

JACKSON TOWNSHIP, MONROE COUNTY
ORDINANCE NO. 2024-_____

**AN ORDINANCE OF THE TOWNSHIP OF JACKSON, MONROE COUNTY,
PENNSYLVANIA, TO AMEND AND RESTATE CHAPTER 7 – PART 2 OF THE
CODE OF THE TOWNSHIP OF JACKSON ENTITLED “FIREWORKS”;
PROVIDE FOR THE SEVERABILITY OF THE PROVISIONS OF THE ORDINANCE;
REPEAL OR RESCIND ALL ORDINANCES OR PARTS THEREOF WHICH ARE
INCONSISTENT HEREWITH; AND ESTABLISH THE EFFECTIVE DATE OF THE
ORDINANCE.**

WHEREAS, the Board of Supervisors of Jackson Township has determined that, as a result in the change to the law pertaining to fireworks in the Commonwealth of Pennsylvania, it is necessary to amend and restate Chapter 7-Part 2 of the Code of the Township of Jackson entitled “Fireworks” to establish certain minimum health and safety requirements for the use/discharge of Consumer Fireworks and Display Fireworks in Jackson Township; and

WHEREAS, Section 1506 of 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. §66506, entitled "General Powers," authorizes the Board of Supervisors to make and adopt ordinances necessary for the proper management, care and control of the Township, and the maintenance of the health and welfare of the Township and its citizens; and

WHEREAS, Section 1527 of 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. §66527, entitled "Public Safety," authorizes the Board of Supervisors to adopt ordinances to secure the safety of persons or property within the Township and to define disturbing the peace within the limits of the Township; and

WHEREAS, Section 1534 of 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. §66534, entitled "Fireworks and Inflammable Articles," authorizes the Board of Supervisors to grant permits for supervised public displays of fireworks, and adopt rules and regulations governing such displays, and by ordinance impose other safeguards concerning inflammable articles as may be necessary.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Jackson Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted pursuant to the above authority, as follows:

ARTICLE I. Preamble.

The preamble of this Ordinance is incorporated herein by reference and approved as part hereof.

ARTICLE II. Title.

This Ordinance shall be known as the Jackson Township Fireworks Ordinance, to be codified at Chapter 7 – Part 2 of the Jackson Township Code of Ordinances

“§ 7-201. Definitions.

For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number and the word "shall" is always mandatory and not merely directory.

CONSUMER FIREWORKS – The term "Consumer Fireworks" shall mean and include:

- A. 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 (relating to commercial practices) 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.
- B. The term does not include devices such as "ground and hand-held sparkling devices," "novelties," and "toy caps" in APA Standard 87-1, the sale, possession and use of which is permitted at all times throughout this Commonwealth by state law.

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:

- A. Salutes that contain more than two (2) grains or one hundred thirty (130) milligrams of explosive materials;
- B. Aerial shells containing more than sixty (60) grams of pyrotechnic compositions; and
- C. Other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks US0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

FIREWORKS DISPLAY PERMIT - The term "Fireworks Display Permit" shall mean a permit issued by the Jackson Township Zoning Officer authorizing the use or display of Display Fireworks within Jackson Township.

§ 7-202. Fireworks Display Permit Required.

It shall be unlawful for any person, persons, firms, corporations, amusement parks, fair associations or other entities, organizations or groups of individuals to utilize Display Fireworks within the limits of the Township unless a Fireworks Display Permit therefor is first granted by the Township.

§ 7-203. Requirements for a Fireworks Display Permit.

A. Application for Permit: Applications for Fireworks Display Permits must be submitted to the Zoning Officer at least thirty (30) days in advance of the proposed display, and shall contain at a minimum the following:

- (1) Adequate documentation demonstrating that the applicant is a legal entity or, if an individual, is at least twenty-one (21) years of age.
- (2) Name, address, telephone number, and fax number (if applicable) of the applicant and, if the applicant is an organization, the name, address, telephone number and fax number (if applicable) of the contact person for the organization;
- (3) Name, address, telephone number and qualifications of the individual or organization who will be the operator responsible for the display;
- (4) Proposed site and date and time of the fireworks display, the name and address of the owner of the property that includes the proposed site, and the written consent of the owner of that property to the issuance of the requested Fireworks Display Permit.
- (5) Number and kinds of Display Fireworks to be discharged;
- (6) The manner and place of storage of such fireworks prior to display;
- (7) Site plan depicting all structures, structures occupied, overhead transmission lines, streets, parking areas, and areas where spectators for the display will be gathered. The site plan should also contain a symbol defining north and a sketch of the general area where the fireworks will be set off, the area they will be directed, and all means of ingress and egress for emergency vehicles;
- (8) The application shall contain an Agreement by the applicant/permittee to indemnify and hold harmless Jackson Township, its Board of Supervisors in both their individual and official capacities, its officers, agents, and/or employees from any and all liability arising from the fireworks display for which the requested Fireworks Display Permit is issued. By accepting an issued Fireworks Display Permit, the permittee acknowledges that this obligation to indemnify and hold harmless is incorporated by reference into any Fireworks Display Permit issued supported by the required insurance and bond.

(9) A Certificate of Insurance, effective the day of the fireworks display, with the following limits:

(a) Commercial General Liability (CGL) insurance ISO Coverage From CG 00 01 covering on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with minimum limits of five million dollars (\$5,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the project/location or the general aggregate shall be twice the occurrence limit. The insurance shall cover or be endorsed to cover liability arising from the proposed event, and the liability assumed by the permit applicant pursuant to this agreement utilizing ISO endorsements CG 20 10 and CG 20 37 or their equivalents. The policy shall include Jackson Township, its officers, its employees, and its volunteers, as additional insureds, with primary coverage as respects the same, and shall contain a severability of interest provision. The coverage shall be primary and non-contributory.

(b) Statutory Workers Compensation as required by the Commonwealth of Pennsylvania. A certificate of insurance with endorsement WC 00 0313 shall be completed by the applicant’s insurance agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect shall be furnished to the Township at least thirty (30) days prior to the event described in the permit application, and shall be subject to review and approval by the Township. The certificate shall provide that the coverages afforded under the policies shall not be cancelled, terminated, or materially changed until at least fifteen (15) days prior written notice has been given to the Township.

(10) A bond in favor of the Township, in an amount deemed appropriate by the Board of Supervisors or its designee, but not less than **\$50,000.00**, conditioned for the payment of all damages which may be caused either to a person or persons, or to property by reason of the display and arising from the acts of the permittee, his/her/its agents, employees or subcontractors. The bond shall be in form and substance acceptable to the Township.

(11) A copy of the operator's current permit 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.

(12) Payment of the appropriate application/permit fee identified on the Township's duly enacted feed schedule.

C. Review and approval of the application.

(1) The Board of Supervisors shall designate a representative (Designee) to perform proper inspection and oversight of the fireworks display site. The Designee will:

(a) Conduct a site inspection of the proposed site to determine whether or not, in the opinion of the Designee, the proposed character and location of the fireworks display constitutes a fire hazard to any property in the immediate area of the

display, or will endanger any person or persons; and

(b) Designate the area where the Display Fireworks display will originate from, and fireworks shall be detonated and displayed from that area only; and

(c) Notify the applicant and Jackson Township prior to the display as to whether the presence of firefighters and firefighting equipment will be required at the display.

(2) After a complete application has been received, the Zoning Officer shall forward a copy of the site plan to the Designee with a request for a site inspection.

(3) The approval of the proposed site for the fireworks display by the Designee shall be required prior to the issuance of a Fireworks Display Permit by the Zoning Officer.

D. Permit issuance/Transferability.

(1) The Jackson Township Zoning Officer will issue Fireworks Display Permits only after approval of the proposed site for the fireworks display by the Designee. The approved site shall be set forth on the Fireworks Display Permit.

(2) A Fireworks Display Permit issued hereunder shall be transferable, but only if not less than ten (10) days before the desired date of transfer (i) the permit holder provides written notice of the proposed transfer to the Zoning Officer, and (ii) the transferee complies with requirements set forth in Sections 48-3.A.(1), (2), (3), (8), (9), (10), (11) and (12) of this Ordinance.

(3) After a Fireworks Display Permit is issued, the possession, use, discharge, and display of Display Fireworks shall be lawful only to the extent authorized by the permit.

(4) Fireworks Display Permits will be valid only for the date of the fireworks display set forth therein; provided, however, that if by reason of unfavorable weather the display for which a Fireworks Display Permit has been issued does not take place at the time so authorized, the person to whom such Fireworks Display Permit was issued may within twenty-four (24) hours apply to the Zoning Officer who issued the same, setting forth, under oath, the fact that such display was not made, giving the reason therefor, and requesting a continuance of such Fireworks Display Permit for a day designated therein, not later than one (1) week after the day originally fixed in said Fireworks Display Permit. Upon receiving such application for a continuance, the Zoning Officer, if he/she believes the facts stated therein are true, may extend the provisions of said Fireworks Display Permit to the day fixed in said application, not later than one (1) week after the original day designated in the Fireworks Display Permit, and such extension of time shall be granted without the payment of any additional fee and without requiring any addition bond or insurance other than that provided for the initial issuance of the Fireworks Display Permit, provided the provisions thereof extend to and cover all damages which may be caused by reason of the said fireworks display taking place at such extended date in the same manner and to the same extent as if such fireworks display had taken place at the date originally fixed in the Fireworks Display Permit.

(5) Notwithstanding the issuance of a Fireworks Display Permit, the same shall automatically be rendered null and void, and no fireworks display be permitted, if there is a ban on open burning and/or a declared drought emergency in effect in the Township on the date of the proposed display.

§ 7-204. Required Notifications.

A holder of a Fireworks Display Permit shall telephonically notify the Jackson Township Fire Company Fire Chief, or his or her designee, at least forty-eight (48) hours in advance of the fireworks display and further telephonically notify the Monroe County Control Center (911) at least two (2) hours in advance of the fireworks display, which notification shall advise as to when and where the Display Fireworks will be displayed. Permit holders shall also telephonically notify the Monroe County Control Center (911) at the conclusion of the fireworks display.

§ 7-205. Appeals.

A. Filing of Appeals.

Appeals of a determination of the Zoning Officer under this Chapter to deny any application for, or to revoke, a Display Fireworks Permit, shall be filed with the Board of Supervisors within thirty (30) days of the date of the denial of application or revocation of permit. Appeal shall be processed as follows:

1. All appeals shall be in writing and signed by the Appellant on forms prescribed by the Township, and shall be accompanied by a fee, the amount of which shall be established by the Township Supervisors, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.
2. Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, and the relief sought. Every appeal shall refer to the specific provision of circumstances of the case.

B. Hearings.

The Board of Supervisors shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the "Local Agency Law", and in accordance with the following requirements:

1. Written notice shall be given to the Appellant, the Zoning Officer, and to any person who has made a timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board of Supervisors, but not less than fifteen (15) days prior to the hearing.
2. The hearing shall be held within 60 days from the date the appeal is filed, unless the Appellant has agreed in writing to an extension of time.

3. The hearings shall be conducted by the Board of Supervisors. The decision or, where no decision is called for, the findings, shall be in writing by the Board of Supervisors within forty-five (45) days after the conclusion of the hearing, unless the Appellant has agreed in writing to an extension of time, and shall be communicated to the Appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by personal delivery or by United States First Class mail postage prepaid.
4. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.
5. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
6. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
7. The Board of Supervisors may, but is not required to, make a stenographic record of the proceedings. In the event a stenographic record of the proceedings is not provided by the Board of Supervisors, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof. Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.
8. The Board of Supervisors shall not communicate, directly or indirectly, with any party or any party's representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or any party's representative unless all parties are given opportunity to be present.

§ 7-206. Disposal of Unfired Fireworks.

Unfired fireworks and trash remaining at the closing of the Display Fireworks display for which a Display Fireworks Permit was issued shall be disposed of by the permittee in an approved, safe manner in accordance with all applicable laws and regulations.

§ 7-707. Consumer Fireworks and Conditions of Use

A. A person who is at least eighteen (18) years of age and meets the requirements of this Chapter may purchase, possess, and use Consumer Fireworks.

B. Unless as noted in subsection (c) below, no consumer fireworks may be ignited or discharged at any time within the Township.

C. In accordance with state law, Consumer Fireworks may be discharged on days and times as noted below:

- 1) Memorial Day including the immediately preceding Saturday and Sunday from 4pm until 10:00 p.m.
- 2) July 2nd, 3rd, and 4th from 4pm until 1:00 a.m. the following day; when July 4th falls on a Tuesday, Wednesday or Thursday, Consumer Fireworks may be used from 4pm until 1:00 a.m. on the immediately preceding and following Friday and Saturday.
- 3) Labor Day including the immediately preceding Saturday and Sunday from 4pm until 10:00 p.m.
- 4) December 31st from 4pm until 1:00 a.m. the following day.

D. Limitations on places of use:

- 1) Consumer Fireworks may not be ignited or discharged within one hundred fifty (150) feet of any building or vehicle whether or not occupied.
- 2) Consumer Fireworks may not be ignited or discharged within one thousand (1000) feet of any agricultural operations, commercial equine or commercial animal husbandry* operation (excepting such operations owned and/or operated by the person igniting or discharging the Consumer Fireworks), said distance to be measured from the property line. Private equine and livestock operations that meet local zoning regulations also shall meet the above required setbacks.

***ANIMAL HUSBANDRY, COMMERCIAL** - The raising and keeping of livestock, small animals and fowl and/or fur-bearing animals with the intent of producing capital gain or profit or with the intent of selling any livestock and/or poultry products.

- 3) Consumer Fireworks may not be ignited or discharged within five hundred (500) feet of any municipal owned property.

E. Additional Prohibitions – A person may not intentionally ignite or discharge:

- 1) Consumer Fireworks on any public or private property without the express written permission of the owner; **This includes all state or township highways and roadways, including shoulders and rights of way.**

- 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 out of a motor vehicle or building or at another person;
- 4) Consumer Fireworks or sparkling devise while the person is under the influence of alcohol or a controlled substance or another drug.

F. Igniting or discharging Consumer Fireworks unless in accordance or compliance with this Ordinance is strictly prohibited.

§ 7-208. Enforcement Officer.

In addition to any licensed law enforcement official, this Chapter shall be enforced by any individual designated by the Board of Supervisors for that purpose, which may include the Zoning or Codes Enforcement Officer.

§ 7-209. Disturbance of the Peace/Public Nuisance.

In the interest of promoting the public health, safety and welfare of the Township and its residents, and minimizing (i) the burden on the Township and community services, (ii) danger to persons and property, and (iii) negative impacts on property, residential neighborhoods, pets and livestock posed by the improper or unauthorized use of Consumer Fireworks and/or Display Fireworks, a violation of any of the provisions of this chapter is hereby declared to be a disturbance of the peace and a public nuisance.

§ 7-210. Violations and penalties.

This Chapter shall be enforced by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this Chapter shall, upon conviction in a summary proceeding, pay a fine of not less than \$100.00 nor more than \$1000.00 per violation, plus all court costs and reasonable attorney's fees incurred by Jackson Township in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation, and each section of this Article that is violated shall also constitute a separate offense. Further, the appropriate officers or agents of Jackson Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this Chapter. All fines, penalties, costs and reasonable attorneys' fees collected for the violation of this Chapter shall be paid to Jackson Township for its general use.

ARTICLE III. Severability

The provisions of the Ordinance are severable. If any sentence, clause, 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 remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the legislative intent of the Board of Supervisors that such remainder shall be, and shall remain, in full force and effect.

ARTICLE IV. Repealer

All ordinances, or parts thereof, in conflict or inconsistent herewith are hereby repealed or rescinded, but only insofar as the same are in direct conflict or directly inconsistent with this Ordinance.

ARTICLE V. Effective Date.

This Ordinance shall take effect five (5) days after the enactment thereof.

ORDAINED AND ENACTED this _____ day of _____, 2024.

TOWNSHIP OF JACKSON BOARD OF
SUPERVISORS

By: _____
Mark Werkeiser, Chairman

By: _____
Robin Hartshorn, Vice Chairman

By: _____
Matthew Neeb, Supervisor

Renee Miller, Secretary

(Township Seal)