

Ordinance 2021-17

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 2018-03 CODIFIED AT CHAPTER 261 WITH A NEW ORDINANCE REGULATING FIREWORKS AND PYROTECHNICS IN MANHEIM TOWNSHIP, LANCASTER COUNTY, PENNSYLVANIA AND PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, the Manheim Township Board of Commissioners (the “Commissioners”) finds that the use and discharge of fireworks and pyrotechnics within the Township can present safety issues, be disruptive to humans and animals and interfere with the use of private property;

WHEREAS, the Commissioners have determined that reasonable regulations and restrictions governing fireworks and pyrotechnics within the Township are necessary to protect the safety, health and welfare of the community; and

WHEREAS, the Commissioners have determined that in order to protect the safety, health and welfare of the community, it is necessary to update the Township’s existing Fireworks ordinance in order to appropriately regulate fireworks and pyrotechnics within the Township.

THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Commissioners of Manheim Township, Lancaster County, Pennsylvania that Ordinance No. 2018-03 is hereby repealed in its entirety and replaced by the following:

Section 1. TITLE.

This Chapter shall be known as the “Fireworks and Pyrotechnics Ordinance of Manheim Township.”

Section 2. AUTHORITY; INTENT; PURPOSE.

This 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 et seq., and pursuant to the authority to regulate fireworks as set forth in the First Class Township Code at 53 P.S. § 56579.13 (Fireworks and Inflammable Articles) and 53 P.S. § 56501.5 (General Powers). This chapter is adopted with the intent to comply with such state fireworks laws, properly regulate firework and pyrotechnic use within the Township, and to protect the health, safety, and welfare of Township citizens through limiting and regulating the use of fireworks, pyrotechnics and flame effects. It shall be unlawful for any person, persons, firms, corporations, or other entities to possess, sell, or use fireworks, pyrotechnics and flame effects in violation of this chapter.

Section 3. DEFINITIONS.

For the purpose of this Ordinance, the following terms shall have the meanings set forth herein:

- A. **Code Official.** The Director of Code Compliance or other Code Official designated by Manheim Township Commissioners to enforce Township

Ordinances.

B. 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 American Pyrotechnics Standard (APA) 87-1, or any successor standard, the sale, possession and use of which shall be permitted throughout the Commonwealth.
- 2) The term does not include devices 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 the Commonwealth.

C. Contractor /Operator. A professional pyrotechnician possessing a current, valid registration with the Pennsylvania Attorney General.

D. 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 CFR 172.101 (relating to purpose and use of hazardous materials table).

E. Discharge Site. The area immediately surrounding the fireworks mortars used for the outdoor display of Display Fireworks.

F. Display Site. The immediate surrounding area where a display of Display Fireworks is conducted, including the Discharge Site, the fallout area, and the required separation distances from mortars to spectator viewing areas.

G. Flame Effects. The combustion of solids, liquids, or gases utilizing atmospheric oxygen to produce thermal, physical, visual, or audible

phenomena before an audience.

- 1) Automatic flame effect is a flame effect that is supervised and fired by an automatic control system.
- 2) Hybrid flame effect is a flame effect that is used in combination with a pyrotechnic material or device.
- 3) Manual flame effect is a flame effect that is operated manually without the use of an automatic control system.
- 4) Portable flame effect is a flame effect that is designed and installed, either in a permanent or temporary installation, and that are designed to move or be moved in the course of operation of installation

H. **Township.** Manheim Township, Lancaster County, Pennsylvania.

- I. **Occupied Structure.** Any man-made object having an ascertainable stationary location, whether or not affixed to the land, that is adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.
- J. **Pyrotechnics.** Controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume.
- K. **Temporary Structure.** A structure other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or has and is dedicated to the storage and sale of consumer fireworks and related items. This term includes temporary retail sales, stands, tents, canopies and membrane structures meeting the specifications of NFPA 1124. This term shall not include a facility that is not licensed to all consumer fireworks under this chapter.

Section 4. REFERENCED STANDARDS.

- A. **NFPA 160.** Standard for Use of Flame Effects Before an Audience, 2011 Edition
- B. **NFPA 1123.** The National Fire Protection Association Standard 1123·14, Code for Fireworks Display, 2014 Edition.
- C. **NFPA 1124.** The National Fire Protection Association Standard 1124·06, Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition.

- D. **NFPA 1126.** Standard for Use of Pyrotechnics Before a Proximate Audience, 2011 Edition
- E. **2015 International Fire Code, Chapter 56.** Explosives and Fireworks

Section 5. **DISPLAY FIREWORKS, PYROTECHNICS AND FLAME EFFECT PERMITS.**

- A. **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 have or to hold public displays of fireworks, pyrotechnics and / or flame effects within the limits of the Township unless a permit therefor is first granted by the Township, as hereinafter provided.
- B. **Requirements for Display Fireworks, Pyrotechnics and Flame Effects.** All Display Fireworks, Pyrotechnics and Flame Effects within the limits of said Township shall be handled by a state-licensed operator, and shall be of such character and so located, discharged or fired as in the opinion of the Code Official, or its duly authorized representative, after proper inspection, to not be hazardous to property or endanger any person or persons.
- C. **Application procedures; fee.**
 - 1. Applications for Display Fireworks, Pyrotechnics and Flame Effects shall be in writing on a Fire Permit Application submitted to the attention of the Code Official at least thirty (30) days in advance of the date set for the display.
 - 2. The applicant shall contact Manheim Township Fire Rescue (“MTFR”) at least thirty (30) days in advance of the date set for the display to coordinate MTFR presence at the display of Display Fireworks, Pyrotechnics and Flame Effects before an audience. MTFR presence is not required for Pyrotechnics and Flame Effect testing unless the Code Official identifies that as a condition in issuing the Permit.
 - 3. No permit shall be issued to a person under 21 years of age.
 - 4. No permit granted hereunder shall be transferable.
 - 5. All displays of Display Fireworks shall conclude by 10:00 p.m.
 - 6. The Code Official may attach to a permit any conditions deemed necessary and appropriate to address safety concerns.
 - 7. Applications for Display Fireworks, Pyrotechnics and Flame Effects shall include:

- a. A fully completed and executed Fire Permit Application including a description of the proposed location of the display, the character thereof, the name and address of the owner(s) and/or tenant(s) of the land on which the display is to be held and the name and address of the Contractor /Operator. The Application shall include written approval of the owner of the property from which the Display Fireworks, Pyrotechnics and / or Flame Effects shall be used.
- b. The permit fee for Display Fireworks, Pyrotechnics and Flame Effects per currently adopted Fee Resolution.
- c. A fully executed Indemnification and Hold Harmless Agreement.
- d. Proof of insurance coverage, with reputable insurance companies licensed to do business in the Commonwealth of Pennsylvania, naming the Township as an additional insured, as follows:
 - i. Workers Compensation / Liability \$500,000 per accident
 - ii. General Liability Insurance \$1,000,000 per occurrence
 - iii. Intrastate Liability Insurance \$3,000,000 per occurrence
 - iv. Umbrella Liability \$1,000,000 per occurrence
- e. As a condition of issuance of the permit, the applicant shall submit a bond meeting the requirements of Section 5.D of this Ordinance.
- f. For Display Fireworks, Pyrotechnics and Flame Effects a detailed site plan of the Display Site showing accurate distances from the Discharge Site to the spectator viewing area, fallout area(s), parking area(s), Occupied Structures, overhead utilities and roadways. NFPA 1123-06 will be used as plan review reference for proposed Display Site. In addition, an itemized list of quantities and sizes of Display Fireworks – aerial shells and ground displays to be discharged shall be set forth in the Application.

D. **Bond Requirements.** The Code Official shall require the applicant to obtain a bond in the amount of not less than Fifty Thousand Dollars (\$50,000.00) for payment of damages caused to any person and to any property by reason of the licensed display and arising from any acts of the licensee or licensee's agents, employees or subcontractors. The bond shall be filed with the Township before any permit for a display is delivered.

E. **Denial, Suspension and Revocation of Permit; Appeal.**

1. After notice to the permittee and an opportunity to be heard (within five days of the date of the notice), the Code Official may revoke a permit or approval issued under the provisions of this chapter 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 chapter, or any other applicable statute or regulation.
2. Appeals from any suspension, revocation or denial of a permit may be made to the Board of Commissioners within ten (10) days and, thereafter, to the Lancaster County Court of Common Pleas pursuant to the provisions of the Local Agency Law, 2 Pa.C.S.A. § 751 et seq.
3. In the event that a permit or application has been denied, suspended or revoked, no part of the application/permit fee shall be refunded.

F. Request for Extension.

1. If by reason of unfavorable weather, the display for which a permit has been granted does not take place at the time authorized and a backup date and time was not previously authorized:
 - a. The person to whom such permit was issued may within twenty-four (24) hours, apply to the Township requesting a continuance of the display to a new date. The request for an extension shall state under penalty of perjury that the display was not made, provide the reason that the display was not made and request a continuance of the permit for a date designated within the request, which shall be not later than one week after the date originally designated by the permit.
 - b. Upon receiving the request for extension, the Code Official, if it believes the facts stated within the request are true, shall extend the provisions of the permit to the date designated within the request, which shall be no later than one (1) week after the date originally designated in the permit.
2. The extension of time shall be granted without 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 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 occurred at the date originally designated in the permit.
3. Exception to continuance request process.
 - a. In the event that the permitted use of the display fireworks does not occur on the date and time authorized by the permit (and does not occur on any authorized backup date and time) and the proposed continuance date would occur before the

following business day, the permit-holder may telephonically contact the Code Official on call and verbally request a continuance. The permit-holder must explain why the use of Display Fireworks did not occur, and must specify the new proposed date. If requested, the permit-holder shall make available to the shift supervisor a copy of the permit.

- b. As an example, if the permit authorized the use of display fireworks on a Friday night, and the permit-holder seeks to request a continuance for the display fireworks to occur the immediately following Saturday or Sunday, this subsection governs the procedure to make a continuance request.
- c. The Code Official may, in his or her sole discretion, extend the provisions of the previously issued permit to the date designated in the continuance request.
- d. This permit continuance shall be granted without the payment of an additional permit fee and without requiring a bond other than the bond 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 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.

F. Inspection Requirements

1. The Code Official is to be contacted at least twenty-four (24) hours in advance of a Display Fireworks events or a Pyrotechnic and Flame Effects event to inspect the Display Site/Venue. The Display Site/Venue is subject to inspection and approval prior to discharging Display Fireworks, Pyrotechnics and Flame Effects. All applicable provisions and clearances provided in the approval plans and in NFPA 160·11, NFPA 1123·14, NFPA 1126·11 are applicable and will be verified.
2. The Code Official will be present during a Display Firework event and during a Pyrotechnic and Flame Effect event and will be in direct contact with the Contractor/Operator before and after the event. A Code Official may, but is not required to, be present for testing of Pyrotechnic and Flame Effects when no audience is present.
3. Monitoring of the Display Site is the responsibility of the property owner. Barriers and patrols of the perimeter are to be conducted and will be verified by the Code Official prior to the start of the Display Firework, Pyrotechnic and Flame Effect displays.
4. It is the responsibility of the Contractor /Operator to provide a post-

display inspection of the Discharge Site and Display Site immediately after Display Fireworks and at a "first light" inspection the day immediately following the Display Fireworks.

G. Disposal of Display Fireworks.

1. It shall be the sole responsibility of the property owner, tenant and/or Contractor/Operator to dispose of all firework shells that fail to fire or charges that fail to detonate. Any materials which are hazardous or unsafe shall be immediately disposed of in a proper manner.
2. Per 2009 IFC Section 3308.10 Disposal: Any shell found during the inspection shall not be handled until at least 15 minutes have elapsed from the time the shells were fired. The fireworks shall then be doused with water and allowed to remain for at least 5 additional minutes before being placed in a plastic bucket or fiberboard box. The disposal instructions of the manufacturer as provided by the fireworks supplier shall then be followed in disposing of the fireworks.

Section 6. CONSUMER FIREWORKS: CONDITIONS, PROHIBITIONS AND RESTRICTIONS ON USE.

- A. **Conditions.** A person who is at least 18 years of age and meets the requirements of this chapter and all applicable laws and regulations may purchase, possess, and use Consumer Fireworks. A person or entity using Consumer Fireworks pursuant to this chapter also shall comply with all applicable federal and state laws.
- B. **Prohibitions.** A person may not intentionally ignite or discharge Consumer Fireworks in the following manners and/or locations:
 1. On public or private property without the express written permission of the owner;
 2. Inside a motor vehicle or occupied structure;
 3. From a motor vehicle or occupied structure;
 4. Into or at a motor vehicle or occupied structure or at another person;
 5. While under the influence of alcohol a controlled substance or another drug;
 6. Within 150 feet of an occupied structure;
 7. Within 150 feet of a structure housing animals;
 8. Upon any Township roadway, park, public space, or any other Township-owned property, unless specifically authorized in writing in advance by the Township;

9. Within 150 feet of any flammable gases or liquids, including, but not limited to, tanks of gasoline, oil, propane, and/or oxygen;
10. Within 150 feet of any explosive materials, including, but not limited to, gunpowder, ammunition, and/or other fireworks, excluding the consumer firework to be ignited or discharged and the source of the ignition/discharge;
11. Within 150 feet of any above ground electrical lines or utility poles; and / or
12. In a manner such that the sparks or any portion of the fireworks may land upon the property of another person without that property owner's express written permission.

C. Restrictions on Use.

1. Consumer Fireworks shall not be ignited or discharged in the Township, except during the following holidays, dates and times, and in accordance with the prohibitions set forth in subsection B of this section:
 - a. Memorial Day: 4:00 p.m. to 10:00 p.m.
 - b. Chinese New Year: 4:00 p.m. to 10:00 p.m.
 - c. May 5 (Cinco de Mayo): 4:00 p.m. to 10:00 p.m.
 - d. July 4: 4:00 p.m. to 10:00 p.m.
 - e. Labor Day: 4:00 p.m. to 10:00 p.m.
 - f. December 31: 4:00 p.m. to 11:59 p.m.
 - g. January 1: 12:00 midnight to 1:00 a.m.

Ignition or discharge of Consumer Fireworks on any other day or at any other time is expressly prohibited and shall be punishable in accordance with Section 7.B.

- D. Suspension.** The Township has the discretion to suspend all use of consumer fireworks if the Township deems such a suspension to be in the best interests of the Township or its residents, including, but not limited to, circumstances of adverse or unfavorable weather conditions, such as high winds or a drought.

Section 7. VIOLATIONS.

- A. Violations of Display Fireworks, Pyrotechnics and Flame Effects Regulations.**

1. Notice of Violation: Whenever a Code Official observes an apparent or actual violation of a provision of Section 5 of this Ordinance, the Code Official shall prepare a written Notice of Violation describing the condition which required corrective action. The Notice shall specify the violation. Failure to comply with the provisions of the Notice of Violation shall subject the violator to the penalties herein.
2. Service of Notice: The written Notice of Violation of this Ordinance shall be served upon the property owner, tenant, Contractor/Operator or any other person responsible for the conditions under violation. Such Notice of Violation shall be served either by certified mail to the last known post office address, delivered in person, or by delivering it to and leaving it in the possession of any person in charge of a Display Fireworks Event.
3. Legal Action: Nothing herein shall prevent the Code Official from filing a civil complaint or non-traffic citation against a party without issuing a Notice of Violation where circumstances required prompt action because of a threat to health, safety, and welfare of the public.
4. Penalty for Violations: Any person, partnership, corporation, or association violating the provisions of Section 5 of this Ordinance governing Display Fireworks or failing to comply with any order issued pursuant to any section thereof shall, shall be guilty of a civil offense, and upon conviction thereof, shall be liable for a fine not less than One Hundred Dollars (\$100.00) or not more than One Thousand Dollars (\$1,000.00). Each day that a violation continues shall be deemed to be a separate offense. Failure to pay any fee as prescribed herein shall constitute a violation.
5. Fines collected: All fines and fees collected under this Ordinance shall be deposited into the Manheim Township General Fund.

B. Violations of Consumer Fireworks Regulations.

1. Section 6 of this Ordinance governing Consumer Fireworks shall be enforced by the Manheim Township Police Department in the manner provided for in the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.
2. Any person, partnership, association or corporation who violates this chapter commits a summary offence and upon conviction thereof in an action brought before a Magisterial District Judge shall be punishable by a fine of not more than \$100 for the first occurrence and up to but not more than \$1,000 for subsequent violations, plus the costs of prosecution. Each separate day that a violation occurs shall be deemed

a separate violation.

3. These violations and remedies are not exclusive and are not intended to be cumulative to any civil or equitable remedies. Nothing herein shall prevent the Township from filing a civil complaint or non-traffic citation against a party where circumstances require prompt action because of a threat to health, safety, and welfare of the public.

Section 8. CONFLICTING REGULATIONS.

All relevant ordinances, regulations, and policies of the Township, not amended, shall remain in full force and effect.

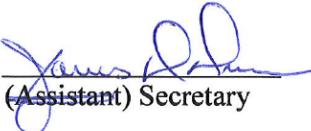
Section 9. VALIDITY.

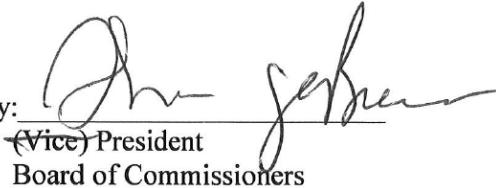
In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of the Board of Commissioners that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 10. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption.

ENACTED AND ORDAINED by the Board of Commissioners of the Township of Manheim on this 25 day of October, 2021.

Attest: 
(Assistant) Secretary

By: 
(Vice) President
Board of Commissioners

(SEAL)