

OFFICIAL

TOWNSHIP OF SOUTH PARK
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE NO. 692

AN ORDINANCE OF THE TOWNSHIP OF SOUTH PARK, ALLEGHENY COUNTY, COMMONWEALTH OF PENNSYLVANIA, REGULATING THE DISPLAY OF FIREWORKS IN THE TOWNSHIP.

WHEREAS, the Pennsylvania General Assembly enacted Act 43 of 2017 on or about October 30, 2017; and

WHEREAS, Act 43 conferred certain authority upon the Township to regulate the use of fireworks within its boundaries, including permit requirements for fireworks displays, by establishing reasonable rules and regulations therefor; and

WHEREAS, pursuant to the authority afforded it, the Board of Supervisors of the Township of South Park desires to establish reasonable rules and regulations to regulate the use of fireworks within its boundaries, including permit requirements for fireworks displays; and

WHEREAS, the Township's Board of Supervisors deems it in the best interest and for the general welfare of the residents and visitors of the Township to enact the provisions set forth herein.

NOW, THEREFORE BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of South Park and it is hereby ordained and enacted by and with the authority of the same as follows:

Section 1. Definitions. The following words and phrases when used in this Ordinance shall have the meanings given to them in this Section unless the context clearly indicates otherwise:

APA 87-1. The American Pyrotechnics Association Standard 87-a: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition.

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 APA 87- 1 or any successor standard, the sale, possession and use of which shall be permitted throughout this Commonwealth. 2) The term does not include devices such as "ground and hand-held sparkling devices," "novelties," or "toy caps" in APA 87-1 or any successor standard.

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).

Person. Any natural person, firm, partnership, trust, association, corporation, limited liability company, company, or any other organization of any kind.

NFPA 1124. The National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or any subsequent edition.

Occupied structure. A structure, vehicle, or place adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.

Section 2. Consumer Fireworks.

- a) Conditions.—A person who is at least 18 years of age and meets the requirements of this section may purchase, possess, and use consumer fireworks. A person under 18 years of age may intentionally ignite or discharge consumer fireworks only when under the direct supervision of a parent, guardian, or responsible adult acting in loco parentis.
- b) Prohibitions.— A person may not intentionally ignite or discharge:
 - 1) Consumer fireworks on public or private property without the express permission of the property owner.
 - 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 at a motor vehicle, building, another person or animal.
 - 4) Consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance, or another drug.
 - 5) Consumer fireworks within 150 feet of an occupied structure.
 - 6) Consumer fireworks after 10:00 p.m. prevailing time on weekends and 9:00 p.m. prevailing time on weekdays, or before 10:00 a.m. prevailing time on both weekdays and weekends, unless otherwise permitted by the Township, and except on New Year's Eve, which shall be until 12:00 midnight, New Year's Day until 12:30 a.m. and July 4th until 12:00 midnight.

Section 3. Display Fireworks.

- a) Application for Permit. – As a prerequisite to possess and use display fireworks, a person must apply for and be issued a permit by the Township. The permit must be available at the display covered by the permit or available when used as authorized by the permit for any of the following:

- 1) For agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
 - 2) By railroads or other transportation agencies for signal purposes or illumination.
 - 3) In quarrying or for blasting or other industrial use.
 - 4) In the sale or use of blank cartridges for a show or theater.
 - 5) For signal or ceremonial purposes in athletics or sports.
 - 6) By military organizations or organizations composed of veterans of the armed forces of the United States.
- b) Permit Conditions.
- 1) Each display shall be handled by a competent operator.
 - 2) The South Park Fire Chief or other appropriate officer, as designated by the Board of Supervisors, must deem the character and location of each display, prior to being fired or discharged, not to be either hazardous to property or dangerous to any person.
 - 3) After permission is granted under this Section, possession and use of display fireworks for display shall be lawful for that purpose only.
 - 4) A display fireworks permit may not be issued to a person under 21 years of age.
- c) Bond. – South Park Township shall require a bond deemed adequate by it from the permittee in a sum not less than \$50,000.00 conditioned for the payment of all damages which may be caused to person or property by reason of the display and arising from an act of the permittee or an agent, an employee, or a subcontractor of the permittee.
- d) No display fireworks shall be ignited within 300 feet of a facility that meets the requirements of sections 2407 and 2410 (relating to permanent and temporary sales locations) of Pennsylvania Act 43 of 2017.
- e) Request for Extension. - If, because of unfavorable weather, the display for which a permit has been granted does not occur at the time authorized by the permit, the person to whom the permit was issued may within 24 hours apply for a request for extension to the Township. The request for extension shall state under oath 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 in the permit. Upon receiving the request for extension, the Township, if it believes that 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 not later than one week after the date originally designated in the permit. The extension of time shall be granted without the 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 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.

Section 4. Violations and Penalties.

- a) A person using consumer fireworks in violation of the provisions of the Ordinance commits a summary offense and, upon conviction, shall be punished by a fine of not more than \$100.00 per violation.

- b) A person using display fireworks in violation of the provisions of this Ordinance commits a summary offense and, upon conviction, shall be punished by a fine of not more than \$1,000 per violation.
- c) Enforcement shall be by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney.
- d) The improper storage, sale, or use of consumer or display fireworks may be prosecuted under State and/ or Federal regulations.

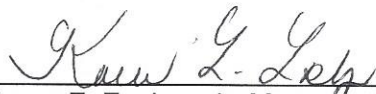
Section 5. Any Ordinance or parts of any ordinance conflicting with the provisions of this Ordinance be and the same are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall be in full force and effect from and after its passage and due publication.

ORDAINED AND ENACTED into law this 9th day of September, 2019.

ATTEST:

TOWNSHIP OF SOUTH PARK



Karen F. Fosbaugh, Manager



David J. Buchewicz, Chairman
Board of Supervisors

APPROVED AS TO FORM:



Irving S. Firman, Solicitor