

WEST MARLBOROUGH TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE REGULATING PUBLIC DISPLAYS OF FIREWORKS IN THE TOWNSHIP OF WEST MARLBOROUGH, PROVIDING FOR THE GRANTING OF PERMITS FOR SUPERVISED PUBLIC DISPLAYS OF FIREWORKS, PRESCRIBING SAFEGUARDS CONCERNING SAME, PROHIBITING PUBLIC DISPLAYS OF FIREWORKS AND THE POSSESSION, SALE, USE AND DISTRIBUTION THEREOF FOR PURPOSES OTHER THAN PUBLIC DISPLAYS WITHOUT OBTAINING A PERMIT THEREFOR AND PRESCRIBING PENALTIES FOR VIOLATIONS

WHEREAS, the General Assembly has enacted a statute governing the sale and use of fireworks which states, *inter alia*, that “Permission shall be given by the governing body of any city, borough, town or township under reasonable rules and regulations for displays of consumer fireworks and display fireworks to be held therein.” 35 P.S. § 12752.2;

WHEREAS, the West Marlborough Township Board of Supervisors has determined that in order for the Township to undertake its responsibilities related to granting permission for the display of fireworks and to protect the safety, health and welfare of the residents of the Township, it is advisable to adopt an Ordinance regulating the use of consumer fireworks and display fireworks and the granting of permits for such use;

NOW THEREFORE, the Board of Supervisors of West Marlborough Township, Chester County, Pennsylvania, a Municipal Corporation of Pennsylvania, organized and existing pursuant to the Second Class Township Code of Pennsylvania, Public Law 350, Act 60 of 1995, 53 P.S. § 65101, *et seq.*, does hereby enact and ordain as follows:

**SECTION 1: Definitions.**

The term “consumer fireworks” shall mean and include:

(1) Any combustible or explosive composition or any substance or combination of substances, intended to produce visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR or any successor regulation and which complies with the provisions for “consumer fireworks” as defined in the American Pyrotechnics Association (APA) Standard 87-1, or any successor standard.

(2) The term does not include devices as “ground and hand-held sparkling devices,” “novelties” and “toy caps” in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

The term “display fireworks” shall be defined as provided in 27 CFR § 555.11.

**SECTION 2: 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 hold public displays of consumer fireworks and display fireworks within the limits of the Township of West Marlborough, unless a permit is first granted by the Board of Supervisors of said Township or the Board's authorized representative.

**SECTION 3: Application for UCC Permit.**

Before a fireworks permit may be issued, the applicant must apply to the building code official for a fireworks display permit required by the Uniform Construction Code (UCC). If the building code official indicates in writing that no UCC is required, the application shall be processed in accordance with this ordinance. If a permit is required, the applicant must present the valid UCC permit before a fireworks permit may be issued under this ordinance. Obtaining a valid UCC permit waives the site inspection requirements in Section 4 of this ordinance.

**SECTION 4: Public Display by Competent Operator.**

All displays of consumer fireworks and display fireworks shall be handled by a competent operator and shall be of such a character and so located, discharged or fired as, in the opinion of the chief of the fire department or other such office as may be designated by the Board of Supervisors, after proper inspection, to not be hazardous to property or endanger any person or persons.

**SECTION 5: Application for Permits.**

Application for permits shall be in writing to the Township Secretary at least thirty (30) days in advance of the date of display. All applicants shall pay the Township an application fee pursuant to the Township's current fee schedule before issuance of a Permit and also provide proof of the required bond. If the Township has adopted an application form, all application permits shall be on the Township's form.

The application shall include:

- (a) the name and address of the owner or owners of the grounds on which the display is to be held, with the consent of such owner or owners in writing attached;
- (b) the name and address of the operator, person or organization conducting the use and discharge of the fireworks, including a description of the operator's qualifications and experience in the display of fireworks;
- (c) a diagram of the area showing where the use/ignition of the fireworks will occur and its relationship and distance to the nearest structure, power or telephone lines, highways and property boundaries;

- (d) the proposed location of the display and the manner and place of storage of such fireworks prior to use thereof;
- (e) the specific number and types of fireworks to be discharged;
- (f) the date and time of day in which the use is to be conducted;
- (g) satisfactory evidence that the required bond is in place;
- (h) any other information the Township determines is necessary to fully evaluate the application in order to adequately protect the health, safety, welfare and property of residents in the Township.

**SECTION 6: Fireworks for Agricultural Purposes.**

The Board of Supervisors, or its designee, pursuant to reasonable rules and regulations, 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. Such permits shall be good for the calendar year issued. After such permit 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 7: Permit Limitations.**

If and after a permit has been granted by the Township Board of Supervisors or designee, possession, sale, use and distribution of consumer fireworks and display fireworks for such display shall be lawful for that purpose only and pursuant to the terms and conditions of the permit. No permit granted shall be transferable.

**SECTION 8: Bond.**

The Board of Supervisors shall require the permittee or licensee to obtain a bond in an amount no less than One Million (\$1,000,000.00) Dollars for the payment of damages caused to any person or persons, 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 Secretary before any permit for a supervised public display is delivered.

**SECTION 9: Permit Revocation.**

The Board of Supervisors, or its designee, is authorized to refuse or revoke a permit if the bonding and / or other requirements of this Ordinance are not met by the applicant, weather conditions (*e.g.* drought or wind) are not favorable, or in the event of other circumstances which the Board of Supervisors, or its designee, deems to create a safety or other hazard to Township residents, their buildings, structures, and / or personal property such as animals.

**SECTION 10: Permit Extensions.**

If by reason of unfavorable weather the display for which a permit has been granted does not take place at the time authorized, the person to whom such permit was issued may apply to the Township Board of Supervisors within two (2) business days, setting forth under oath the fact that such display was not made, the reason, and request for a continuance of such permit for a specifically designated day, no later than ten (10) days after the day fixed originally in said permit. Upon receiving such application for a continuance the Board of Supervisors or its designee, if it believes the facts stated therein are true, shall extend the provisions of the permit to the day fixed in the application, no later than ten days after the original day designated in the 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 the original bond 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 permit.

**SECTION 11: Penalties.**

(a) Any person, co-partnership, association or corporation using consumer fireworks in violation of this Ordinance shall be guilty of a summary offense, and upon conviction thereof, shall be punished by a fine not exceeding One Hundred (\$100.00) Dollars or in the case of individuals, the members of a partnership or corporation, by imprisonment not exceeding ninety (90) days or by both such fine and imprisonment.

(b) Any person, co-partnership, association or corporation using display fireworks in violation of this Ordinance shall be guilty of a misdemeanor of the third degree, and upon conviction thereof, shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) or in the case of individuals, the members of a partnership or corporation, by imprisonment not exceeding ninety (90) days or by both such fine and imprisonment.

**SECTION 12: Repealer.**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 13: Severability.**

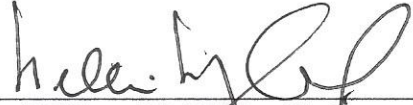
If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance.


**SECTION 14: Effective Date.**

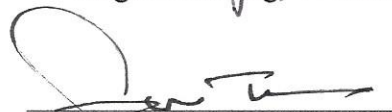
This Ordinance shall become effective five (5) days after its passage or adoption.

2<sup>nd</sup> I hereby certify that this Ordinance was adopted at the public meeting conducted on the  
day of July, 2013.

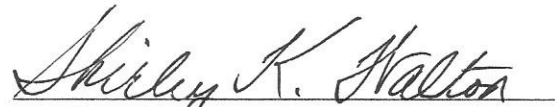
Board of Supervisors  
West Marlborough Township

  
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William W. Wylie, Chairman

  
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Hugh J. Lofting, V. Chairman

  
\_\_\_\_\_  
Josh Taylor, Supervisor

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Secretary