

ORDINANCE NO. 475

AN ORDINANCE OF THE TOWNSHIP OF UPPER SOUTHAMPTON ("TOWNSHIP"), BUCKS COUNTY, PENNSYLVANIA, AMENDING THE PROVISIONS OF THE UPPER SOUTHAMPTON TOWNSHIP CODE RELATED TO THE USE OF CONSUMER AND DISPLAY FIREWORKS WITHIN THE TOWNSHIP.

WITNESSETH:

WHEREAS, Upper Southampton Township is a township of the second class, organized and operated in accordance with the Second Class Township Code, Act of May 1, 1993, P.L. 103, No. 69, as amended by the Act of November 9, 1995, P.L. 350, No. 60, found at 53 P.S. § 65101 et seq.;

WHEREAS, the Second Class Township Code at 53 P.S. § 66506 entitles and authorizes the Board of Supervisors to make and adopt ordinances necessary for the proper management, care, and control of the Township, and to maintain the peace, health, and welfare of the Township;

WHEREAS, the Second Class Township Code at P.S. § 66527 entitles and authorizes the Board of Supervisors to adopt ordinances to secure public safety and to define disturbing the peace within the limits of the Township;

WHEREAS, the Second Class Township Code at 53 P.S. § 66534 specifically entitles and authorizes the Board of Supervisors to adopt ordinances imposing safeguards concerning inflammable articles;

WHEREAS, the Second Class Township Code at 53 P.S. § 66601 specifically entitles and authorizes the Board of Supervisors to adopt an ordinance to which general or specific powers of the Township may be exercised; and

WHEREAS, the Board believes that it will be in the best interest of the residents of the Township to revise and amend the Township Code of Ordinances as hereafter set forth.

NOW THEREFORE, the Board of Supervisors of the Township of Upper Southampton does hereby enact the following:

SECTION 1. Chapter 93 of the Code of Ordinances of Upper Southampton Township is amended by adding a chapter to read "Consumer and Display Fireworks."

SECTION 2. Chapter 93 of the Code of Ordinances of Upper Southampton Township shall state the following:

1. **Section 93-1. Purpose.**

The purpose of Chapter 93 is to regulate the public use of consumer and display fireworks within the Township.

2. **Section 93-2. Definitions.**

a. **"APA 87-1."** The American Pyrotechnics Association Standard 87-1: Standard for Construction and Approval for Transportation and Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 Edition.

b. **"Consumer Fireworks."** The term includes any combustible or explosive composition or any substance 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, the sale, possession, and use of which shall be permitted throughout the Township.

The term does not include devices such as "ground and hand-held sparkling devices," "novelties," or "toy caps" in APA 87-1, the sale, possession and use of which shall be permitted at all times throughout the Township.

c. **"Display Fireworks."** As defined in 27 CFR §555.11 (relating to meaning of terms), including, but is not limited to, large fireworks, designed primarily to produce visible or audible effect by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than two (2) grains (130 mg) of explosive materials, aerial shells containing more than 40 grams or pyrotechnic compositions, and other display pieces that exceed the limits of explosive materials for classification as "consumer fireworks." Display fireworks are classified as fireworks UN0333, UN0334 or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused set pieces containing components which together exceed 50 mg of salute powder.

d. **"Vehicles."** Every device in, upon or by which any person or property is or may be transported or drawn upon by highway, except devices used exclusively upon rails or tracks. The term does not include a self-propelled wheelchair, or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.

3. **Section 93-3. Restrictions on the Use of Consumer Fireworks.**

As of the Effective Date of this Ordinance, any use, firing off, igniting, or dispensing of any consumer fireworks within the Township is hereby subject to the following restrictions:

A. **Conditions.** A person who is at least 18 years of age may purchase, possess, and use consumer fireworks.

B. **Prohibitions.** A person may not intentionally use consumer fireworks:

1. On private property or on public property, including, but not limited to, streets, parking lots, sidewalks, and parks, without the express written permission of the owner or entity that controls the property;

2. Within, directed at, or directed from a vehicle or building;
3. Directed at another person;
4. While the person is under the influence of alcohol, a controlled substance, or another drug; or
5. Within 150 feet of a building or vehicle, whether the building or vehicle is owned by the user of the consumer fireworks.

C. Permitted Days. The use of consumer fireworks within the Township is not permitted except on the following holidays: New Year's Eve, New Year's Day, Chinese New Year, Memorial Day, July 2, 3, or 4, and Labor Day as stated herein.

Special events. In addition, consumer fireworks may be used on days upon which Special Events are scheduled. "Special events" shall refer to those events that the Board of Supervisors deem as giving rise to an exception to the date restriction as described herein; including, but not limited to, weddings, 50th anniversaries, and milestone birthdays. In order for a Township resident to use consumer fireworks pursuant to this exception, the resident must request the Board of Supervisors to grant the exception at least thirty (30) days prior to the Special Event. The decision as to whether a resident's request is granted shall be at the sole discretion of the Board of Supervisors.

D. Permitted Times. Consumer fireworks may not be used between the hours of 10:00 PM and 10:00 AM, except on July 2, 3, and 4, December 31, and Memorial Day, (including the immediately preceding Saturday and Sunday), and Labor Day (including the immediately preceding Saturday and Sunday), when consumer fireworks may be used until 1:00 AM the following day. When July 4 falls on a Tuesday, Wednesday, or Thursday, consumer fireworks may be used until 1:00 AM on the immediately preceding and following Friday and Saturday.

On the days the use of consumer fireworks is otherwise permitted, said use is limited to the hours between 5:00 PM and 10:00 PM, except that the use of consumer fireworks is allowed each year beginning at 11:45 PM on New Year's Eve (December 31) to 1:00 AM on New Year's Day (January 1).

4. **Section 93-4. Restrictions on the Use of Display Fireworks.**

Any use, firing off, igniting, or dispensing of any display fireworks within the Township shall remain and is hereby and subject to permitting, enforcement, and penalties by the Township, Township Fire Marshal, and/or Police.

5. **Section 93-5. Violations and Penalties.**

A. Authority for Issuance of Violation. Upon finding a violation, any Police Officer may proceed under the Second Class Township at 53 P.S. §§ 66601(c.1)(2).

B. Enforcement.

1. The provisions of this Ordinance shall be enforced by the Police Officers employed by the Township of Upper Southampton Township.

2. Any violation of the provisions of this Ordinance may be cause for a citation to be issued to the violator in conformance with law, with a fine in the amount of one hundred (\$100.00) dollars; also, enforcement may include, but is not limited to, 53 P.S. §§ 66601(c.1)(2), as well as, no limitation is intended under the Crimes Code or other law having application.

3. Any second violation of the provisions of this Ordinance may be cause for a citation to be issued to the violator in conformance with law, with a fine in the amount of five hundred (\$500.00) dollars; also, enforcement may include, but is not limited to, 53 P.S. §§ 66601(c.1)(2), as well as, no limitation is intended under the Crimes Code or other law having application.

4. Any third violation of the provisions of this Ordinance may be cause for a citation to be issued to the violator in conformance with law, with a fine in the amount of one thousand (\$1,000.00) dollars; also, enforcement may include, but is not limited to, 53 P.S. §§ 66601(c.1)(2), as well as, no limitation is intended under the Crimes Code or other law having application.

C. Separate Offenses. Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed, with total fines not to exceed one thousand (\$1,000.00) dollars, i.e., the maximum amount provided in 53 P.S. §§ 66601(c.1)(2).

D. Fines and Penalties.

1. Any person who violates this Ordinance may be issued a citation for each offense as noted above; however, nothing herein limits the Police Officer(s) ability to act under any other valid law(s) of the Commonwealth having application.

2. Nothing herein is intended to impede or restrict the prosecution of any criminal offense for any person continuing to violate the terms of this Ordinance or any order to stop or desist from any illegal conduct or from being charged with any separate offense under the criminal codes or otherwise.

6. Section 93-6. Effect on Other Provisions.

A. All relevant ordinances, regulations, and polloles of the Township of Upper Southampton, Pennsylvania not amended shall remain in full force and effect. Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be subordinate to this Ordinance to the extent of such conflict, and the language contained in the Ordinance shall control. Nothing herein is intended to repeal any other Ordinance of the Township of Upper Southampton.

B. Further, nothing herein is intended on limiting the Public Officers' authority under other relevant law, including, but not limited to, Pennsylvania Fireworks Law, 2022 Bill Text PA H.B. 2157.

7. **Section 93-7. Severability.**

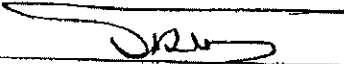
If any section, clause, provision, or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this Ordinance, so long as it remains legally enforceable minus the invalid portion. The Township reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance and the Effective Date administration thereof.

SECTION 3. This Ordinance shall be effective five (5) days after the adoption by the Board of Supervisors of Upper Southampton Township.

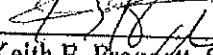
Duly enacted and ordained on this 13th day of September 2022, by the Township of Upper Southampton in a public session duly assembled.

Attest:

UPPER SOUTHAMPTON TOWNSHIP
BOARD OF SUPERVISORS



Stephen A. Wallin, Secretary/Treasurer

By: 

Keith E. Proggatt, Sr., Chairman