

**LOWER NAZARETH TOWNSHIP
NORTHAMPTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 231-01-19

AN ORDINANCE OF THE TOWNSHIP OF LOWER NAZARETH, COUNTY OF NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING REGULATIONS FOR THE PERMITTING OF DISPLAY FIREWORKS AND THE USE OF CONSUMER FIREWORKS WITHIN THE TOWNSHIP, APPLICATION PROCEDURES, DATES FOR CONSUMER FIREWORKS USE, EXEMPTIONS, ENFORCEMENT AND PENALTIES.

WHEREAS, on October 30, 2017, Act 43 of the Commonwealth of Pennsylvania was enacted, which made provisions for the permitting and use of consumer and display fireworks; and

WHEREAS, the inappropriate use of consumer and display fireworks can result in property destruction and serious injuries to users and spectators; and

WHEREAS, the Board of Supervisors of Lower Nazareth Township desires to regulate the use of consumer fireworks and to establish permitting requirements for display fireworks within the community to promote the health, safety and general welfare of the constituents of the Township; and

WHEREAS, the Board of Supervisors of Lower Nazareth Township has the authority granted to them under the Second Class Township Code, as amended, to make ordinances that promote the health, safety and general welfare of the constituents they represent;

NOW, THEREFORE, be it enacted and ordained by the Board of Supervisors of Lower Nazareth Township, Northampton County, Commonwealth of Pennsylvania, as follows:

Section 1. Short Title.

This ordinance shall be known as the “Fireworks Permit and Regulations Ordinance.”

Section 2. Definitions

The following terms shall have the meanings ascribed unless a contrary meaning is expressly set forth in the text.

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.

DISPLAY(S) OF FIREWORKS OR FIREWORKS DISPLAY – The ignition, launching or detonation of fireworks.

FIREWORKS – Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration or detonation that meets the definition of Consumer Fireworks or Display Fireworks as set forth herein.

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 – Any manmade object having an ascertainable stationary location on, below or in land or water, whether or not affixed to the land, designed for and constructed for living and/or sleeping purposes by any persons or for the raising and keeping of livestock, poultry or insects for commercial or domestic purposes.

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 16CFR (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 the Township.
2. The term does not include devices as “ground and hand-held sparking 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 the Township.

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 materials for classification as Consumer Fireworks and are classified as fireworks

UN0333, UN0334, or UN0335 under 49 CRF 172.101 (relating to purpose and use of hazardous materials table).

Section 3. Permit Required

It shall be unlawful for any person, persons, firms or corporations, amusement parks, fair associations or other organizations or groups of individuals to utilize Display Fireworks within the limits of Lower Nazareth Township, Northampton County, Pennsylvania (“Township”) unless exempt or a permit therefore is first granted by the Township, as hereinafter provided. All permits issued pursuant to this Ordinance shall be subject to compliance with Act 43 of 2017, Article XIV, Sections 9401 through 9416.

Section 4. Requirements for Display Fireworks

- A. Every such use of Display Fireworks within the limits of said Township shall be handled by a state-licensed operator, and which display shall be of such character and so located, discharged or fired as in the opinion of the Board of Supervisors, or its duly authorized representative, after proper inspection, shall not be hazardous to property or endanger any person or persons.
- B. No Display Fireworks shall be ignited within 300 feet of a Firework Sale Facility or Temporary Structure for Sale of Consumer Fireworks.

Section 5. Application Procedures; Fee

- A. Application for permits for Display Fireworks shall be made in writing to the Township Manager, or his/her designee, at least 30 days in advance of the date of the Fireworks Display, unless said time period is reduced or waived by the Board of Supervisors in its sole discretion. The application shall set forth the proposed location of the Fireworks Display, the character thereof, name and address of the operator, and the name and address of the owner or owners of the grounds on which the Fireworks Display is to be held, with the consent of such owner or owners thereto in writing attached.
- B. In addition to all other application requirements set forth herein, permit applications for Display Fireworks shall also include a copy of the operator’s license issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives and a copy of the operator’s annual registration with the Attorney General of the Commonwealth of Pennsylvania.
- C. All Applicants shall pay the Township a sum as set from time to time by resolution of the Board of Supervisors before issuance of a permit and provide a certificate of liability insurance in an amount not less than \$5,000,000, naming the Township as an additional insured.

- D. If the application does not conform to the requirements of all pertinent statutes, ordinances and regulations, the Township Manager or his/her designee shall reject the application and, in writing, state the reasons therefore. If the Township Manager or his/her designee is satisfied that the proposed Display Fireworks conforms to the requirements of this Ordinance, and all laws and regulations applicable thereto, he/she shall issue a permit listing any conditions, if necessary.

Section 6. Display Fireworks Permit Issuance; Transferability.

- A. If and after such permit shall have been granted by the Board of Supervisors, or its designee, possession and use of Display Fireworks shall be lawful for that purpose only.
- B. No Display Fireworks permit granted hereunder shall be transferable.
- C. The Board of Supervisors may attach to the Display Fireworks permit any conditions deemed necessary and appropriate by the Board of Supervisors to address safety concerns.

Section 7. Notification for Fire Protection.

The permittee shall:

- A. Ensure that proper fire protection is or will be provided during the use of Display Fireworks; and
- B. Notify Hecktown Volunteer Fire Company no less than 14 days prior to the date of the Fireworks Display.

Section 8. Bond Required.

The Board of Supervisors shall require a bond, deemed adequate by it, given by the permittee in an amount deemed appropriate by the Board of Supervisors, but not in a sum less than \$250,000.00 for Display Fireworks, conditioned for the payment of all damages caused by any person or persons 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 Township Manager, or his/her designee, before any permit for Display Fireworks is issued.

Section 9. Denial, Suspension and Revocation of Permit; Appeal.

- A. After notice to the permittee and an opportunity to be heard (within five days of the date of the notice), the Board of Supervisors may revoke a Display Fireworks permit or approval issued under the provisions of this Ordinance in the case of any false statement or misrepresentation of fact in the application, or failure of the

applicant to comply with the provisions of this Ordinance, or any other applicable statute or regulation.

- B. Appeals from any suspension, revocation or denial of a Display Fireworks permit may be made to the Northampton County Court of Common Pleas pursuant to the provisions of the Local Agency Law, 2 Pa. C.S.A. §751 et seq.
- C. In the event that a permit or application has been denied, suspended or revoked, no part of the application/permit fee shall be refunded.

Section 10. Permit Continuance.

If by reason of unfavorable weather, the display for which a Display Fireworks permit has been granted does not take place at the time so authorized, the permittee may within seven (7) days apply to the Township Manager, or his/her designee, setting forth under oath the fact that such display was not made, giving the reason therefor, and requesting a continuance of such Display Fireworks permit for a day designated therein, not later than one week after the day fixed originally in said permit.

Upon receiving such application for a continuance, the Township Manager, or his/her designee, if he or she believes the facts stated herein are true, shall extend the provisions of the Display Fireworks permit to the day fixed in said application, not later than one week after the original day designated in the Display Fireworks permit. 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 provisions 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 Display Fireworks permit.

Section 11. Disposal of Unfired Fireworks.

Unfired fireworks and trash remaining after the conclusion of the use of Display Fireworks for which the permit was issued shall be immediately disposed of by the permittee in an approved, safe manner.

Section 12. Consumer Fireworks; Conditions of Use.

- A. Any ignition, discharge or use of consumer fireworks must be by a person who is at least 18 years of age and meets the requirements of the Commonwealth of Pennsylvania statute to purchase, possess, and use Consumer Fireworks;

B. The ignition or discharge of Consumer Fireworks is strictly prohibited except during the following dates and times:

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|-----|---------------------------|----------------------|
| (1) | Memorial Day | 4:00 PM to 11:00 PM |
| (2) | July 3 rd | 4:00 PM to 11:00 PM |
| (3) | July 4 th | 4:00 PM to 11:00 PM |
| (4) | July 5 th | 4:00 PM to 11:00 PM |
| (5) | Labor Day | 4:00 PM to 11:00 PM |
| (6) | December 31 st | 4:00 PM to 11:59 PM |
| (7) | January 1 st | 12:00 AM to 12:30 AM |
| (8) | January 1 st | 4:00 PM to 11:00 PM |

C. Prohibition. A person may not intentionally ignite or discharge:

- (1) Consumer Fireworks on public or private property without the express written 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.

Section 13. Exemptions.

Lower Nazareth Township and the Hecktown Volunteer Fire Company, or its successor, shall be exempt from the permitting requirements of this Ordinance.

Section 14. Enforcement; Violations and Penalties.

- A. This Ordinance shall be enforced by the Police Department with jurisdiction in the Township.
- B. A person using Consumer Fireworks in violation of the provisions of this Ordinance commits a summary offense and, upon conviction, shall be punished by a fine of not more than \$100.00.
- C. Any person, partnership, association, or corporation violating the provisions of this Ordinance pertaining to Display Fireworks shall be the subject of such

penalties as set forth by the legislature in Act 43 of 2017, 72 P.S. 9414, as amended.

Section 15. Severability

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

Section 16. Repealer

All Ordinances and parts of Ordinances that are inconsistent with this Ordinance shall be repealed.

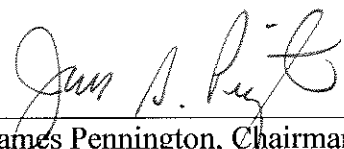
Section 17. Effective Date.

This Ordinance shall become effective five (5) days from the date of its adoption.

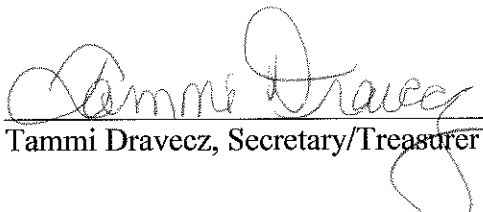
ENACTED AND ORDAINED on this the 7th day of January, 2019, by a majority of the Board of Supervisors of Lower Nazareth Township, Northampton County, Commonwealth of Pennsylvania at a duly advertised meeting.

**LOWER NAZARETH TOWNSHIP
BOARD OF SUPERVISORS**

ATTEST:



James Pennington, Chairman



Tammi Dravec, Secretary/Treasurer