

## ORDINANCE NO: 294

### AN ORDINANCE OF EAST ROCKHILL TOWNSHIP AMENDING CHAPTER 10, HEALTH AND SAFETY, OF THE CODE OF ORDINANCES OF EAST ROCKHILL TOWNSHIP BY REPEALING AND RESTATING ALL OF PART 4, FIREWORKS; ESTABLISHING DEFINITIONS; AND ESTABLISHING REGULATIONS FOR CONSUMER AND DISPLAY FIREWORKS AND FIREWORKS SALES; ALLOWING PERMITS FOR AGRICULTURAL FIREWORK USES; AND PRESCRIBING PENALTIES FOR VIOLATIONS

*WHEREAS*, The Township of East Rockhill is empowered to ensure the public safety and to define conduct that constitutes disturbing the peace pursuant to the Second Class Township Code, 53 P.S. §65101 et seq.;

*WHEREAS*, The Township is empowered to abate and prohibit nuisances on property pursuant to the Second Class Township Code, 53 P.S. §66529;

*WHEREAS*, The Board of Supervisors of East Rockhill Township has determined that the use of fireworks can be detrimental to the health, safety and welfare of the Township's inhabitants and interfere with both the quiet enjoyment of residential and public property and the operation of business and therefore, should be controlled to the greatest extent possible;

*WHEREAS*, It is the purpose and scope of this Ordinance to provide regulations that govern the use and display of fireworks within East Rockhill Township in accordance with the Second Class Township Code, the applicable Pennsylvania Code and Statutes, and all other Pennsylvania law; and,

*The East Rockhill Township Board of Supervisors hereby enacts an ordinance regulating the use and display of fireworks in the Township of East Rockhill as follows:*

#### ARTICLE I.        REPEALER

Chapter 10, Health and Safety, Part 4, Fireworks. is repealed in its entirety and restated to read as follows:

#### PART 4

#### FIREWORKS

##### **§10-401. Intent.**

Fireworks, by nature, contain explosives which, when misused, can damage property and endanger human life. It is the intent of the Board of Supervisors of East Rockhill Township to protect the health, safety and welfare of the general public through limiting the use of fireworks.

##### **10-402. Definitions.**

**ACT-** Fireworks Law, Act 43 of 2017, as amended

**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-** 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. The term “Consumer Fireworks” does not include devices such as “ground and hand-held sparkling devices,” “novelties,” or “toy caps” as defined 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 salutes that contain more than two grains or 130 milligrams of explosive materials; aerial shells containing more than 60 grams of pyrotechnic compositions; and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334 or UN 0335 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.

**§10-403. Restrictions on all Fireworks.**

1. The use of fireworks, whether consumer or display, shall be strictly prohibited at any location within 200 feet of any structure, property line, vehicle or roadway unless prior written approval is received from all property owners within the 200 foot area.
2. The use of any fireworks shall be prohibited within any closed structure, building or tent.

**§10-404. Display Fireworks.**

1. **Unlawful to Use Display Fireworks without a Permit.** It shall be unlawful for any person, persons, firms or corporations, amusement parks, fair associations or other organizations or groups of individuals, to use and/or hold public displays of display fireworks within the limits of the Township of East Rockhill, unless a permit therefor is first granted by East Rockhill Township, as hereinafter provided.
2. **Compliance with State and Federal Statutes and Regulations.** The applicant for a permit to display fireworks within this Township must comply with and abide by

any and all Pennsylvania and Federal statutes and regulations and any and all applicable County or other local regulations governing the use, storage, and display of fireworks, including but not limited to the International Fire Code and 35 P.S. §§ 1271 et seq., as amended. All Pennsylvania, Federal, County and other local laws and regulations are incorporated herein by reference. All regulations relating to the display of fireworks under the International Fire Code and/or Uniform Construction Code are also incorporated herein by reference. In the event of an inconsistency between the aforementioned Pennsylvania, Federal, County and other local laws and regulations and this Ordinance, the more stringent regulation shall apply. The applicant must further receive any and all requisite Pennsylvania, Federal, County and/or other local permits and/or licenses relating to the proposed fireworks display.

3. **Competent Operator and Safe Display Location.** Every such fireworks display within the limits of the Township shall be handled, arranged, managed and directly supervised by a competent operator. Every such fireworks use and display within the Township shall be of such a character and so located, discharged or fired, as not to be hazardous to property or endanger any person or persons in the opinion of the Board of Supervisors, or their duly authorized representative. The Township fire chief and fire code official, or other such officer as may be designated by the Township, shall inspect the site where the fireworks are to be used and displayed prior to the issuance of a permit in accordance with the International Fire Code and other applicable regulations and ensure that the site and proposed fireworks display are compliant with said regulations. No permit for the use of fireworks shall be issued until the Township fire chief, or other such officer as may be designated by the Township, determines that the requested permit may be granted after inspecting the location for the requested display.
  
4. **Permit.**
  - A. An application for a permit shall be made in writing to the Township at least 45 days in advance of the date of the proposed use and display, and shall set forth the proposed date, time and location of the use and display, the character and duration thereof, the name and address of the competent operator, and the name and address of the owner or owners of the grounds on which the use and display is to be held, together with the written consent of such owner or owners thereto and a copy of any permit application required by the International Fire Code. The application for the permit shall also contain copies of any and all State, Federal and/or County permits and/or licenses needed for the use and display of fireworks. All applicants shall pay the Township the permit fee identified in the Township's duly enacted fee schedule resolution before the issuance of a permit and shall further provide proof of liability insurance, acceptable to the Township, and the required bond to the Township. The Township Board of Supervisors may attach conditions and/or restrictions on any permit for the use and display of fireworks as are deemed necessary.
  
  - B. If and after such permit is granted by the Township Board of Supervisors or an authorized designee, the possession, use and display of fireworks for the approved display shall be lawful for that purpose, date and time only. No permit granted hereunder shall be transferable.

- C. No permit for the use and display of fireworks shall be issued to an individual under the age of 18.
- 5. **Liability insurance.** All applicants shall submit proof of liability insurance in an amount no less than \$1,000,000, and such policy shall name the Township, its employees, and its elected and appointed officials as additional insureds. The liability insurance shall be in a form acceptable to the Township before issuance of any permit.
- 6. **Continuance.** If by reason of unfavorable weather the fireworks display for which a permit has been granted does not take place at the time so authorized, the person to whom such permit was issued may within 24 hours apply to the Township, and set forth under oath the fact that such use and display was not made, the reason the use and display did not take place, and a request for a continuance of such permit for a day designated therein. The continuance date shall be no later than one week (7 days) after the day fixed originally in said permit. Upon receiving such application for a continuance, the Township, if it believes the facts stated therein are true, may extend the provisions of said permit to the day fixed in said application, no later than one week (7 days) after the original day designated in the permit, and such extension of time shall be granted without the payment of any additional fee and without requiring any bond other than the one given for the original permit, provided that the provisions of the original bond extend to and cover all damages which may be caused by reason of said use and display taking place at such extended date in the same manner and to the same extent as if such use and display had taken place at the date originally fixed in the permit.

**§10-405. Consumer Fireworks.**

- 1. A person who is at least 18 years of age and meets the requirements of this article may purchase, possess, and use Consumer Fireworks.
- 2. A person may not intentionally ignite or discharge:
  - A. Consumer Fireworks on public or private property without the express permission of the owner.
  - B. Consumer Fireworks or sparkling devices within, or throw Consumer Fireworks or sparkling devices from, a motor vehicle or building.
  - C. Consumer Fireworks or sparkling devices into or at a motor vehicle or building or at another person.
  - D. Consumer Fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance, or another drug.
  - E. Consumer Fireworks within 200 feet of an occupied structure.
  - F. Consumer Fireworks more than one day per week.

- G. Consumer Fireworks after 10 PM, except on the 4<sup>th</sup> of July or New year's Eve.

**10-406 Sale of Consumer Fireworks.**

- 1. Consumer Fireworks shall only be sold from facilities which are licensed by the Department of Agriculture and which meet the locational, operational, storage and safety requirements of the Act.
- 2. Consumer fireworks may be sold from a temporary structure which meets the licensing requirements of the Department of Agriculture, the Township Zoning Ordinance and the Act. Sales of Consumer Fireworks from a temporary 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).
  - C. Mine and shell devices not exceeding 500 grams.

**§10-407. Agricultural Purposes.**

- 1. **Authorization.** The Township may, under reasonable rules and regulations adopted by it, grant permits for the use of suitable fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
- 2. **Duration of Permit.** A permit under this section shall remain in effect for the calendar year in which it was issued.
- 3. **Conditions.** After a permit under this section has been granted, sales, possession and use of fireworks of the type and for the purpose mentioned in the permit shall be lawful for that purpose only.

**§10-408. Violation or Public Safety.**

In the event of any violation of this ordinance or of the terms, conditions or limitations noted on a permit for the display of fireworks, or in the event of any unsafe condition occurring before or during the course of a fireworks display, or in the event of any unsafe condition occurring as a result of any use of consumer, display or other fireworks within the Township, the Pennsylvania State Police, Pennridge Regional Police, Township Fire Chief or the appropriate Township designee, or any other authorized Township representative may, before or during the unsafe and/or violating occurrence, order such fireworks use or display to be stopped in the interest of public safety.

**§10-409. Penalty.**

- 1. Any person, individual, partnership, co-partnership, association or corporation violating the provisions of this act with respect to the use of Consumer or Display Fireworks shall be guilty of a summary offense, and upon conviction thereof, shall

be punished by a fine not exceeding \$600.00 Dollars or by imprisonment not exceeding 90 days or by both such fine and imprisonment.

2. Any person, individual, partnership, co-partnership, association or corporation who violates any provision of this Chapter shall be ineligible to obtain a permit under this section for a period of three years from the date of violation.

**ARTICLE III. INCONSISTENT ORDINANCES**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**ARTICLE IV. SEVERABILITY**

If any section, paragraph, sub-section, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

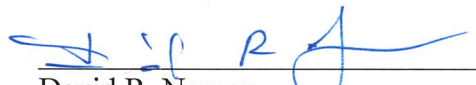
**ARTICLE V. EFFECTIVE DATE**

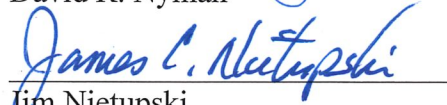
This Ordinance shall become effective five (5) days after its passage or adoption.

**ENACTED AND ORDAINED** this 22nd day of September, A.D., 2020.

EAST ROCKHILL TOWNSHIP  
BOARD OF SUPERVISORS

  
\_\_\_\_\_  
Gary W. Volovnik

  
\_\_\_\_\_  
David R. Nyman

  
\_\_\_\_\_  
Jim Nietupski