

**TOWNSHIP OF UPPER MOUNT BETHEL  
NORTHAMPTON COUNTY, PA  
ORDINANCE NO. 2019- 01**

AN ORDINANCE OF THE TOWNSHIP OF UPPER MOUNT BETHEL, NORTHAMPTON COUNTY, PENNSYLVANIA, ACKNOWLEDGING THE ADOPTION BY THE COMMONWEALTH OF PENNSYLVANIA OF THE PENNSYLVANIA FIREWORKS LAW, ACT 43 OF 2017, ACKNOWLEDGING THAT THE FIREWORKS LAW PROHIBITS THE IGNITING OR DISCHARGE OF CONSUMER FIREWORKS ON PUBLIC OR PRIVATE PROPERTY WITHOUT THE EXPRESS PERMISSION OF THE OWNER, ESTABLISHING HOURS WHEN SUCH USE OF FIREWORKS IS PROHIBITED, PROHIBITING USE OF FIREWORKS THAT DISTURB ANIMALS OR LIVESTOCK, PROVIDING THAT THE TOWNSHIP DOES NOT GRANT PERMISSION FOR ANYONE TO IGNITE OR DISCHARGE CONSUMER FIREWORKS ON THE STREETS OR SIDEWALKS OF THE TOWNSHIP OR PROPERTY OWNED BY THE TOWNSHIP INCLUDING WITHOUT LIMITATION, ALL OF THE TOWNSHIP OWNED PARKS AND PUBLIC BUILDINGS; PROHIBITING THE IGNITION, DISCHARGE OR THROWING OF CONSUMER FIREWORKS INTO OR FROM A MOTOR VEHICLE OR BUILDING OR STRUCTURE; PROHIBITING THE IGNITION OR DISCHARGE OF CONSUMER FIREWORKS WHILE UNDER THE INFLUENCE OF DRUGS, ALCOHOL OR OTHER CONTROLLED SUBSTANCE; PROHIBITING THE IGNITION OR DISCHARGE OF CONSUMER FIREWORKS WITHIN ONE HUNDRED AND FIFTY (150) FEET OF AN OCCUPIED STRUCTURE; PROVIDING FOR AN EXCEPTION TO BE GRANTED BY THE TOWNSHIP BOARD OF SUPERVISORS; DIRECTING THAT THE TOWNSHIP PROVIDE CERTIFIED COPIES OF THE ORDINANCE TO THE MAGISTERIAL DISTRICT JUDGE WITHIN THE TOWNSHIP; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT AND PENALTIES AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT IN ACCORDANCE WITH THE PROVISIONS OF THE SECOND CLASS TOWNSHIP CODE

WHEREAS, the Township of Upper Mount Bethel (hereinafter "Township") is a municipality duly organized and situate within the County of Northampton, Commonwealth of Pennsylvania and with offices located at 347 Ye Olde Highway, Mt. Bethel, Northampton County, PA 18343; and,

WHEREAS, the Pennsylvania Fireworks Law, Act 43 of 2017, took effect on October 30, 2017 (hereinafter the "Law"); and,

WHEREAS, the Law defines "Consumer Fireworks" as "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 C.F.R. (relating to commercial practices) or any successor regulations 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 the Commonwealth". Section 2401 of the Law-Definitions of the Act; and,

WHEREAS, however, the term "Consumer Fireworks" does not "include devices such as 'ground and hand-held sparkling 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 the Commonwealth"; and,

WHEREAS, pursuant to the Law, a person who is at least eighteen (18) years of age and meets the requirements of the Law may purchase, possess and use consumer fireworks; provided, however, that a person may not (1) intentionally ignite or discharge consumer fireworks on public or private property without the express permission of the owner (2) may not intentionally ignite or discharge consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from, a motor vehicle or building (3) may not intentionally ignite or discharge consumer fireworks or sparkling devices into or at a motor vehicle or building or at another person (4) may not

intentionally ignite or discharge consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another substance or drug and (5) may not intentionally ignite or discharge consumer fireworks within one hundred and fifty (150) feet of an occupied structure. Section 2404 of the Law-Use of Consumer Fireworks; and,

WHEREAS, the Township has determined that the use of consumer fireworks and similar devices within the Township provides safety and health hazards if there is not specific compliance with the terms of the Law; and,

WHEREAS, the Township has the authority to regulate fireworks as per the PA Second Class Township Code, 53 PS Section 66534; and,

WHEREAS, the Township has decided to adopt additional prohibitions to the use of fireworks to include inter alia a prohibition on the use of fireworks during certain hours of the day and so as not to disturb animals and livestock.

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Upper Mount Bethel, Northampton County, Pennsylvania, as follows:

SECTION 1. (A) Based upon the background paragraphs recited above, which are incorporated herein, it is hereby ordained and enacted that no permission is granted by the Township to any person or entity to ignite or discharge consumer fireworks on the streets and roadways (including alleys) of the Township, the sidewalks of the Township or any property owned by the Township, including, without limitation, all of the Township's parks and public buildings and grounds.

(B) No one shall do any of the following: (1) intentionally ignite or discharge consumer fireworks on public or private property without the express permission of the owner (2) intentionally ignite or discharge consumer fireworks between the hours of 11:00 pm to 6:00 am and iii) at any time so as to disturb animals or livestock of any type (3) intentionally ignite or discharge consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from, a motor vehicle or building (4) intentionally ignite or discharge consumer fireworks or sparkling devices into or at a motor vehicle or building or at another person (5) intentionally ignite or discharge consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or other drug and (6) intentionally ignite or discharge consumer fireworks within one hundred and fifty (150) feet of an occupied structure.

(C) In the event a person or organization wishes to be granted an exception to the prohibitions outlined in this ordinance because of a special event i.e. a company carnival or reunion, such person or organization shall file a written request for such exception describing the event, explaining the reasons for the request and then making an formal application before the Township Board of Supervisors for its consideration at a duly advertised public meeting where such request may be granted or denied by the Board in its complete, sole and absolute discretion.

(D) This ordinance shall not apply to the fireworks display conducted or authorized by the Township such as the display during the Annual Township July 4<sup>th</sup> Celebration at the Township Park.

SECTION 2. The staff of the Township be and hereby are directed to provide certified copies of this Ordinance to the Magisterial District Judge within the Township to provide judicial notice that no permission has been granted by the Township for any person to intentionally ignite or discharge consumer fireworks on the Township streets, sidewalks, public buildings or grounds, on any real estate owned by the Township or otherwise as recited herein.

SECTION 3. Any person who or entity that violates or permits a violation of the Ordinance shall, upon conviction in a summary proceeding brought before a District Justice pursuant to the Commonwealth of Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the violator may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

SECTION 4. The Township Board of Supervisors and/or its servants, agents, officers, officials, boards, committees, employees or representatives shall not, under any circumstances, be liable or responsible for damages (whether property, injury or death) caused to or suffered by any person or entity by reason of the provisions of this ordinance or by reason of the conduct of the use of any fireworks of any type in compliance (or non-compliance) with the terms, conditions and provisions hereof. Moreover, compliance with this ordinance shall not constitute a representation, guarantee or consent of any kind by the Township (and/or any of its servants, agents,

officers, officials, boards, committees, employees or representatives) of the practicality, safety or fitness of any particular purpose of any kind regarding the use of fireworks of any type.

SECTION 5. All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.


SECTION 6. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the Township that the remainder of the Ordinance shall be and shall remain in full force and effect.

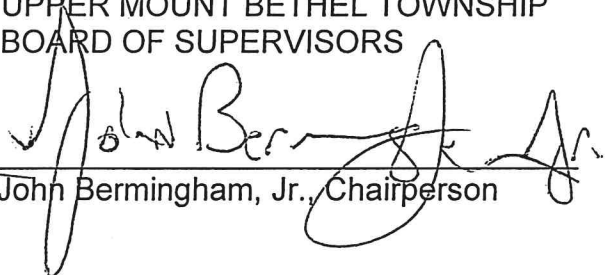
SECTION 7. This Ordinance shall take effect in five (5) days as per the PA Second Class Township Code, 53 P.S. Section 66601(a).

ORDAINED AND ENACTED into an Ordinance this 12<sup>th</sup> day of Aug. 2019 by the Upper Mount Bethel Township Board of Supervisors.

ATTEST

UPPER MOUNT BETHEL TOWNSHIP  
BOARD OF SUPERVISORS

  
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David Due, Secretary

  
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John Bermingham, Jr., Chairperson