

**PERKIOMEN TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 242

**AN ORDINANCE OF THE TOWNSHIP OF PERKIOMEN,
MONTGOMERY COUNTY, PENNSYLVANIA, REGULATING THE
USE OF DISPLAY AND CONSUMER FIREWORKS WITHIN SAID
TOWNSHIP AND REQUIRING AND PROVIDING FOR PERMITS
IN CERTAIN CASES.**

WHEREAS, Act 74 of 2022, House Bill 2157, P.N. 3332 was adopted by the General Assembly on July 6, 2022, was signed by the Governor on July 11, 2022, amends Title 3 Pa. C. S. Chapter 11 (hereafter, "Fireworks Law"), and became effective on September 9, 2022; and

WHEREAS, the Fireworks Law governs the sale, purchase and use of Consumer and Display Fireworks in the Commonwealth; and

WHEREAS, the Fireworks Law authorizes the adoption of local rules and regulations by Perkiomen Township that govern permit approvals; and

WHEREAS, Perkiomen Township has determined that the full authority provided by the Fireworks Law should be exercised in the interests of public safety; and

WHEREAS, Perkiomen Township desires to regulate the use of Display and Consumer Fireworks within the limits of Perkiomen Township.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED and enacted by the Board of Supervisors of Perkiomen Township, Montgomery County, Pennsylvania, as follows:

SECTION 1.

Definitions.

For purposes of this Ordinance, the definitions of "Consumer Fireworks" and "Display Fireworks" shall be as set forth in Section 1 of the Fireworks Law, and any successor legislation. As set forth therein, the term "Consumer Fireworks," shall not include devices such as "ground and hand-held sparkling devices," "novelties," or "toy caps."

SECTION 2.

Display Fireworks

2.1 In accordance with the Fireworks Law, a permit is required before any use of Display Fireworks within the limits of Perkiomen Township. Permit application forms are available at the Perkiomen Township Administration Building during normal business hours. The application must include facts sufficient to establish that:

- (a) The Display Fireworks will not be ignited within 300 feet of sales locations for Consumer Fireworks;
- (b) The Display Fireworks will be handled by a competent operator at least 21 years of age who demonstrates evidence of fireworks handling and safety training all in accordance with Sections 1102 and 1107 of the Fireworks Law;
- (c) The Display Fireworks will not be located, discharged or fired in such a manner as to be hazardous to property or an endangerment to any person.

The application shall be accompanied by a certificate of insurance in accordance with Subsection 1102(d) of the Fireworks Law. The applicant must acknowledge acceptance of the requirements otherwise established by state and federal law. Permit extensions shall be permitted in accordance with Subsection 1102(e) provided the extension sought would not be hazardous to property or an endangerment to any person.

2.2 In accordance with Section 1105(a) of the Fireworks Law, Perkiomen Township may under this Ordinance grant permits for the use of Display Fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage. The application for such a permit must meet the requirements of this Section. A permit under Section 1105 shall remain in effect for the calendar year in which it was issued. Sales, possession and use of Display Fireworks for the purpose stated in the permit shall be lawful for that purpose only.

2.3 Applications for use of Display Fireworks shall be submitted at least 3 weeks prior to the date of the proposed use. Permits for the use of Display Fireworks may be granted by the Perkiomen Township Fire Marshal, or other appropriate official as may be designated from time to time by the Board of Supervisors of Perkiomen Township. Applications will not be reviewed until payment of a fee in accordance with the Perkiomen Township Fee Schedule is received.

SECTION 3.

Consumer Fireworks

3.1 In accordance with the Fireworks Law, a permit shall be required before the use of any Consumer Fireworks within the limits of Perkiomen Township. Permit application forms are available through the Township Office during normal business hours.

3.2 The application must include facts sufficient to establish compliance with Section 1104 of the Fireworks Law and that the provisions relating to Consumer Fireworks will not be violated. The application shall include facts sufficient to demonstrate:

- (a) That no one under the age of 18 will purchase, possess or use Consumer Fireworks;
- (b) That Consumer Fireworks will not be used on private property or on public property, including, but not limited to, streets, parking lots, sidewalks and parks, without the express permission of the owner or entity that controls the property;
- (c) That the Consumer Fireworks will not be used within, directed at or directed from a “vehicle” or “building” as those two terms are defined in the Fireworks Law;
- (d) That the Consumer Fireworks will not be directed at another person;
- (e) That the Consumer Fireworks will not be used by a person who is under the influence of alcohol, a controlled substance or another drug; and
- (f) That the Consumer Fireworks will not be used within 150 feet of a building or vehicle, whether or not the building or vehicle is owned by the user of the Consumer Fireworks.

3.3 In accordance with Section 1104 of the Fireworks Law, no permit shall be issued for the use of Consumer Fireworks within 150 feet of an Animal Housing Facility as defined in the Fireworks Law, or a fenced area designed to confine livestock owned or managed by another person. A permit may be granted on the basis of an application that meets the requirements of Section 1104 for use of Consumer Fireworks at a distance of 150 to 300 feet if the prospective user of the Consumer Fireworks provides proof of notification in writing to the owner or manager of the animals or livestock of the prospective use at least 72 hours in advance.

3.4 Applications for use by exception of Consumer Fireworks shall be received at least 2 weeks prior to the date of the proposed use. Permits for the use by exception of Consumer Fireworks may be granted by the Perkiomen Township Fire Marshal, or other appropriate official as may be designated from time to time by the Board of Supervisors of Perkiomen Township. Applications will not be reviewed until payment of a fee in accordance with the Perkiomen Township Fee Schedule is received.

3.5 The permit shall restrict the use of Consumer Fireworks to the day and time listed in the application but in no event shall the permit allow use later than 10:00 P.M., provided however, that:

- (a) On July 2, 3 and 4 and December 31, Consumer Fireworks may be used until 1:00 A.M. on the following day, and
- (b) When July 4 falls on a Tuesday, Wednesday, or Thursday, Consumer Fireworks may be used until 1:00 A.M. on the immediately preceding and following Friday and Saturday.

Pursuant to Subsection 1106 (b) of the Fireworks Law, the hours of use of Consumer Fireworks may not be restricted on the Monday of Memorial Day and the immediately preceding Saturday and Sunday, and the Monday of Labor Day and the immediately preceding Saturday and Sunday.

SECTION 4.

Certified copies of this Ordinance shall be:

- (a) Provided to the Magisterial District Judge with jurisdiction of Perkiomen Township;
- (b) Posted on Perkiomen Township’s website under the heading “Online Code”; and
- (c) Made available to the public at the Perkiomen Township Administration Building.

SECTION 5.

Nothing in this Ordinance shall govern the sale of Consumer Fireworks by a facility with a valid license issued under Section 1108(a) or (e) for the period of one year from the effective date of the Fireworks Law in accordance with Section 1106(a)(2) of the Fireworks Law.

SECTION 6.

6.1 In accordance with the provisions of Section 1114(1) of the Fireworks Law, any person using Consumer Fireworks in violation of the provisions of this Ordinance, for the first offense commits a summary offense, and upon conviction shall, in addition to any other penalty authorized by law, be punishable by a fine of not more than Five Hundred (\$500.00) Dollars. A subsequent offense under this Ordinance committed within three years of a prior conviction shall constitute a summary offense, and upon conviction shall, in addition to any other penalty authorized by law, be punishable of a fine of not more than One Thousand (\$1,000.00) Dollars.

6.2 Any person selling Consumer Fireworks in violation of the Fireworks Law is punishable in accordance with Section 1114(2) by a fine of not less than \$10,000.

6.3 Any person selling or using Display Fireworks in violation of the Fireworks Law is punishable in accordance with Section 1114(3) by a fine of not less than \$10,000.

6.4 In addition to prosecuting any person who violates this Ordinance, the Township Code Enforcement Officer may issue a citation to the owner or owners of property where a violation of this Ordinance occurs. Property owners are hereby deemed to be responsible for any violation of this Ordinance committed by family members, guests, agents, and/or invitees while on the owner’s property.

6.5 The Township Code Enforcement Officer shall only be required to investigate and, where appropriate, prosecute a violation of this Ordinance when said Officer personally witnesses the violation, or, a purported violation is brought to said Officer's attention by a neighbor or other complainant, and, only if that neighbor or complainant submits a formal Citizen's Complaint Form with the Township within five calendar days of the alleged incident.

6.6 Notwithstanding anything herein to the contrary, the Township Code Enforcement Officer may, in his/her sole discretion, issue a verbal or written warning for activities or violations that do not rise to the level warranting the issuance of a citation.

SECTION 7.

All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

SECTION 8.

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not effect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the Board of Supervisors of Perkiomen Township that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 9.

This Ordinance shall take effect five (5) days following its enactment.

ENACTED and **ORDAINED** this 3rd day of October, 2023.

PERKIOMEN TOWNSHIP
BOARD OF SUPERVISORS



Adam Doyle, Chairman

Attest:



Cecile Daniel, Secretary