

CALN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 2020-03

AN ORDINANCE OF CALN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF CALN TOWNSHIP TO ADD A NEW CHAPTER REGULATING THE USE OF FIREWORKS WITHIN THE TOWNSHIP TO PROTECT PERSONS AND PROPERTY, AND TO COMPLY WITH PENNSYLVANIA STATE STATUTES WHICH REGULATE THE USE OF FIREWORKS.

BE IT ENACTED AND ORDAINED by the Board of Commissioners of Caln Township that the Caln Township Code is hereby amended as follows:

SECTION 1. A new Chapter is hereby added to the Caln Township Code titled as follows:

“FIREWORKS.

§1. AUTHORITY AND INTENT.

The Chapter 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. §9401-9416, and pursuant to the authority to prohibit the sale or storage of explosive articles and to prescribe such other safeguards as may be deemed necessary for explosive articles as set forth in the First Class Township Code at 53 P.S. §56502. This Chapter is adopted with the intent to comply with such state fireworks laws, properly regulate the use of fireworks within the Township, and to protect the public health, safety and general welfare.

§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 –

- (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 –

(1) 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:

- (a) salutes that contain more than two grains or 130 milligrams of explosive materials;
- (b) aerial shells containing more than 60 grams of pyrotechnic compositions; and
- (c) 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.

§3. USE, SALE AND STORAGE OF CONSUMER FIREWORKS.

(A) **Conditions.** A person who is at least 18 years of age and meets the requirements of this Chapter may purchase, possess and use Consumer Fireworks.

- (B) Prohibitions. A person may not intentionally ignite or discharge:
- (1) Consumer Fireworks on public or private property without the express permission of the owner.
 - (2) Consumer Fireworks or sparkling devices within, or throw Consumer Fireworks or sparkling devices from, a motor vehicle or building.
 - (3) Consumer Fireworks or sparkling devices into or at a motor vehicle or building or at another person.
 - (4) Consumer Fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug.
 - (5) Consumer Fireworks within 150 feet of an Occupied Structure.
 - (6) Consumer Fireworks upon any Township roadway or Township property.
 - (7) Consumer Fireworks within 100 feet of any combustible material.
 - (8) Consumer Fireworks such that the sparks or any portion of the fireworks will land upon the property of another without the owner's express permission.
- (C) Sale and Storage of Consumer Fireworks. The sale and storage of Consumer Fireworks is licensed and regulated by the Pennsylvania Department of Agriculture. 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.

§4. DISPLAY FIREWORKS – PERMITS AND USE PROVISIONS

- (A) The use of Display Fireworks shall comply with the Township adopted Fire Code and all applicable standards referenced therein.
- (B) 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 Commissioners.
- (C) Permits for Display Fireworks may only be issued to persons age 21 or older.
- (D) Each Display Firework shall be:
- (i) Handled by a competent operator with the proper authorization to handle, operate or store Display Fireworks;

- (ii) Inspected by the Fire Marshal or other appropriate officer, and after proper inspection, deemed to not be hazardous to property or endanger any person prior to the display occurring; and
 - (iii) After permission is granted under this section, possession and use of Display Fireworks shall be lawful for that purpose only.

- (E) License Requirements. Any business entity which performs, provides or supervises Display Fireworks for profit shall provide proof of registration with the PA Attorney General to the Township as part of the permitting process.

- (F) 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.

§5. DISPLAY FIREWORKS - BONDING AND EXTENSION REQUESTS

- (A) Bond. The Township shall require a bond deemed adequate by the Board of Commissioners from the permittee in a sum 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 bonding requirement may be deemed unnecessary or reduced in amount by the Board of Commissioners for the additional activities listed under §5(F) above.

- (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.

§6. 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.

§7. AUTHORITY AND CONFISCATION OF MATERIALS

- (A) Any Pennsylvania State Police officer or Township police officer shall 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 Pennsylvania State Police officer, Township police officer or Township Fire Marshal 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.

§8. PENALTIES

- (1) A person using Consumer Fireworks in violation of the provisions of this Chapter commits a summary offense and, upon conviction, shall be punished by a fine of not more than \$100.
- (2) A person selling Consumer Fireworks in violation of the provisions of this Chapter commits a misdemeanor of the second degree.
- (3) A person selling Display Fireworks in violation of the provisions of this act commits a felony of the third degree.
- (4) A person selling federally illegal explosives such as devices as described in 49 CFR 173.54 (relating to forbidden explosives) or those devices that have not been tested, approved and labeled by the United States Department of Transportation, including, but not limited to, those devices commonly referred to as "M-80," "M-100," "blockbuster," "cherry bomb" or "quarter or half stick" explosive devices, in violation of the provisions of this Chapter commits a felony of the third degree.
- (5) All prosecutions related to the Chapter shall be the responsibility of the Township police or if warranted, the Pennsylvania State Police."

SECTION 2. Severability. If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

SECTION 3. Repealer. All Ordinances or parts of Ordinances conflicting with any provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 4. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED AND ORDAINED this 27 day of August, 2020.

ATTEST:

ON BEHALF OF
CALN TOWNSHIP
BOARD OF COMMISSIONERS

Kristen Denne, Secretary

Paul Mullin, President

RESOLUTION ACTION RECORD

Resolution Type: _____ No. _____

Pertaining to: _____

Duly adopted at a meeting of the Board of Commissioners held: _____

Motion by: _____ Seconded by: _____

	VOTE:			
	YES	NO	ABSTAIN	ABSENT
_____ President: Mr. Mullin	_____	_____	_____	_____
_____ Vice President: Ms. Kennedy	_____	_____	_____	_____
_____ Commissioner Young	_____	_____	_____	_____
_____ Commissioner Tindaro	_____	_____	_____	_____
_____ Commissioner Evans	_____	_____	_____	_____