

ORDINANCENo. 69

AN ORDINANCE OF THE BOROUGH OF INDIAN LAKE,
SOMERSET COUNTY, PENNSYLVANIA, REGULATING THE
MANUFACTURE, DISPLAY, SALE, OR DISCHARGE OF
FIREWORKS.

BE IT ORDAINED by the Council of the Borough of Indian
Lake, Somerset County, Pennsylvania, AND IT IS HEREBY ORDAINED
by the authority of the same as follows:

ARTICLE I: Definitions.

Section 101. A. Fireworks. Any combustible or explosive
composition, or any substance or combination of substances,
or article prepared for the purpose of producing a visible
or audible effect by combustion, explosion, deflagration or
detonation, and shall include blank cartridges, toy pistols,
toy cannons, toy canes, or toy guns in which any such explosives
are used, the type of unmanned balloons which require fire
underneath to propel the same, firecrackers, ladyfingers,
torpedoes, skyrockets, roman candles, dayglo bombs, sparklers,
or other device containing any such explosive substance.
The term "fireworks" shall not include multi rockets and
multi rocket engines which are designed, sold and used for
the purpose of propelling recoverable aero models, when
actually used for that purpose and used under the supervision

of a science instructor or other competent adult and when the place and time of firing the skyrockets or missiles has been approved by the Borough fire official. The term "fireworks" does not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with United States Department Of Transportation regulations for packing and shipping of toy paper or plastic caps are used and such toy paper or plastic caps are manufactured as provided therein, except that no toy paper or plastic caps shall contain more than 0.25 of a grain of explosive composition per cap. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap. The sale and use of these toy paper or plastic caps shall be permitted at all times. Nothing in this section shall be construed as applying to the manufacture, storage, sale, or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, nor apply to the military or naval forces of the United States or of this state, or to peace officers. Nothing in this section shall be construed as forbidding the sale and use of blank cartridges for ceremonial, theatrical or athletic events.

B. Person. Any individual, firm, organization, partnership, unincorporated association or corporation.

C. Sale or Display. Selling, offering to sell, exhibiting, or possession with intent to give away, sell, or offer to sell within the Borough.

D. Use. Purchasing, possessing, setting off or otherwise causing to explode or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives of inflammable material, or to discharge them or throw them from land, air, water, or highway into any area of the Borough. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints. This provision shall also mean and include casting, throwing, lighting, or firing any squib, rocket, cracker, torpedo, grenade, gun, revolver, pistol, cap or cartridge, or other fireworks or combustible firecrackers of any kind.

ARTICLE II: Prohibitions.

Section 201. Except as provided herein, it shall be unlawful for any person to manufacture, sell or display, offer to sell, possess, give away, store, or use or explode fireworks within the Borough. It shall be unlawful for a person to allow or permit fireworks to be used or exploded on his premises or premises under his control.

Section 202. Nothing in Section 201 shall be construed as forbidding the possession or use of any fireworks by those in charge of a public exhibition, provided they have complied with the permit requirements of Article III.

ARTICLE III: Public Exhibitions - Permit Applications.

Section 301. Scope: The permit procedure set forth in this article shall apply solely to display fireworks, also known as special fireworks, or Class B explosives as defined by federal law and shall not apply to common fireworks, also known as Class C explosives, as defined by federal law. The manufacture, possession, sale, use, storing or exploding of Class C or common fireworks are prohibited as provided in Section 201 of this Ordinance.

Section 302. Any person who desires to conduct a public exhibition or display of fireworks shall file with the fire official fifteen (15) days before such public exhibition or display is to take place a written application therefor, duly subscribed and sworn by the applicant. Such application shall set forth the following:

A. The name of the association, organization, corporation, or individual sponsoring the display, together with the names of the persons to be in charge of the display.

B. The date and time of day at which the display is to be held.

C. The exact location planned for the display.

D. A description setting forth the name, age, address and experience of the persons who are to do the actual firing and discharging of the fireworks.

E. The number and kinds of fireworks to be discharged.

F. The manner and place of the storage of such fireworks between the date of purchase and the date of display.

G. A description, oral or written, of the grounds on which the display is to be held, indicating the point at which the fireworks are to be discharged, what provision has been made for the surrounding buildings, trees, telephone or telegraph lines or overhead obstructions within a distance of fifty (50) yards of the point of discharge, and the lines behind which the public will be restrained.

H. Whether the fireworks used for the display will be acquired from out of state.

I. Whether the person who will be doing the actual firing and discharging of the fireworks does such type work for profit.

The mere filing of such an application shall not automatically entitle the applicant to a permit, but such permit must be approved by the fire official, who shall make an investigation of the facts set forth in the application and in addition determine whether the person actually doing the firing is a competent operator. The fire official may set such conditions on the firing of said fireworks as he deems appropriate in order to insure the safety of the public and property. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein except as provided herein. The sale, possession, use and distribution of fireworks for such display shall be lawful under the terms and conditions approved with the permit and for that purpose only.

Section 303. (a) In addition to the requirements set forth in Section 302 above, where the fireworks to be used in the display or exhibition are to be acquired from out of state, proof of a permit from the Federal Department of Transportation, Bureau of Alcohol, Tobacco and Firearms, for the person who will be doing the actual firing and/or the person in charge of the display, as required by federal law, will be required.

(b) Where the person who will be doing the actual firing and discharging of the fireworks performs, provides or supervises fireworks displays or exhibitions for profit, proof of registration with the Commonwealth of Pennsylvania Attorney General will be required, as provided by state law.

Section 304. The applicant for the permit shall furnish proof of insurance in an amount deemed adequate by the fire official for the payment of all damages which may be caused either to a person or persons or the property by reason of the permitted display, and arising from any acts of the applicant, the applicant's agents, employees or subcontractors. In addition, the applicant and the person who will be doing the actual firing and discharging of the fireworks shall be required to hold the Borough harmless from and of any and all liability arising out of the actual firing and discharging of the fireworks, whether caused by the applicant, the person doing the actual firing, or their agents, employees or subcontractors.

Section 305. 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 person to whom such permit was issued may, within twenty-four (24) hours, apply to the fire official, 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 date fixed originally in said permit. Upon receiving such application for a continuance, the fire official, if he believes the facts stated therein are true, shall extend the provisions of said permit to the day fixed in said application, not later than one (1) week after the original day designated in the permit, 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 and cover all damages which may be caused by reason of the said display taking place at such extended date in the same manner and to the same extent as if such display had taken place at the date originally fixed in the permit.

Section 306. Unfired fireworks and trash that remain after the display is concluded shall be immediately disposed of in a safe manner approved by the fire official.

Section 307. Nothing in this article shall be construed to prohibit any resident wholesaler, dealer or drivers to sell at wholesale, such fireworks as are not herein prohibited, or the sale of any kind of fireworks, provided the same are to be shipped directly out of state, or the use of fireworks by railroads or other transportation agencies for signal

purposes or elimination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes and athletic or sports, or for use by military organizations. Such wholesalers, dealers and drivers shall store their supplies of fireworks in accordance with federal law.

ARTICLE IV: The Borough Constable shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale or display, stored or held in violation of this Ordinance.

ARTICLE V:

Section 501. Any violation of any provision of this Ordinance shall be a summary offense from the laws of the Commonwealth of Pennsylvania and shall be punishable by fine not in excess of Three Hundred (\$300.00) Dollars, a jail sentence of not more than ninety (90) days or both.

In addition, a violation of this Ordinance shall constitute a nuisance and shall be abatable under the manner provided by law, including the institution in the Court of Common Pleas of Somerset County of suits in equity to restrain and prevent violations for this Ordinance.

ARTICLE VI: The provisions of this Ordinance are severable, and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this Ordinance.

ARTICLE VII: All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are repealed.

ORDAINED AND ENACTED this 9th day of June, 1986.

Attest:

BOROUGH OF INDIAN LAKE

Beverly J. Brown
Secretary

By Jeffrey H. Berkey
President of Council

EXAMINED AND APPROVED by me this 9th day of June, 1986.

Edward J. Logan
Mayor

I hereby certify that the foregoing ordinance is No. 69, approved June 9th, 1986, duly advertised and entered into the Ordinance Book on June 12th, 1986.