

TOWNSHIP OF UPPER PAXTON

ORDINANCE NO.: 12-14-2021

AN ORDINANCE AMENDING CHAPTER 7 (RELATING TO FIRE PREVENTION AND FIRE PROTECTION) OF THE TOWNSHIP CODE OF ORDINANCES, REGULATING THE TYPE, USE, AND HOURS DURING WHICH CONSUMER FIREWORKS MAY BE SET OFF IN THE TOWNSHIP AND PROHIBITION OF SETTING OFF FIREWORKS ON PROPERTY OWNED BY THE TOWNSHIP.

WHEREAS, the Pennsylvania State Legislature enacted Act 43 of 2017, entitled “Fireworks Law,” 72 PS §9401 et seq., which, among other things, legalized the use of consumer fireworks by individuals in the Commonwealth of Pennsylvania; and

WHEREAS, while the law provides certain regulation regarding the use of fireworks, it does not define the hours during which they may be set off; and

WHEREAS, the Board of Supervisors of the Township of Upper Paxton has deemed it to be in the best interests and general welfare of the residents of the Township to permit the use of consumer fireworks or other fireworks available to the general public only at certain times; and

WHEREAS, property owners in the Township are entitled to the quiet use and enjoyment of their property; and

WHEREAS, in an effort to protect the health, safety, and welfare of individuals using Township property, the Supervisors of the Township of Upper Paxton declare that all persons are prohibited from setting off fireworks on any and all property owned by the Township of Upper Paxton.

NOW THEREFORE BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the authority of the Township of Upper Paxton as follows:

SECTION 1. DEFINITIONS.

“Consumer Fireworks” shall mean the term “consumer fireworks” as defined in 72 PS § 9401, as it may be amended. Furthermore, “Display Fireworks” shall mean the term “display fireworks” as defined in 72 PS § 9401 et seq., as it may be amended. Furthermore, “Occupied Structure” shall mean the term “occupied structure” as defined in 72 PS § 9401 et seq., as it may be amended

SECTION 2. **PERMITTED FIREWORKS.**

The Township of Upper Paxton permits the use of Consumer Fireworks only as provided in this ordinance. Display Fireworks are prohibited, except upon issuance of a permit by the Township in accordance with the Pennsylvania Fireworks Law, 72 PS §9401 et seq.

SECTION 3. **PERMITTED HOURS OF USE.**

The Township of Upper Paxton prohibits the use of Consumer Fireworks and any other fireworks after 10:00 p.m.

Any exception to the prohibition on the use of Consumer Fireworks after 10:00 p.m. requires the express written approval from the Upper Paxton Township Board of Supervisors. Exceptions to the above restrictions will only be considered in connection with an advertised public or semi-public event, and such display shall only be held with the consultation, protection, or supervision of the fire company.

SECTION 4. **CONDITIONS OF USE.**

1. No person who is under 18 years of age shall purchase, possess, and use Consumer Fireworks.
2. A person may not intentionally ignite or discharge Consumer Fireworks on public or private property without the express permission of the owner.
3. A person may not intentionally ignite or discharge Consumer Fireworks or any other fireworks within, or throw Consumer Fireworks or any other fireworks from, a motor vehicle or building.
4. A person may not intentionally ignite or discharge Consumer Fireworks or any other fireworks into or at a motor vehicle or building or at another person.
5. A person may not intentionally ignite or discharge Consumer Fireworks or any other fireworks while the person is under the influence of alcohol, a controlled substance, or another drug.
6. A person may not intentionally ignite or discharge Consumer Fireworks within 150 feet of any structure.

Wind direction and velocity, and the level of dryness, should all be considered when utilizing Consumer Fireworks or any other permitted fireworks. All fireworks are prohibited if a Township-wide burn ban is in effect.

SECTION 5. PROHIBITION OF USE OF CONSUMER OR OTHER FIREWORKS ON TOWNSHIP PROPERTY.

The Township of Upper Paxton hereby prohibits the use of Consumer Fireworks or any other fireworks available to the general public on any and all property owned by the Township of Upper Paxton. The purpose of this prohibition is to promote the safety of Upper Paxton Township's residents and visitors using public property.

SECTION 6. VIOLATIONS AND PENALTIES.

Any person who violates or permits the violation of any provision of this ordinance shall, upon conviction thereof in a summary proceeding brought before a Magisterial District Judge, be guilty of a summary offense, and shall be subject to the payment of a fine of not less than \$300 and not more than \$1,000, plus the costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days. Each section or subsection of this ordinance violated shall constitute a separate offense, and each day or portion thereof in which a violation of this chapter is found to exist shall constitute a separate offense, each of which violations shall be punishable by a separate fine imposed by the Magisterial District Judge of not less than \$300 and not more than \$1,000, plus the costs of prosecution, or upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days. All fines and penalties collected for the violation of this ordinance shall be paid to the Township Treasurer. Any Township official may issue a citation for violation of this Ordinance.

SECTION 7. SEVERABILITY.

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 hereof. It is hereby declared as the intent of Upper Paxton Township that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

SECTION 8. REPEALER.

All ordinances or parts of ordinances conflicting with any provision of this ordinance are hereby repealed insofar as the same affects this ordinance.

SECTION 9. **EFFECTIVE DATE.**

This ordinance shall become effective five (5) days from the date of adoption.

ORDAINED AND ENACTED at a regular meeting of the Board of Supervisors of the Township of Upper Paxton, County of Dauphin, Commonwealth of Pennsylvania, a full quorum being present on the ____ day of _____, 2021.

TOWNSHIP OF UPPER PAXTON
BOARD OF SUPERVISORS

By: _____
Chairman

By: _____
Supervisor

By: _____
Supervisor

ATTEST:

Secretary