

ORDINANCE NO. 2006 - 117

AN ORDINANCE OF THE TOWNSHIP OF CENTRE, BERKS COUNTY, PENNSYLVANIA, REGULATING THE PUBLIC DISPLAY OF FIREWORKS, PROVIDING FOR THE GRANTING OF PERMITS FOR SUPERVISED PUBLIC DISPLAYS OF FIREWORKS, PRESCRIBING SAFEGUARDS CONCERNING SAME, PROHIBITING PUBLIC DISPLAY OF FIREWORKS BY INDIVIDUALS AND PROHIBITING THE POSSESSION, SALE, USE AND DISTRIBUTION THEREOF FOR PURPOSES OTHER THAN PUBLIC DISPLAYS WITHOUT OBTAINING A PERMIT THEREFOR AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Centre, Berks County, Pennsylvania, and it is hereby ORDAINED AND ENACTED by the authority of the same as follows:

SECTION 1. Definitions.

a. Applicant - shall mean any municipality, amusement park, fair association, civil/charitable organization or group of individuals.

b. ATF User Permit - shall mean a valid and current permit that authorizes the acquisition, transportation and use of explosive materials, which is issued by the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury under the authority of 27 C.F.R. Section 55.41 (1985).

c. Fireworks - shall mean and include any large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or denotation. This term includes, but is not limited to, salutes containing more than two (2) grains (130 mg.) of explosive materials, aerial shells containing more than forty (40) grams pyrotechnic combustions. These devices are classified as Class B explosives by the U.S. Department of Transportation.

Class C explosives are meant to be exempt from this Ordinance and they include, but are not limited to, small visible effects, ground effects and small firecrackers less than one and one-half inch (1-1/2") in length and

one-quarter inch (1/4") in diameter with explosive materials of less than two (2) grains (130 mg.).

d. Pyrotechnic Combustions - shall mean and include any chemical mixture which, upon burning and without explosion, produces visible, brilliant displays, bright lights, or sounds.

e. Salute - shall mean and include an aerial shell that contains a charge of flash powder as is designed to produce a flash of light and a loud report as the pyrotechnic effect.

SECTION 2. Prohibition of Fireworks Display without Permit.

a. It shall be unlawful to have or to hold public displays of fireworks within the limits of Centre Township unless an application has been filed with the Township by Applicant and a permit therefor is granted by the Board of Supervisors of Centre Township, as hereafter provided.

b. Every said display within the limits of Centre Township shall be handled by a competent operator possessing an ATF User Permit.

c. Every said display within the limits of Centre Township shall be conducted on a parcel of property no smaller than five (5) acres. Upon written consent of each adjoining property owner, adjacent parcels may be combined together for a total of not less than five (5) acres. Each specific site of combustion, deflagration or denotation shall be at least two hundred (200) feet from any sideline on said parcel and at least three hundred (300) feet from any permanent structure on said parcel or any adjoining parcel.

SECTION 3. Application and Permit Process.

a. Application for Permit shall be made in writing by the Applicant to the Township Secretary at least ninety (90) days in advance of the date of display, setting forth the proposed location of the display, the character thereof, name and address of the operator, and the name and address of the owner or owners of the grounds on which the display is to be held with the consent of such owner or owners thereto in writing attached. Applicant shall also provide proof of the operator's ATF User Permit and required liability insurance. All Applicants shall pay the Township's Treasurer the sum of One Hundred Dollars (\$100.00), before issuance of the Permit.

b. A Permit shall be issued only when the proposed display is of such character and so located, discharged or fired, as in the opinion of the Board of

Supervisors and the Chief of the Central Berks Fire Company No. 1 of Centerport, PA, or their duly authorized representative, that the display shall not be hazardous to property or endanger any person or persons.

c. If after such Permit shall have been granted by the Township Supervisors, the possession, sale, use and distribution of fireworks for such display shall be lawful for that purpose only.

d. No permit granted shall be transferable.

e. The Board of Supervisors shall require a Bond given by the Applicant in the amount deemed appropriate by the Board but will not be in a sum less than Five Thousand Dollars (\$5,000.00) conditioned for the payment of all damages caused to any person or persons, and to any property by reason of the permitted display and arising from any acts of the Applicant, its agents, employees, or subcontractors, which Bond shall be filed with the Township Secretary before any Permit for the supervised public display of fireworks is delivered.

f. Any Applicant which performs, provides or supervises fireworks displays or exhibitions for profit, shall register with the Attorney General. The Attorney General shall promulgate the rules for such registration.

g. The Central Berks Fire Company No. 1 of Centerport, PA, shall provide one Fire Truck with crew on standby at the fireworks display. This standby assignment shall commence one-half hour before the event and terminate one-half hour after the last fireworks have been discharged. The Applicant shall pay Two Hundred Fifty and 00/100 Dollars (\$250.00) to the Central Berks Fire Company No. 1 of Centerport, PA, in advance of the event for this service.

h. The Board of Supervisors of Centre Township, in their sole and absolute discretion, shall have the right to prohibit any and all fireworks due to dry or draught conditions, such conditions to be determined by the Board of Supervisors of Centre Township.

SECTION 4. Liability Insurance and Indemnification.

a. The Applicant shall maintain insurance for bodily injury, death or property damage occasioned by reason of the fireworks display conducted by Applicant in Centre Township, with minimum liability limits of Two Million Dollars (\$2,000,000.00) for bodily injury or death of any one (1) person and Four Million Dollars (\$4,000,000.00) for bodily injury or death of two (2) or more persons in any one (1) accident or event, and in the minimum amount of Five Hundred Thousand Dollars (\$500,000.00) for damage to property resulting from one (1) accident.

b. Certified copies of the above described insurance policies and Certificates thereof shall be furnished to the Township prior to the issuance of an approved Permit.

c. Any permit holder shall hold Township and the Central Berks Fire Company No. 1 of Centerport, PA, harmless from and shall defend and indemnify it from and against all liability for injuries to or death of persons or damage to property arising from activities allowable under the Permit. Each party shall give the other party prompt notice of any claim coming to its knowledge that in any way directly or indirectly affects either party, and both parties shall have the right to participate in the defense of such claim to the extent of its interest. Moreover, permit holder is obligated to give the Township and Central Berks Fire Company No. 1 of Centerport, PA, notice of any claims or suit instituted against permit holder or permit holder and Township or Central Berks Fire Company No. 1 of Centerport, PA, whether or not such potential liability is fully covered by insurance maintained by permit holder under the provisions of this agreement.

SECTION 5. Permit Extension. If by reason of unfavorable weather, the display for which a Permit has been granted does not take place at the time so authorized, the Applicant to whom such permit was issued may, within twenty-four (24) hours, apply to Centre Township, setting forth under oath the fact that such display was not made, giving the reason therefor, and requesting a continuance of such Permit for a day designated therein, not later than one (1) week after the original day granted by the Permit. Upon receiving such application for a continuance, the Township, if it believes the facts stated therein are true, shall extend the provisions of the Permit to the day fixed in the application, and such extension of time shall be granted without the payment of any additional fee and without requiring any Bond other than the one given for the original Permit, the provisions of which shall extend to cover all damages which may be caused by reason of said display taking place at such extended date in the same manner and to the say extent as if such display had taken place on the date originally fixed on the Permit.

SECTION 6. Penalties.

a. Any personal who fails to comply with any or all of the requirements and provisions of this Ordinance or who fails or refuses to comply with any notice, order or direction of any authorized employee of Centre Township shall be subject to a civil enforcement proceeding and fine not to exceed Six Hundred Dollars (\$600.00) per violation.

b. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this

Ordinance shall not excuse the violation, non-compliance or lack of a valid Permit. All such persons shall be required to correct or remedy such violation and non-compliance within a reasonable time or be subject to additional penalties.

SECTION 7. Repealable. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed but only insofar as the same are inconsistent herewith.


SECTION 8. Severability. The provisions of this Ordinance are severable and if any provision or part thereof shall be held invalid, unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions or parts thereof, of this Ordinance.

SECTION 9. Effective. This Ordinance shall take effect five (5) days after it is adopted.


DULY ORDAINED AND ENACTED as an Ordinance of the Board of Supervisors of the Township of Centre, Berks County, Pennsylvania, in lawful session duly assembled this 13 day of February, 2006.

TOWNSHIP OF CENTRE
BOARD OF SUPERVISORS







Attest: 
Secretary