

## **PUBLIC NOTICE**

Notice is hereby provided that the Board of Supervisors of the Township of Upper Saucon intends to consider passage of proposed Ordinance No. 164 at a public meeting to be held on the 11<sup>th</sup> day of June, 2018, commencing at 6:30 P.M. Said public meeting shall take place at the Township Municipal Building located at 5500 Camp Meeting Road, Center Valley, PA. The following constitutes the full text version of proposed Ordinance No. 164:

### **UPPER SAUCON TOWNSHIP LEHIGH COUNTY, PENNSYLVANIA ORDINANCE NO. 164**

AN ORDINANCE REPEALING ORDINANCE NO. 137 REGULATING THE DISPLAY AND USE OF FIREWORKS WITH PERMITS WITHIN THE TOWNSHIP AND ADOPTING AN ORDINANCE FOR DISPLAY FIREWORKS WITHIN THE TOWNSHIP INCLUDING PERMITS, REGULATIONS AND ESTABLISHING PENALTIES FOR VIOLATIONS.

WHEREAS, Upper Saucon Township previously enacted Ordinance 137 which established a permit procedure for the use of fireworks and conduct of public displays of both consumer fireworks and display fireworks within the Township; and

WHEREAS, the Township has the authority to require permits and adopt rules and regulations for fireworks displays, 53 P.S. §66534 and Act 43 of 2017; and

WHEREAS, the Commonwealth of Pennsylvania has passed a new statute dealing with fireworks which authorizes the Township to address display fireworks, requires a permit, and allows the Township to establish reasonable regulations thereon; and

WHEREAS, it is necessary to repeal the existing ordinance governing fireworks and to replace it with an ordinance in conformance with the new statutory provisions.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Upper Saucon, Lehigh County and the Commonwealth of Pennsylvania as follows:

#### **SECTION 1.**

Ordinance 137 is hereby repealed.

#### **SECTION 2. Definitions.**

**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 grains or 130 milligrams of explosive materials;

(b) Aerial shells containing more than 60 grams of pyrotechnic composition; and

(c) 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).

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 3.

This ordinance does not apply to consumer fireworks or ground-held sparkling devices, novelties or toy caps but only applies to display fireworks as previously defined.

### SECTION 4.

Display fireworks may be possessed and used by a person holding a permit from the Township at the display site covered by the permit or when used as authorized by a permit for any of the following:

(a) For agricultural purposes;

(b) By railroads or other transportation agencies for signal purposes or illumination;

(c) In quarrying or for blasting or other industrial use;

(d) In the sale or use of blank cartridges for a show or theater;

(e) For signal or ceremonial purposes in athletics or sports;

(f) By military organizations.

### SECTION 5.

Any person seeking to possess and use display fireworks within the Township must file an application and obtain a permit for the same.

### SECTION 6.

The permit for display fireworks may not be issued to a person under twenty-one (21) years of age.

## SECTION 7.

To obtain a permit, a bond in the sum of not less than Fifty Thousand Dollars (\$50,000.00) conditioned for the payment of all damages which may be caused to a person or property by reason of the display and arising from an act of the permittee or an agent or an employee or subcontractor of the permittee must be filed with the Township. The terms of the bond shall be subject to Township approval.

## SECTION 8.

The application for the permit:

- (a) Shall contain the applicant's name and address.
- (b) Shall be verified by production of the applicant's proof of age in the form of a photo ID, driver's license or passport.
- (c) Shall be certified that the applicant or applicant's pyrotechnician agrees to maintain One Million Dollars' worth of liability insurance for the activity related to the display fireworks which will cover damages relating to the possession and use of the same. The insurance shall name the Township as an additional insured for all claims arising in whole or in part out of the display. Said insurance shall be primary over any Township insurance. (The Township does not waive in any way the provisions of governmental immunity.) The liability insurance shall not be a substitute for the bond required by statute.
- (d) Shall state the date, time and place where the display fireworks will be held.
- (e) Shall acknowledge that he has read the Township's ordinance and the applicable State statute governing display fireworks and agrees to be bound by all the terms and conditions contained therein.
- (f) Shall be made in writing on a form prescribed by the Township at least thirty (30) days in advance of the date set for the display.
- (g) Shall identify the professional pyrotechnician and set forth the pyrotechnician's credentials evidencing competency to perform the display.

## SECTION 9.

If the property upon which the display fireworks are going to be displayed or used is jointly owned, the applicants must all be owners of the property.

## SECTION 10.

The cost of the permit shall be established by the Township by resolution and charges for the same must be paid in full before the issuance of the permit. Until such resolution is passed, the fee for a permit shall be \$250.00.

## SECTION 11.

The permit shall identify the professional pyrotechnician who will be in charge of the display and exhibit proof that the pyrotechnician is duly licensed and authorized to act in such capacity.

## SECTION 12. Extension for Permit Due to Unfavorable Weather.

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 municipality which granted the permit. 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 not be 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 no later than one (1) week after the date originally designated in the permit. No additional fee or bond shall be required. If a new Township permit is required due to cancellation of the original date of display and a new application is filed within thirty (30) days of the same, there shall be no additional permit fee charged by the Township.

## SECTION 13.

The Township hereby adopts these additional regulations concerning fireworks displays in the Township:

(a) Only one (1) fireworks display permit may be issued per quarter calendar year for a particular property or to a particular person.

(b) The maximum time for the display shall be no greater than thirty (30) minutes and shall occur between 7:00 P.M. and 10:00 P.M.

(c) The minimum size lot within the Township for holding a fireworks display shall be five (5) acres. Parcels of contiguous land may be combined to achieve the necessary lot size, however, all owners must agree and apply for the permit.

(d) All fireworks must be launched from said permitted property, must explode over the permitted property and all debris must fall on the permitted property. No fireworks in

the permitted property may be launched less than 300 feet from any existing occupied structure or 200 feet from any adjacent property line.

(e) No fireworks display may be held when a burn ban is in effect. Any party holding a valid permit and unable to renew the permit within the thirty (30) day time frame due to a burn ban will receive a refund of the permit fee.

(f) The fireworks permit must be conspicuously posted on the property.

(g) No fireworks displays may be held, even with a permit, where the weather has wind gusts over 20 miles per hour.

(h) There shall be no daytime displays of fireworks except for test shots.

(i) All ground displays shall be treated the same as aerial displays under these regulations.

(j) There shall be no more than three test shots fired prior to the conduct of the display.

#### SECTION 14.

Anyone obtaining a permit must notify the fire department duly recognized by Upper Saucon Township of their intention to have a fireworks display on the property and pay a reasonable fee to the fire department to have a representative or fire apparatus on site at all times during the display.

#### SECTION 15.

As part of the permit process, all owners of the property upon which the displays are going to be held must sign the request for the permit which shall also include a provision that the permit holders, including the property owners, all jointly and severally, agree to hold harmless and defend the Township from all claims arising in whole or in part from fireworks displays and such hold harmless and indemnity provision must be signed as part of the permit application.

#### SECTION 16.

The fire department representative or Township official may immediately suspend or halt the fireworks display should they observe violations of these regulations or any actions which could cause imminent harm to property or persons.

#### SECTION 17.

Any applicant or property of an applicant used for display fireworks who violates this ordinance or any of the State regulations and laws governing the same shall be ineligible to apply

for a display fireworks permit for a period of three (3) years following the date of the violations or infractions. Any person who is aggrieved by a notification of violation from the Township Manager or his designee shall have the right to appeal to the Board of Supervisors for an administrative hearing concerning the same. Said appeal must be filed within ten (10) days from the date contained in the certified letter notifying the party of the violations and prohibition period.

SECTION 18.

In addition to the above Section 17, any person who violates a provision of this ordinance, the permit requirements or regulations and brought before a district justice upon a determination of violation thereof shall be subject to a fine of not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00) for each and every offense. Each person violating this ordinance shall further be liable for all attorneys' fees incurred by the Township in enforcing the same.

SECTION 19.

This ordinance shall become effective five (5) days after passage.

DULY ENACTED and ORDAINED this      day of                      , 2018, by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania, in lawful session duly assembled.

Thomas F. Beil  
Township Manager