

ORDINANCE NO. 03-03

**AN ORDINANCE OF THE TOWNSHIP OF WEISENBERG,
LEHIGH COUNTY, PENNSYLVANIA, ESTABLISHING
RULES AND REGULATIONS FOR FIREWORKS AND
FIREWORK DISPLAYS**

WHEREAS, 35 P.S. § 1271 et. seq. (hereinafter referred to as the “Statute”) sets forth certain guidelines and limitations for the sale and use of fireworks; and

WHEREAS, the Statute also provides that a municipality shall have the power, under reasonable rules and regulations adopted by it, to grant permits for supervised public displays of fireworks to be held by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; and

WHEREAS, the Township of Weisenberg desires to permit certain supervised public displays of fireworks and, therefore, desires to adopt reasonable rules and regulations for said purpose.

NOW THEREFORE, BE IT ORDAINED AND ENACTED, that the Township of Weisenberg, County of Lehigh, Commonwealth of Pennsylvania, that the Township of Weisenberg, adopt the following:

FIREWORKS AND FIREWORKS DISPLAYS

Section 1. Definitions. The following terms shall have the meanings ascribed unless a contrary meaning is expressly set forth in the text.

- (a) **“Act”** shall mean that Act entitled “Fireworks and Explosives” enacted May 15, 1939, P.L. 134, as amended, and codified at 35 P.S. § 1271 *et seq.*
- (b) **“Approved”** shall mean acceptable to Township Supervisors.
- (c) **“Township”** shall mean the Township of Weisenberg.
- (d) **“Township Supervisors”** shall mean the Board of Supervisors of the Township of Weisenberg.
- (e) **“Display(s) of Fireworks” or “Fireworks Display”** shall mean the ignition, launching or detonation of Fireworks.
- (f) **“Fireworks”** shall mean any combustible or explosive composition or any substance or combination of substances, or, except as hereinafter provided, any article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges and toy cannons in which explosives are used, the type of balloons

which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, aerial fireworks, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound or any tablets or other device containing an explosive substance.

(g) **“Fireworks Permit”** shall mean that permit issued by Township Board of Supervisors for a Display of Fireworks.

(h) **“Permittee”** shall mean any person, co-partnership, association, corporation, limited partnership, limited liability partnership, limited liability company, joint venture or similar entity that secures a Fireworks Permit.

(i) **“Person”** shall mean any person, co-partnership, association, corporation, limited partnership, limited liability partnership, limited liability company, joint venture or similar entity that applies for a Fireworks Permit.

(j) **“Unregulated Fireworks”** shall mean (i) sparklers, (ii) automobile flares, (iii) toy pistols, (iii) toy canes, (iv) toy guns, (v) other devices in which paper caps containing twenty-five hundredths (0.25) grains (16.0 mg) or less of explosive compound are used; provided, however, such devices are constructed so that the hand cannot come in contact with the cap when in place for the explosion, (vi) toy pistol paper caps which contain less than twenty hundredths (0.20) grains of explosive mixture, and (vii) toy cannons which operate on the principle of mixing calcium carbide, weighing less than one tenth (0.1) of an ounce, and water in the reservoir of the cannon and in which ignition results upon the creation of a spark.

Section 2. Sale of Fireworks Prohibited; Supervised Displays Permitted.

(a) Except as set forth, it shall be unlawful for:

(i) any person, co-partnership, association or corporation to store, offer for sale, expose for sale, sell at retail, or use, explode or discharge any fireworks in the Township.

(ii) a common carrier or a common carrier by motor vehicle, as defined in 66 Pa.C.S. § 102 (relating to definitions), or contract carrier by motor vehicle, as defined in 66 Pa.C.S. § 2501(b) (relating to declaration of policy and definitions) to accept fireworks for delivery to a person in the Township unless the consignor of such Fireworks has evidence from the consignee that a Fireworks Permit for their use has been issued by the Township Supervisors.

(b) The sale and use of Unregulated Fireworks shall be permitted at all times; provided however, that nothing in this Section shall be deemed to permit or otherwise authorize any breach of the peace.

(c) Every Display of Fireworks shall be of such a character and so located, arranged, discharged and fired in such a manner that, in the opinion of the chief of the fire department or such

other officer as may be designated by the Township Supervisors after proper inspection, shall not be or present a hazard to property or endanger any person.

Section 3. Permits, Application for Permits.

(a) A Fireworks Permit shall be required for all Displays of Fireworks. No permit shall be required for the use, purchase or distribution of Unregulated Fireworks. No Display of Fireworks requiring the issuance of a permit shall be commenced until a Fireworks Permit for such display has been issued by the Township Supervisors.

(b) Application for a Fireworks Permit shall be made on forms prepared and provided by the Township, shall be accompanied by an adequate description of the proposed Display of Fireworks, and shall be accompanied by the required fee as prescribed in Section 4(a).

(c) Application for a Fireworks Permit shall be made by the Person conducting the Fireworks Display. All applications for a Fireworks Permit shall be submitted to the Township Supervisors at least fifteen (15) days in advance of the date of the Fireworks Display. The application shall require that the person or business entity applying for a Fireworks Permit shall produce a valid registration with the Commonwealth of Pennsylvania Attorney General (such registration as required pursuant to 37 Pa. Code, Chapter 711).

(d) The applicant shall provide in writing the location of the Fireworks Display, the types of fireworks proposed to be used, and any additional information as may be required by the Township Supervisors.

(e) The Township Supervisors shall examine or cause to be examined all applications for Fireworks Permits and amendments thereto within five (5) days after filing. If the application does not conform to the requirements of all pertinent statutes, ordinances and regulations, the Board of Supervisors shall reject the application and, in writing, state the reasons therefor. If the Township Supervisors is satisfied that the proposed Firework Display conforms to the requirements of this Ordinance and all laws and regulations applicable thereto, the Board of Supervisors shall issue a Fireworks Permit listing any conditions attached by the Board of Supervisors, the date(s) for which the permit is valid, and any extension date(s) in the event of unfavorable weather. A Fireworks Permit is not transferable.

(f) The Township Supervisors shall, pursuant to 46 Pa. Code, Chapter 15, § 15.60(12), retain copies of permits issued and related applications for Fireworks Display(s) as fire records for three (3) years after the expiration, revocation, or date of issuance.

Section 4. Fee, Requirements, Conditions, Insurance

(a) The Township Supervisors shall determine the fee to be charged for each permit issued by Resolution, which may, from time to time be amended to revise the fees.

(b) The applicant must demonstrate that adequate parking and traffic control will be available for the event.

(c) Unless otherwise approved by the Township Supervisors, event signs shall be directional only, with the name of the event and a directional arrow. A sign shall not exceed eight (8) square feet per side. The location of said signage is to be determined by the Township Supervisors. Signs may be erected no more than twenty-four (24) hours in advance of the day the event starts and must be removed by 5:00 p.m. the day after the event concludes.

(d) The Township Supervisors may add any conditions deemed necessary and appropriate by the Township Supervisors to address safety concerns.

(e) Prior to issuance of a permit, the applicant shall provide a Certificate of Liability Insurance naming the Township of Weisenberg as an additional insured. The insurance shall be in an amount not less than one million dollars (\$1,000,000.00).

Section 5. Notification of Fire Department for Fire Protection

The Permittee shall (i) ensure that proper fire protection is or will be provided during the entire Fireworks Display and (ii) notify the Fire Company serving the Township no less than fifteen (15) days prior to the date of the Fireworks Display.

Section 6. Extension of Permit When Display Prevented by Unfavorable Weather

(a) If, by reason of unfavorable weather, the Fireworks Display for which a Fireworks Permit has been issued does not take place, the person to whom such permit was issued may, within twenty-four (24) hours, request the Township Supervisors to extend the duration of the Fireworks Permit from the originally fixed date of said Fireworks Display to an established rain date as set forth in the Fireworks Permit or such other date as may be approved by the Township Supervisors. In making a request for the extension of the duration of a Fireworks Permit, the Permittee shall set forth, under oath, the fact that such display was not made, giving the reason therefor.

(b) Upon receipt of a request for a continuance, the Township Supervisors may, if it believes or knows the facts stated therein to be true, automatically extend the provisions of said permit to the rain date as fixed in the original permit application or such other date as may be approved by the Supervisors.

(c) Such extension of time shall be granted by the Township Supervisors 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 the 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 7. Denial, Suspension and Revocation of Permit; Appeal

(a) After notice to the Permittee and an opportunity to be heard (within five (5) days of the date of the notice), the Township Supervisors may revoke a Fireworks Permit or approval issued under the provisions of this Ordinance in the case of (i) any false statement or misrepresentation of fact in the application, or (ii) failure of the applicant to comply with the provisions of this Ordinance or the Act. Any notice of revocation shall include the reasons therefor.

(b) Appeals from any suspension, revocation or denial of a permit may be made to the Lehigh 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 Fireworks Permit or application therefor has been denied, suspended or revoked, no part of the application/permit fee shall be refunded.

Section 8. Disposal of Unfired Fireworks

Unfired Fireworks and trash remaining after the conclusion of the display for which the Fireworks Permit was issued shall be immediately disposed of by the Permittee in an approved, safe manner.

Section 9. Sale for Permitted Uses; Shipment to Points Outside State

Nothing in this Ordinance shall be construed to prohibit any resident wholesaler, dealer or jobber to sell at wholesale such Fireworks as are not herein prohibited or the sale of any kind of Fireworks provided the same are to be shipped directly out of the Commonwealth of Pennsylvania, or are to be used by a person holding a permit from any municipality at the display covered by the permit, or when used as authorized by a permit for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage, or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or when used in quarrying or for blasting or other industrial use, or the sale of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations or organizations composed of veterans of the United States Army or Navy.

Section 10. Confiscation

Any law enforcement official of the Township Police Department shall seize, take, remove, or cause to be removed at the expense of the owner all Fireworks offered or exposed for display or sale, stored, held, or used, discharged, or expended in violation of this Article and the Act.

Section 11. Penalty for Violation

(a) Any person, co-partnership, association or corporation violating any term, condition

or provision hereof or the Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100.00) or in the case of individuals, the members of a partnership, and the responsible officers and agents of an association or corporation, by imprisonment in the Lehigh County jail not exceeding ninety (90) days, or by both such fine and imprisonment. Each section of this Article that is found to have been violated shall constitute a separate offense. Each day that a violation of a permit issued or of this Article continues shall constitute a separate offense. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other section of the Code of Ordinances of the Township.

Section 12. Applicability

This Ordinance shall not apply to any person who is beyond the legal power of the Township to impose the provisions of this Ordinance, under either the Constitution of the United States or the Constitution or Laws of the Commonwealth of Pennsylvania. This Article shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

Section 13. Severability

The provisions of this Article are severable. If any provision, sentence, clause, section or part thereof shall, for any reason, be found to be unconstitutional, illegal or invalid, such unconstitutional, illegal, or invalid provision, sentence, clause, section or part thereof shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts thereof. It is hereby declared to be the intent of the Township Supervisors that this Article would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

Section 14. Effective Date

The provisions of this Ordinance shall become effective on the fifth (5th) day following enactment.

Section 15. Repealer

Any Ordinance, in part or in whole, conflicting or inconsistent with the provisions of this Ordinance shall be, and the same are, hereby repealed insofar as the same may conflict with or be inconsistent with the terms of this Ordinance.

DULY ENACTED AND ORDAINED on this 8th day of September, 2003,
by the Board of Supervisors of Weisenberg Township in lawful session duly assembled.

ATTEST:

TOWNSHIP OF WEISENBERG

Donald P. Breining

Lynla George
Thomas E. ...