

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF SOLEBURY, BUCKS COUNTY, PENNSYLVANIA, AMENDING THE SOLEBURY TOWNSHIP ZONING ORDINANCE REGARDING PROVIDING FOR PERMANENT SALES OF CONSUMER FIREWORKS IN THE TNC ZONING DISTRICT, TEMPORARY SALES OF CONSUMER FIREWORKS IN THE TNC DISTRICT, AND FOR ASSOCIATED REGULATIONS GOVERNING THESE USES.

WHEREAS, Section 1516 (53 P.S. § 66516) of the Pennsylvania Second Class Township Code provides that the corporate powers of the Board of Supervisors of Solebury Township (the “Board of Supervisors”) include the ability to plan for the development of the Township through Zoning, Subdivision, and Land Development Regulations under the Act of July 13, 1968 (P.L. 805, No. 247), known as the “Pennsylvania Municipalities Planning Code”;

WHEREAS, Section 1601 of the Second Class Township Code provides that the Board of Supervisors may adopt Ordinances in which general or specific powers of the Township may be exercised, and, by the enactment of subsequent Ordinances, the Board of Supervisors may amend, repeal, or revise existing Ordinances (53 P.S. § 66601);

WHEREAS, the Township has obligations under Article I of the Pennsylvania Constitution to protect property interests and to preserve and maintain the natural, scenic, historic and esthetic values of the environment;

WHEREAS, the Pennsylvania Second Class Township Code also provides to the Board of Supervisors the ability to enact regulations as may be necessary for the health, safety, and general welfare of the Township and its residents, 53 P.S. § 66506, and to enact regulations pertaining to fireworks and inflammable articles, 53 P.S. § 66534;

WHEREAS, the Pennsylvania General Assembly recently passed Act 43 of 2017 (formerly SB542), which the Governor approved on October 30, 2017;

WHEREAS, the Act *inter alia* contains certain provisions regarding regulation of fireworks, including sales of consumer fireworks, as defined by Act 43 of 2017;

WHEREAS, the proposed amendments have been advertised, considered, and reviewed in accordance with the Municipalities Planning Code;

NOW THEREFORE, in consideration of the foregoing, be it **ENACTED** and **ORDAINED** by the Board of Supervisors of Solebury Township, Bucks County, Pennsylvania, as follows:

I. Chapter 27 of the Township Code of Ordinances is hereby **AMENDED** as follows:

A. ADD the following to **Section 27-2602** (Special Principal Use Regulations):

QQ. Permanent Facilities for Sale of Consumer Fireworks

1. “Consumer fireworks” and “display fireworks” shall have the same meaning as the term in Act 43 of 2017.

2. Permanent facilities for sales of consumer fireworks may only be permitted in accordance with the following conditions:

a. The facility must be licensed by the Pennsylvania Department of Agriculture.

b. The facility must comply with the Pennsylvania Construction Code Act, including the Township’s Construction Code ordinances.

c. The facility must be a stand-alone permanent structure.

d. Storage areas shall be separated from wholesale or retail sales areas to which a purchaser may be admitted by appropriately rated fire separation.

e. The facility shall be located no closer than 250 feet from a facility selling or dispensing gasoline, propane or other flammable products.

f. The facility shall be located at least 1,500 feet from another facility licensed to sell consumer fireworks.

g. The facility shall have a monitored burglar and fire alarm system.

h. Quarterly fire drills and preplanning meetings shall be conducted as required by the local volunteer fire department with jurisdiction over the site of the proposed facility.

i. The facility shall be constructed, maintained, and operated in accordance with all Pennsylvania Department of Agriculture requirements and all standards set forth in Act 43 of 2017, including, but not limited to, the following:

(i) There shall be security personnel on the premises for the seven days preceding and including July 4 and for the three days preceding and including January 2.

(ii) No smoking shall be permitted in the facility.

(iii) No cigarettes or tobacco products, matches, lighters or any other flame-producing devices shall be permitted to be taken into the facility.

(iv) No minors shall be permitted in the facility unless accompanied by an adult, and each minor shall stay with the adult in the facility.

(v) All facilities shall carry at least \$2,000,000 in public and product liability insurance.

(vi) A licensee shall provide its employees with documented training in the area of operational safety of a facility. The licensee shall provide proof to the Township that it has provided written documentation to the Department of Agriculture that each employee has received the training.

(vii) No display fireworks shall be stored or located at a facility.

(viii) No person who appears to be under the influence of intoxicating liquor or drugs shall be admitted to the facility, and no liquor, beer or wine shall be permitted in the facility.

(ix) Emergency evacuation plans shall be conspicuously posted in appropriate locations within the facility.

3. The facility shall comply with the lot dimensional, area, and parking requirements of the TNC District, as applicable, including but not limited to setbacks and buffers, with the exception of the following:

1. The facility shall be no closer than 150 feet to any pipeline right-of-way.
2. The facility shall be located no closer than 600 feet from schools, daycare centers, nursing homes, hospitals, civic buildings, or dwellings.

4. Application for Permit. An applicant for permanent sales of consumer fireworks shall submit an application for a conditional use that contains, at a minimum, the following:

- a. Pennsylvania Department of Agriculture license
- b. Proof of at least \$2,000,000 in public and product liability insurance.
- c. Emergency evacuation plans.
- d. A site plan demonstrating compliance with setback requirements.
- e. Evidence of procedures to ensure compliance with Pennsylvania Department of Agriculture requirements, including but not limited to, prevention of smoking in the facility, security measures, and restriction of unaccompanied minors in the facility.

RR. Temporary Facilities for Sale of Consumer Fireworks

1. "Consumer Fireworks," "APA 87-1," "outdoor storage unit," "NFPA 1124," and "temporary structure" shall have the same meanings as in Act 43 of 2017.

2. Temporary facilities for sales of Consumer Fireworks are only permitted as accessory to commercial uses.

3. Temporary facilities for sales of Consumer Fireworks may only be permitted in accordance with the following conditions:
 - a. The facility must be licensed by the Pennsylvania Department of Agriculture.
 - b. The facility shall be constructed, maintained, and operated in accordance with all Pennsylvania Department of Agriculture requirements and all standards set forth in Act 43 of 2017, including but not limited to, the following:
 - c. The temporary structure is located no closer than 250 feet from a facility storing, selling or dispensing gasoline, propane or other flammable products.
 - d. An evacuation plan is posted in a conspicuous location for a temporary structure in accordance with NFPA 1124.
 - e. 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.
 - f. The temporary structure complies with NFPA 1124 as it relates to retail sales of consumer fireworks in temporary structures.
 - g. 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:
 - (i) prior to January 1, 2023, at least five miles.
 - (ii) beginning January 1, 2023, at least two miles.
 - h. The temporary structure does not exceed 2,500 square feet.
 - i. The temporary structure is secured at all times during which consumer fireworks are displayed within the structure.
 - j. The temporary structure has a minimum of \$2,000,000 in public and product liability insurance.
 - k. The sales period is limited to June 15 through July 8 and December 21 through January 2 of each year.
 - l. Consumer fireworks not on display for retail sale are stored in an outdoor storage unit.
 - m. The facility only sells the following consumer fireworks:
 - (i) Helicopter, aerial spinner (APA 87-1, 3.1.2.3).
 - (ii) Roman candle (APA 87-1, 3.1.2.4) .
 - (iii) Mine and shell devices not exceeding 500 grams.
4. The facility shall comply with the lot dimensional, area, and parking requirements of the TNC zoning district, including but not limited to setbacks and buffers, with the exception of the following:
 - a. The facility shall be no closer than 150 feet any pipeline right-of-way.

b. The facility shall be located no closer than 600 feet from schools, daycare centers, nursing homes, hospitals, civic buildings, or dwellings.

5. No smoking, cigarettes, tobacco products, matches, lighters, or other flame-producing devices shall be permitted within the temporary facility.

6. No minor shall be permitted in the temporary facility unless accompanied by an adult at all times.

7. No person who appears to be under the influence of intoxicating liquor or drugs shall be admitted to the facility, and no liquor, beer or wine shall be permitted in the facility.

8. Application for Permit. An applicant for permanent sales of consumer fireworks shall submit an application to the Township that contains, at a minimum, the following:

- a. Pennsylvania Department of Agriculture license
- b. Proof of at least \$2,000,000 in public and product liability insurance.
- c. Emergency evacuation plans.
- d. A site plan demonstrating compliance with setback requirements.
- e. Evidence of procedures to ensure compliance with Pennsylvania Department of Agriculture requirements, including but not limited to, prevention of smoking in the facility, security measures, and restriction of unaccompanied minors in the facility.

C. ADD the following to Section 27-1602.1.C. (TNC District) as a conditional use:

(11) Permanent Facilities for Sale of Consumer Fireworks

D. ADD the following to Section 27-1602.1.B. (TNC District) as an accessory use:

(4) Temporary Facilities for Sale of Consumer Fireworks (accessory to commercial uses only)

E. AMEND the Table of Use Regulations as follows:

| Uses | RA | RB | VR | R-1 | VR-C | RD | RD-C | VC | VC-C | VC-1 | RC | TNC | LI | QA | OR | MS |
|---|----|----|----|-----|------|----|------|----|------|------|----|-----|----|----|----|----|
| Permanent Facilities for Sale of Consumer Fireworks | | | | | | | | | | | | C | | | | |
| Temporary Facilities for Sale of Consumer Fireworks | | | | | | | | | | | | PA* | | | | |

*accessory to commercial uses only

II. Partial Repealer

All other provisions of the Solebury Township Code of Ordinances, as amended, shall remain in full force and effect. All other Ordinances or provisions of the Township’s Code of Ordinances inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

III. Severability

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence or part of a provision had not been included herein.

IV. Effective Date

All provisions of this Ordinance shall be in full force and effect five (5) days after the approval and adoption.

ORDAINED AND ENACTED this ____ day of _____, 2018.

BOARD OF SUPERVISORS OF SOLEBURY
TOWNSHIP, BUCKS COUNTY,
PENNSYLVANIA

Helen Tai, Chair

Mark Baum Baicker, Vice-Chair

Kevin Morrissey, Member

Noel Barrett, Member

Robert McEwan, Member

Attest:

Catherine Cataldi, Township Secretary