected for the violation of this chapter shall be paid to the Township Treasurer.

- B. Prosecutions under this section may also take place under state law consistent with the Pennsylvania State Fireworks Law.

**ENACTED** this 9<sup>th</sup> Day of November, 2021.

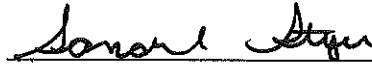
**ATTEST:**

**CAERNARVON TOWNSHIP  
BOARD OF SUPERVISORS**



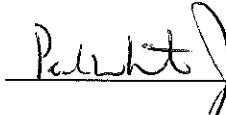
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Joan A. Bair, Township Secretary



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Sandra Styer, Chairman



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Paul Whiteman, Jr., Vice-Chairman

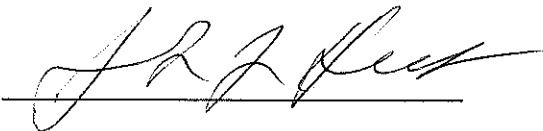
Absent November 9, 2021

Jeffrey Vickers, Supervisor



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Allen Styer III, Supervisor



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Jack Hess, Supervisor