

TOWNSHIP OF MIDDLESEX
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 5 - 2010

AN ORDINANCE OF THE TOWNSHIP OF MIDDLESEX,
CUMBERLAND COUNTY, PENNSYLVANIA, REGULATING
THE DISPLAY AND USE OF FIREWORKS, PROVIDING FOR THE
ISSUANCE OF PERMITS THEREFOR AND PROVIDING FOR PENALTIES
FOR VIOLATIONS THEREOF.

NOW THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby enacted and
ordained by the Board of Township Supervisors in and for the Township of Middlesex,
Cumberland County, Pennsylvania, as follows:

SECTION 1: BACKGROUND.

It is the intent of the Board of Supervisors of Middlesex Township to protect the health,
safety and welfare of the general public through regulating and limiting the use of fireworks,
which by their nature contain explosives which when misused, used by untrained individuals or
used in an manner without regard to those working, located or living in close proximity to their
use, can cause the deposit and accumulation of trash and debris, damage to property and
endanger human and animal life.

SECTION 2: DEFINITIONS.

The following words and terms used in this Ordinance shall have the meanings ascribed
to them as follows:

BOARD OF SUPERVISORS: The Middlesex Township Board of Supervisors.

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 or any successor regulation and which complies with the provisions for "consumer fireworks" as defined in the American Pyrotechnics Association (APA) Standard 87-1, or any successor standard. The term does not include devices such as "ground and hand-held sparkling devices," "novelties" and "toy caps" in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

DISPLAY FIREWORKS: shall be defined as provided in 27 CFR § 555.11, as amended and superseded from time to time.

FIREWORKS: shall mean and refer to consumer fireworks, display fireworks and any combustible or explosive composition or any substance or combination of substances, intended to produce visible and/or audible effects by combustion, but specifically excluding only those fireworks specifically excluded from the definition of "consumer fireworks" as noted above.

TOWNSHIP: Middlesex Township

SECTION 3: RESTRICTIONS ON ALL FIREWORKS.

A. The use of fireworks, whether consumer fireworks, display fireworks or other types of fireworks (but excluding only those fireworks specifically excluded from the definition of "consumer fireworks" in Section 2, above), shall be strictly prohibited at any location within 200 feet of any structure unless prior written permission is received from all owners of property on which the structure is located and prior approval is granted by the Board of Supervisors.

B. The use of fireworks, whether consumer fireworks, display fireworks or other types of fireworks (but excluding only those fireworks specifically excluded from the definition of "consumer fireworks" in Section 2, above), shall be strictly prohibited at any location within 200 feet of any adjoining property containing a residential use unless prior written permission is received from all owners of such property and prior approval is granted by the Board of Supervisors.

SECTION 4: PERMITS FOR THE USE OF FIREWORKS.

A. Unlawful to display or use fireworks without a permit.

It shall be unlawful for any person, firm, entity, corporation, amusement park, fair association or other organization or groups of individuals, or any combination or grouping of the foregoing, to use fireworks and/or hold public displays of fireworks within the limits of the Township unless a permit is first granted by the Board of Supervisors as hereinafter provided.

B. Compliance with State and Federal and Other Statutes and Regulations.

The applicant for a permit to use or display fireworks within this Township must comply with and abide by any and all Pennsylvania and federal statutes, codes and regulations and any and all applicable county or other local regulations, laws or codes governing the use, storage, and display of fireworks, including, but not limited to, the most recent version of the International Fire Code as published by the International Code Council (ICC) and 35 P.S. §1271 et seq., as amended, and any successor codes, statutes and regulations. All Pennsylvania, federal, county and other local statutes, codes and regulations are incorporated herein by reference. All codes and regulations relating to the use and/or 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 Pennsylvania, federal, county and other local laws, codes and regulations and this Ordinance, the more-stringent law, code or regulation shall apply. The applicant must further obtain any and all requisite Pennsylvania, federal, county and/or other local permits and/or licenses relating to the use or display of fireworks.

C. Competent Operator and Safe Display Location.

The use or display of fireworks within the limits of the Township shall be handled, arranged, managed and directly supervised by a competent operator. Fireworks used or displayed within the Township shall be so located, discharged or fired in a manner that is not hazardous to property or endanger any person or persons. The Township Fire Chief or Zoning Officer, or any

other officer as may be designated by the Board of Supervisors shall inspect the site where the fireworks are to be used and/or displayed prior to the issuance of a permit to ensure compliance with the International Fire Code and all other applicable codes, laws and regulations, and to ensure a safe operating environment for the use and display of fireworks. No permit for the use or display of fireworks shall be issued by the Board of Supervisors until the Township Fire Chief or Zoning Officer, or such other officer as may be designated by the Board of Supervisors, inspects the location of the proposed use or display and same is thereafter determined acceptable by the Board of Supervisors and otherwise in compliance with the requirements of this Ordinance.

D. Permit.

1. An application for a permit shall be made in writing to the Township on forms supplied by the Township at least 60 days in advance of the date of the proposed use or display. The permit application shall state, among other information required thereon, the proposed date, time and location of the use or 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 property on which the use or display is to be held. The application submitted shall also include the written consent of such owner or owners thereto as well as 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 federal, state, county and/or local permits and/or licenses needed for the use or display of fireworks. All applicants shall pay to the Township, when submitting the permit application, a permit application fee of \$50.00 for consumer fireworks use or events and \$100.00 for display fireworks use or events, which fees the Board of Supervisors may change from time to time by Resolution of the Board. All applications submitted shall further include a copy of all

declaration pages evidencing liability insurance coverage of the applicant, the required bond as specified in paragraph 5 below and written confirmation from a fire company providing fire protection service in Middlesex Township that the applicant has made arrangements for and has paid or has agreed to pay the fire company for the presence of a fire truck at the time of the use or display of the fireworks. The Board of Supervisors may attach conditions and/or restrictions on any permit for the use or display of fireworks as it deems necessary.

2. If and after such permit is granted by the Board of Supervisors, the possession, use and display of fireworks shall be lawful for only that date and time and for those purposes and under such conditions as specified in the approved permit. No permit granted hereunder shall be transferable.

3. No permit for the use or display of fireworks shall be issued to an individual under the age of 18.

D. Bond Required.

The applicant shall provide a bond to the Township in an amount no less than \$1,000,000, which bond shall be provided for the payment of any and all damages caused to any person or persons and to any property by reason of the fireworks use or display and arising from any acts of the applicant and his, her or its agents, employees, subcontractors or volunteers. The bond shall be in a form acceptable to the Township, and no permit for the use or display of fireworks shall be issued unless a bond in the above amount and in a form deemed acceptable to the Board of Supervisors is received by the Township.

E. 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 seven (7) days after the day fixed for the display originally provided in the permit. Upon receiving an application for a continuance, the Board of Supervisors or its designated agent, may extend the date for the fireworks display to a date no longer then seven (7) days after the date of the originally scheduled fireworks display date, provided that the bond provided by the applicant shall remain in full force and effect for the period applicable to the extended use or display date and the site of the use or display of the fireworks has not changed from that noted in the original application and permit issued.

F. Responsibility of the Applicant.

The applicant shall at all times be responsible for the payment of any and all damages caused to any person or persons and to any property by reason of the fireworks display and arising from any acts of the applicant and his or its agents, employees, subcontractors or volunteers. In addition, the applicant shall be responsible for the collection, removal and proper disposition of all trash, waste and debris generated by, associated with or in any way caused by the fireworks display, regardless of the location or property where such trash, waste or debris may be deposited, within 24 hours of the use or display of the fireworks.

SECTION 5: STOPPING FIREWORKS USE OR DISPLAY.

In the event of any violation of this Ordinance or of any term, condition or limitation noted on a permit for the use or display of fireworks, or in the event of any unsafe condition occurring before or during the course of the use or display of fireworks, or in the event of any unsafe condition occurring as a result of any use of consumer, display or other fireworks within

the Township, any officer of the Middlesex Township Police Department, the Middlesex Township Fire Chief, the Zoning Officer or any other authorized Township representative designated by the Board of Supervisors 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.

SECTION 6: USE OF FIREWORKS FOR AGRICULTURAL PURPOSES.

Nothing in this Ordinance shall be construed to prevent the issuance of permits for the use of suitable fireworks for agricultural purposes in connection with the raising of crops or for the protection of crops from bird or animal damage. The Board of Supervisors specifically reserves the right to vary and/or waive any requirements specified herein for the issuance of a permit that it deems appropriate as necessary to avoid interference with the agricultural practices within the Township.

SECTION 7: PENALTIES.

Any person, individual, partnership, co-partnership, association or corporation violating the provisions of this Ordinance shall be guilty of a summary offense and, upon conviction thereof, shall be subject to a fine not exceeding \$600 or by imprisonment not exceeding 90 days, or by both such fine and imprisonment.

SECTION 8: SAVING IN THE EVENT OF INVALIDITY.

If any section, sub-section, provisions, regulations, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional, or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of this Ordinance as a whole or any other section, sub-section, provisions, regulations, limitation, restriction, sentence, clause, phrase, word or remaining portion of this Ordinance.

SECTION 9: EFFECTIVE DATE.

This Ordinance shall take effect in accordance with existing law.

ENACTED AND ORDAINED this 3rd day of November, 2010, in public session
duly assembled.

TOWNSHIP OF MIDDLESEX

ATTEST:

By: 
Chairman, Board of Township Supervisors


Township Secretary

(Township Seal)