

2019 – 08

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 94, FIRE PREVENTION TO ESTABLISH A NEW ARTICLE IV TO BE TITLED “FIREWORKS DISPLAYS” IN ORDER TO ESTABLISH RULES AND REGULATIONS FOR THE PUBLIC DISPLAY OF FIREWORKS WITHIN THE TOWNSHIP.

BE IT ORDAINED, by the Township of Hardyston, in the County of Sussex, and State of New Jersey, as follows:

SECTION 1. Chapter 94, Fire Prevention of the Code of the Township of Hardyston is hereby amended and supplemented with a new Article IV entitled “Firework Displays”, which shall read as follows:

CHAPTER 94 FIRE PREVENTION

Article IV: Fireworks Displays

§94-27 Purpose.

It is the intent of the Township to protect the health, safety and welfare of the general public through limiting and regulating the use of Display Fireworks. This Ordinance permits supervised public displays of Display Fireworks performed by professional, competent operators in a safe manner and with appropriate safeguards through a permit process in accordance with the New Jersey Uniform Fire Code (N.J.A.C 5:70). This Ordinance does not prescribe regulations for the sale and use of consumer fireworks. Consumer firework regulations are set forth in the New Jersey Explosives & Fireworks Act (N.J.S.A 21:2-1 et seq.)

§94-28 Definitions.

For the purpose of this Ordinance, the following terms shall have the meanings set forth herein:

Fireworks. Any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, but shall not include sparkling devices and novelties.

Contractor /Operator. A professional pyro technician possessing a current, valid registration with the New Jersey Attorney General.

Display Fireworks. Any large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, This term includes, but is not limited to, salutes, aerial shells and other display pieces which exceed the limits of explosive materials for classification as "consumer fireworks".

Discharge Site. The area immediately surrounding the fireworks mortars used for the outdoor display of Display Fireworks.

Display Site. The immediate surrounding area where a display of Display Fireworks is conducted, including the Discharge Site, the fallout area, and the required separation distances from mortars to spectator viewing areas.

Fall Out Area. The designated area in which hazardous debris is intended to fall after a pyrotechnic device is fired.

Fire Prevention Officer. The person appointed by the Township Council to enforce this Chapter.

Firework Display. A presentation of fireworks by a licensed contractor/operator for a public or private audience.

Township. Hardyston Township, Sussex County, New Jersey.

Person. Any individual, partnership, corporation, limited liability company or other.

§94-29 Standards.

The following standards should be used for reference and guidance for all uses, displays, manufacture, transportation and storage of fireworks, pyrotechnics and flame effects:

- A. National Fire Protection Association (NFPA) Code 1123 — Code for Fireworks Display.
- B. National Fire Protection Association (NFPA) Code 1124 — Code for Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles.
- C. National Fire Protection Association (NFPA) Code 1126 — Standard for Use of Pyrotechnics before a Proximate Audience.
- D. International Fire Code (IFC), NJ Edition 2015, Chapter 56 – Explosives and Fireworks.
- E. N.J.A.C 5:70 – New Jersey Uniform Fire Code
- F. Hardyston Township Code Chapter 94 – Fire Prevention

§94-30 Public Fireworks Displays Permitted, Applications for Permits.

- A. Except as provided hereinafter, it shall be unlawful for any person to use or explode any fireworks; provided, that the Township Council, or its designee, shall have the power to grant permits for supervised public displays of fireworks to be held in the Township.

- B. Every fireworks display shall be conducted by a competent operator, currently registered with the State of New Jersey, approved by the Township Council, or its designee, and shall be of such a character and so located, discharged or fired as in the opinion of the Fire Prevention Officer after proper inspection shall not be hazardous to property or endanger any person.
- C. The Fire Prevention Officer may suspend any permit issued under this chapter due to drought, dry conditions, high winds, or any other factor reasonably related to the public safety. The Fire Prevention Officer may, at his discretion, dispatch fire company members and/or equipment to the scene of any permitted display.
- D. Applications for permits shall be made in writing on a form provided by the Township, at least forty-five (45) days in advance of the date of a fireworks display. After such permit shall have been granted, sales, possession, use and distribution of fireworks, pyrotechnics or flame effects for such display shall be lawful for that purpose only. Applications shall include the following information:
 - 1) A letter of intent from the sponsor including; date, time, location.
 - 2) A resolution of approval from the Hardyston Township Council
 - 3) A detailed plan for the display area including;
 - i. Location of discharge area.
 - ii. Location of mortars, low level devices and set pieces.
 - iii. Dimension of the fallout area.
 - iv. Distance to audience, parking lots and buildings.
- E. An application shall be accompanied by the applicable permit fee of \$427 in accordance with the fee schedule set forth in the Uniform Fire Code N.J.A.C 5:70-2.9. The fee is subject to change by amendment to the Uniform Fire Code.
- F. No permit granted hereunder shall be transferable.
- G. All fireworks displays shall be finished by 11:00 p.m. on Fridays and Saturdays and by 10:00 p.m. Sundays through Thursdays.
- H. No more than five (5) permits per calendar year may be issued for fireworks displays to the same permittee.
- I. No more than five (5) permits per calendar year may be issued for fireworks displays on single property.
- J. No more than one (1) permit shall be issued per month to the same permittee or on a single property.

§94-31 Notice Requirements.

- A. The Applicant shall provide notice to the Chief of Police at least 45 days in advance of the display fireworks event and obtain a signed authorization approving said event.
- B. The Applicant shall provide notice to the Chief of the Fire Department at least 45 days in advance of the display fireworks event and obtain a signed authorization approving said event.
- C. The Applicant shall provide notice to the property owners within the fall out area at least 45 days in advance of the display fireworks event and obtain a signed authorization approving said event.
- D. Applications for display firework events to be held at a commercial operation located within the Crystal Springs Resort Community shall be required to provide notice to the homeowner's associations at least 45 days in advance of the display fireworks event and obtain a signed authorization from the HOA Board approving said event. Failure to obtain a majority approval of the affected homeowner's associations shall result in a denial of the application.
- E. The applicant must provide documentation that the Federal Aviation Administration (FAA) has been notified and approves the display. All conditions set forth by the FAA must be adhered to in order to receive the permit

§94-32 Inspection Requirements.

- A. The Fire Prevention Official is to be contacted at least twenty-four (24) hours in advance of a Display Fireworks event to inspect the Display Site. The Display Site is subject to inspection and approval prior to discharging fireworks. All applicable provisions and clearances provided in the approval plans and in NFPA 1123 are applicable and will be verified.
- B. The Fire Prevention Official or his designee will be present during the Display Fireworks event and will be in direct contact with the Contractor/Operator before and after the event.
- C. Monitoring of the Display Site is the responsibility of the property owner. Barriers and patrols of the perimeter are to be conducted and will be verified by the Fire Prevention Official prior to the start of the fireworks display.
- D. It is the responsibility of the Contractor/Operator to provide a post-display inspection of the Discharge Site and Display Site immediately after the fireworks display and at a "first light" inspection the day immediately following the fireworks display

§94-33 Extension of Permit for Unfavorable Weather.

- A. If for any reason of unfavorable weather the 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 use the date noted on the application as the "rain date" for the event display without the payment of any additional fee.
- B. No overnight storage of fireworks shall be permitted.

§94-34 Disposal Fireworks.

- A. It shall be the sole responsibility of the property owner, tenant and/or Contractor/Operator to dispose of all firework shells that fail to fire or charges that fail to detonate. Any materials which are hazardous or unsafe shall be immediately disposed of in a proper manner.

§94-35 Enforcement and Penalties.

- A. Notice of Violation: Whenever a Code Official observes an apparent or actual violation of a provision of this Ordinance, the Code Official shall prepare a written Notice of Violation describing the condition which required corrective action. The Notice shall specify the violation. Failure to comply with the provisions of the Notice of Violation shall subject the violator to the penalties herein.
- B. Service of Notice: The written Notice of Violation of this Ordinance shall be served upon the property owner, tenant, Contractor/Operator or any other person responsible for the conditions under violation. Such Notice of Violation shall be served either by certified mail to the last known post office address, delivered in person, or by delivering it to and leaving it in the possession of any person in charge of a Display Fireworks Event.
- C. Legal Action: Nothing herein shall prevent the Code Official from filing a civil complaint or non-traffic citation against a party without issuing a Notice of Violation where circumstances required prompt action because of a threat to health, safety and welfare of the public.
- D. Penalty for Violations: Any person, partnership, corporation or association violating the provisions of this Ordinance or failing to comply with any order issued pursuant to any section thereof shall be subject to a penalty in accordance with the New Jersey Uniform Fire Code N.J.A.C 5:70-2.12.
- E. Fines collected: All monies collected pursuant to this section shall be placed in a special municipal trust fund to be applied to the cost to the municipality of firefighter training and/or new firefighting equipment.

Section 3. This Ordinance may be renumbered for codification purposes.

Section 4. All Ordinances of the Township of Hardyston which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 5. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 6. This Ordinance shall take effect immediately following adoption and publication as required by law.

NOTICE

PLEASE TAKE NOTICE that notice is hereby given that the above ordinance was introduced and passed at the regular meeting of the Hardyston Township Council held at the Municipal Building, 149 Wheatsworth Road, Hardyston, New Jersey, on June 26, 2019. The same came up for final adoption at a meeting of the Township Council of the Township of Hardyston held on July 24, 2019, and after all persons present were given the opportunity to be heard concerning the same, it was finally passed, adopted and will be in full force and effect in the Township according to law.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk