

**WEST GOSHEN TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 8-2018**

**AN ORDINANCE OF WEST GOSHEN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA AMENDING THE WEST GOSHEN TOWNSHIP ZONING ORDINANCE TO PROVIDE DEFINITIONS AND REGULATIONS FOR THE SALE AND STORAGE OF CONSUMER FIREWORKS AND PERMITTING SUCH USES IN THE MPD – MULTI-PURPOSE DISTRICT BY CONDITIONAL USE; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, West Goshen Township, Chester County, Pennsylvania (hereinafter “the Township) is a Township organized and existing under the laws of the Commonwealth of Pennsylvania; and

**WHEREAS**, the Township has enacted a zoning ordinance pursuant to the Pennsylvania Municipalities Planning Code (MPC), Act 247 of 1968 as amended; and

**WHEREAS**, the Commonwealth of Pennsylvania has enacted laws broadening the location and type of Consumer Fireworks that can legally be sold in Pennsylvania; and

**WHEREAS**, it is the intent of this ordinance to provide available locations for the sale and storage of Consumer Fireworks, as defined herein, while simultaneously advancing the substantial interest of public health, safety, and welfare; and

**WHEREAS**, the Township has recognized the need to amend the Zoning Ordinance as reflected herein;

**NOW, THEREFORE**, be it, and it is hereby **ORDAINED** by the West Goshen Township Board of Supervisors, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

**SECTION I:** § 84-8 of the Code of Ordinances of West Goshen Township is amended to add the following definitions in alphabetical order:

**Consumer Fireworks:** Any combustible or explosive composition or any substance or combination of substances intended to produce visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to consumer practices) or any successor regulation and which complies with the provisions for “Consumer Fireworks” as defined in the American Pyrotechnics Association (APA) Standard 87-1, including but not limited to Sections \*3.1 and \*3.5, or any successor standard. The

term does not include devices such as “ground and handheld sparkling devices” as defined in APA Standard 87-1, Section \*3.1.1, “novelties” as defined in APA Standard 87-1, Section \*3.2, or “toy caps” as defined in APA Standard 87-1, Section \*3.3.

**Display Fireworks:** Defined as more fully set forth in 27 CFR 555.11 (Meaning of terms), which is incorporated herein by reference which meet the types of display fireworks devices set forth in the APA Standard 87-1, Section \*4.1 which comply with requirements for display fireworks set forth in APA Standard 87-1.

**Fireworks:** Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration or detonation that meets the definition of 1.4 G fireworks or 1.3 G fireworks as set forth in the 2003 International Fire Code including, but not limited to, those compositions or devices as defined in APA Standard 87-1.

**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:** Articles of trade having amusement value and whose appeal is often transitory, and which is limited to those items for sale described in American Pyrotechnics Association (APA) Standard 87-1, Section \*3.2.

**Temporary 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.

**SECTION II:** § 84-96.F. of the Code of Ordinances of West Goshen Township is amended to add a new subsection (4) as follows:

“(4) Sale of Consumer Fireworks subject to the criteria in Section 84-57.27.”

**SECTION III:** A new Section 84-57.27 is added to the Code of Ordinances of West Goshen Township as follows:

84-57.27. Sale of Consumer Fireworks.

A. Purpose. The purpose of this Section is to allow for the sale of Consumer Fireworks, as defined in §84-8, as a use permitted by conditional use in the MPD District, subject to the regulations in this Section.

B. Standards for the sale of Consumer Fireworks.

Sales of Consumer Fireworks from either a permanent facility or Temporary Structure subject to compliance with the general provisions regarding Conditional Uses contained in Sections 84-74 and 84-75 of this Chapter as well as all the following specific regulations with respect to such use:

- (1) The facility from which the fireworks are sold, whether permanent or temporary, shall comply with the MPD District's dimensional, area, and parking regulations, including but not limited to, setbacks and buffers.
- (2) Such use shall not be located within 1,500 feet of any premises selling alcoholic liquors, alcohol, malt or brewed beverages for consumption on or off premises.
- (3) Such use shall not be located within 1,500 feet of any local or state park, school or child daycare facility, recreational establishment, house of worship, dwelling, hospital, group home or nursing home.
- (4) Any structure containing quantities of Consumer Fireworks as defined herein exceeding 50 pounds shall be no closer than 150 feet to any building, state highway, railway, local street or alley, waterway, or utility right of way including, but not limited to, natural gas line.
- (5) Such use shall not be located within 1,500 feet of any premises selling firearms.
- (6) All land development plans for construction, use or renovation of an existing building for the purposes of selling fireworks shall be reviewed by the code enforcement officer for compliance with all required fire safety codes including, but not limited to, the International Fire Code, and his comments and/or report shall be copied to the officer Municipality-designated fire company.
- (7) Sale of fireworks shall be subject to compliance with all of the provisions of Pennsylvania Act 43 of 2017 pertaining to the sale thereof. Hours of operation shall be confined to 9:00 A.M. to 7:00 P.M. Security and site management shall be provided 24 hours per day.

- (8) All sales of Consumer Fireworks shall be conducted only within a facility approved by the Pennsylvania Department of Agriculture pursuant to the Pennsylvania Fireworks Law, 72 P.S. § 9407 as amended.
- (9) All sales of Consumer Fireworks as defined herein shall be conducted only from a facility exclusively dedicated to the storage and sale of fireworks.
- (10) If the facility in which the sale of Consumer Fireworks is conducted is a Temporary Structure, it shall comply with the following regulations, in addition to the other regulations set forth in subparagraphs (1)-(9):
  - (a) The Temporary Structure is located no closer than 250 feet from a facility storing, selling or dispensing gasoline, propane or other flammable products.
  - (b) An evacuation plan is posted in a conspicuous location for a Temporary Structure in accordance with NFPA 1124.
  - (c) 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.
  - (d) The Temporary Structure complies with NFPA 1124.
  - (e) The Temporary 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: Prior to January 1, 2023, at least five miles; or Beginning January 1, 2023, at least two miles.
  - (f) The Temporary Structure does not exceed 2,500 square feet.
  - (g) The Temporary Structure is secured at all times during which Consumer Fireworks are displayed within the structure.
  - (h) The Temporary Structure has a minimum of \$2,000,000 in public and product liability insurance.
  - (i) The sales period is limited to June 15 through July 8 and December 21 through January 2 of each year.

- (j) Consumer Fireworks not on display for retail sale are stored in an outdoor storage unit.
- (k) Limitations – The sale of Consumer Fireworks from the Temporary Structure is limited to the following: Helicopter, aerial spinner (APA 87-, 3.1.2.3); Roman candle (APA 87-1, 3.1.2.4); and Mine and shell devices not exceeding 500 grams.
- (l) Storage of Consumer Fireworks shall be permitted only as an accessory use to the sale of Consumer Fireworks on premises.”

**SECTION IV. REPEALER.**

All Ordinances or parts of Ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

**SECTION V. SEVERABILITY.**

The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the West Goshen Zoning Ordinance.

**SECTION VI. EFFECTIVE DATE.**

This amendment shall become effective five (5) days following its legal enactment.

**ENACTED** and **ORDAINED** this 26<sup>th</sup> day of November, 2018.

**ATTEST:**

**BOARD OF SUPERVISORS OF  
WEST GOSHEN TOWNSHIP**

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Casey LaLonde, Township Secretary

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Christopher Pielli, Esquire, Chair

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Robin Stuntebeck, Vice-Chair

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Mary R. LaSota, Esquire, Member

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Edward G. Meakim, Jr., Member

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Hugh Purnell, Jr., Member