

OCTOBER 2, 2018

**TOWNSHIP OF HAMPTON  
ALLEGHENY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 817**

**AN ORDINANCE OF THE TOWNSHIP OF HAMPTON,  
ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING  
ITS ZONING ORDINANCE, AS CODIFIED AT CHAPTER  
310 OF THE TOWNSHIP CODE OF ORDINANCES, TO  
REGULATE THE USE AND SALE OF FIREWORKS  
WITHIN THE TOWNSHIP.**

**WHEREAS**, the Hampton Township Council is authorized by the Municipalities Planning Code to regulate zoning and land use within the Township through its Zoning Ordinance, as embodied in the current Zoning Ordinance, as codified at Chapter 310 of the Hampton Township Code of Ordinances;

**WHEREAS**, the Hampton Township Council desires to amend its Zoning Ordinance to include for the regulation of the use and the sale of fireworks within the Township;

**WHEREAS**, by letter dated Sept. 5, 2018  
Oct. 10, 2018, the Township has, in accordance with the requirements of the Municipalities Planning Code, submitted the proposed amendments to the Allegheny County Planning Agency (ACED) for review and comment, in response to which the Township did receive a comment letter from ACED;

**WHEREAS**, the Township has, in accordance with the requirements of the Municipalities Planning Code, submitted the proposed amendments to its Planning Commission, which gave its recommendations regarding the proposed amendments at its duly noticed public meeting(s).

**WHEREAS**, on November 28, 2018, the Hampton Township Council held a duly noticed and advertised public hearing to take public comments on the proposed amendments, and has duly advertised this Ordinance for consideration and enactment; and

**WHEREAS**, the Hampton Township Council, having received the public's comments and the recommendations of the Township's Planning Commission, finds that enactment of the proposed amendments to the Township Zoning Ordinance will be beneficial to the Township and consistent with the Pennsylvania Municipalities Planning Code.

**NOW THEREFORE**, be it Ordained and Enacted by the Hampton Township Council, and it is hereby Ordained and Enacted by authority of the same, as follows:

### **SECTION 1. AMENDMENTS**

The Hampton Township Code Section 310-11, Definitions, shall be amended as follows:

The following definitions shall be added and included as follows:

**APA 87-1** - The American Pyrotechnics Association Standard 87-1: 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 as "ground and hand-held sparking devices," "Novelties" or "toy caps" in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth. Regulated by Act 204 of 2004 and Act 43 of 2017, as amended from time to time.

**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).

Display Fireworks can only be used within the Township of Hampton pursuant to a special event permit secured by the Township.

**FIREWORKS FACILITY** – A facility licensed by the Department of Agriculture exclusively dedicated to the storage and sale of Consumer Fireworks and related items, and the facility shall operate in accordance with the specific rules set forth in Section 2409 of Act 43 of 2017, the Pennsylvania Fireworks Law.

**FIREWORKS LAW** - Act 43 of 2017, which took effect on October 30, 2017, and any subsequent amendments.

**MUNICIPALITY** - Hampton Township.

**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.

**NOVELTIES** - A device containing small amounts of pyrotechnic and/or explosive composition, producing limited visible or audible effects. Must comply with Act 204 of 2004 and APA Standard 87-1. Regulated by the Pennsylvania State Police Fire Marshall.

**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.

**TEMPORARY FIREWORKS STRUCTURE** - A structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of Consumer Fireworks and related items. The term includes temporary retail sales stands, tents, canopies and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not licensed to sell Consumer Fireworks under this article.

The Hampton Township Code Section 310-38, Highway Commercial District, C. Conditional uses. All conditional uses shall be subject to the standards and requirements set out in Article XII, shall be amended as follows: The following conditional use shall be added:

- (15) Fireworks Facility. Fireworks Facility shall be an allowed conditional use, subject to the following expressed standards and criteria set forth in Section 310-78.

The Hampton Township Code Section 310-78, Conditional Use Standards and Criteria, shall be amended as follows: The following conditional use standards and criteria shall be added in regard to fireworks facilities:

(44) Fireworks Facility may be allowed as a conditional use in the Highway Commercial District [see 310-38(15)], subject to the following expressed standards and criteria:

- a. The Fireworks Facility shall be licensed by the Department of Agriculture exclusively dedicated to the storage and sale of Consumer Fireworks and related items, and the Fireworks Facility shall operate in accordance with the specific rules set forth in Section 2409 of Act 43 of 2017, the Pennsylvania Fireworks Law, as amended from time to time.
- b. The Fireworks Facility licensed by the Department of Agriculture shall operate in full compliance with all applicable rules and regulations of the Commonwealth of Pennsylvania, the National Fire Protection Association, APA Standard 87-1, Standard 1124 and the Department of Agriculture.
- c. The Fireworks Facility shall comply with the provisions of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.
- d. The Fireworks Facility shall be a stand-alone permanent structure.
- e. Storage areas shall be separated from wholesale or retail sales areas to which a purchaser may be admitted by appropriately rated fire separation.
- f. The Fireworks Facility shall be located no closer than 250 feet from a facility selling or dispensing gasoline, propane or other flammable products.

- g. The Fireworks Facility shall be located at least 1,500 feet from another facility licensed to sell Consumer Fireworks.
- h. The Fireworks Facility shall have a monitored burglar and fire alarm system.
- i. Quarterly fire drills and preplanning meetings shall be conducted as required by the primary fire department.
- j. There shall be security personnel on the premises for the seven (7) days preceding and including July 4<sup>th</sup> and for the three (3) days preceding and including January 2<sup>nd</sup>;
- k. No smoking shall be permitted in the Fireworks Facility.
- l. No cigarettes or tobacco products, matches, lighters or battery operated ignitors, or any other flame-producing devices shall be permitted to be taken into the Fireworks Facility.
- m. No minors shall be permitted in the Fireworks Facility unless accompanied by an adult, and each minor shall stay with the adult in the Fireworks Facility.
- n. All facilities shall carry at least \$2,000,000 in public and product liability insurance.
- o. A licensee shall provide its employees with documented training in the area of operational safety of a Fireworks Facility. The licensee shall provide to the Department of Agriculture written documentation that each employee has received the training.
- p. No Display Fireworks shall be stored or located at a Fireworks Facility.
- q. No person who appears to be under the influence of intoxicating liquor or drugs shall be admitted to the Fireworks Facility, and no liquor, beer or wine shall be permitted in the Fireworks Facility.
- r. Emergency evacuation plans shall be conspicuously posted in appropriate locations within the Fireworks Facility.
- s. All Fireworks Facilities must fully comply with the Pennsylvania Fireworks Law.
- t. Temporary Fireworks Structure. A Temporary Fireworks Structure selling fireworks shall secure a Temporary Structure Permit from the Township, subject to the following standards and criteria:

- i. The Temporary Fireworks Structure is located no closer than 250 feet from a facility storing, selling or dispensing gasoline, propane or other flammable products.
- ii. An evacuation plan is posted in a conspicuous location for a Temporary Fireworks Structure in accordance with NFPA 1124.
- iii. The outdoor storage unit, if any, is separated from the wholesale or retail sales area to which a purchaser may be admitted by appropriately rated fire separation.
- iv. The Temporary Fireworks Structure complies with NFPA 1124 as it relates to retail sales of Consumer Fireworks in temporary firework structures.
- v. The Temporary Fireworks Structure is located one of the following distances from a permanent facility licensed to sell Consumer Fireworks under the act of May 15, 1939 (P.L.134, No.65), referred to as the Fireworks Law, at the time of the effective date of this article:
  - (a) Prior to January 1, 2023, at least five miles; and
  - (b) Beginning January 1, 2023, at least two miles.
- vi. The Temporary Fireworks Structure does not exceed 2,500 square feet.
- vii. The Temporary Fireworks Structure is secured at all times during which Consumer Fireworks are displayed within the structure.
- viii. The Temporary Fireworks Structure has a minimum of \$2,000,000 in public and product liability insurance.
- ix. The sales period is limited to June 15 through July 8 and December 21 through January 2 of each year.
- x. Consumer Fireworks not on display for retail sale must be stored in an approved permanent structure.
- xi. The sale of Consumer Fireworks from the Temporary Fireworks Structure is limited to the following:
  - (a) Helicopter, Aerial Spinner (APA 87-1, 3.1.2.3);
  - (b) Roman Candle (APA 87-1, 3.1.2.4); and
  - (c) Mine and shell devices not exceeding 500 grams.

- xii. All Temporary Fireworks Structures must fully comply with the Pennsylvania Fireworks Law.
- xiii. All Temporary Fireworks Structures must comply with all applicable Ordinances of the Township of Hampton, including Article 310-75.A.(4).
- xiv. The Temporary Fireworks Structures are required to comply with all applicable provisions of the Uniform Construction Code.

**SECTION 2. NOVELTIES.**

- A. Novelties are governed by Act 204 of 2004 and the Pennsylvania State Fire Marshall's Office;
- B. Novelties may be legally purchased by Pennsylvania residents throughout the year;
- C. Novelties can be sold at the following retail establishments defined under "store" in Section 310-11: convenience store, grocery store and retail store, subject to all requirements, rules and regulations of the Hampton Township Code of Ordinances;

**SECTION 3. REPEALER.**

That any and all previous Ordinance(s) which are inconsistent with the terms and provisions of this Ordinance are hereby repealed.

**SECTION 4. SEVERABILITY.**

That 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 of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Hampton Township Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 5. EFFECTIVE DATE.**

That this Ordinance shall take effect immediately upon enactment as provided by law.

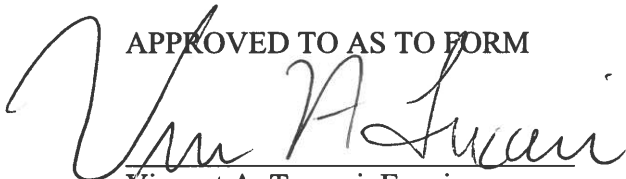
ATTEST:

TOWNSHIP OF HAMPTON

  
\_\_\_\_\_  
Township Manager

By:   
\_\_\_\_\_  
President of Council

APPROVED TO AS TO FORM

  
\_\_\_\_\_  
Vincent A. Tucceri, Esquire  
Township Solicitor