

LOCAL LAW #12 OF 2017
A LOCAL LAW REGULATING FIREWORKS DISPLAYS WITHIN
THE CITY OF PORT JERVIS

Purpose. The purpose of this local law is to regulate the use of fireworks within the City of Port Jervis.

Legislation:

-1. Purpose.

- A. This chapter is designed to promote the health, safety and general welfare of the people of the City of Port Jervis by imposing regulations to help ensure the safe conduct of outdoor fireworks displays within the City
- B. This chapter is enacted pursuant to the authority granted by Article 405 of the Penal Law of the State of New York, the Fire Code of the State of New York and NFPA 1123, Code for Outdoor Fireworks Display, and is subject to all of the conditions and provisions contained in said laws and codes, as may be amended from time to time.

-2. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

- A. **ASSISTANT:** A person who works under the direction of the operator to put on a public fireworks display.
- B. **BODY:** A municipality, school district, private club, association or organization of individuals.
- C. **FIREWORKS:** Firecrackers or other combustible or explosive of like construction, or any preparation containing explosive or inflammable compounds or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, or other device containing any explosive.
- D. **HIGHWAY:** Any public street, road, highway or alley, or any private road or street.
- E. **OPERATOR:** The person with overall responsibility for safety and the setting up and discharging of a public fireworks display.
- F. **PERMIT:** The written authorization of the permit authority granted to any body to conduct a public fireworks display.
- G. **PUBLIC FIREWORKS DISPLAY:** Any outdoor display of fireworks performed in a manner to be viewed by the general public.
- H. **SPONSOR:** The person who exercises general control over the arrangements for the public fireworks display. The sponsor and the operator may sometimes be the same person.

-3. Public Displays.

A. Administration and Enforcement Authority.

1. The City of Port Jervis is authorized to grant and issue a permit for the public display of fireworks and to take all such actions as are necessary for the proper execution of its authority. The enforcement of the provisions provided herein shall be by the City of Port Jervis Police Department, Port Jervis Building Inspector, the New York State Police, and any other agents of the City and State of New York as may be from time to time authorized by any provision of law.

B. Permit.

1. No public fireworks display shall be conducted in the City of Port Jervis unless a valid permit for such a display has been issued by the City.
2. There shall be a fee for permits issued under this Chapter. The fee shall be set by the City Council of the City of Port Jervis from time to time by resolution. The City Council of the City of Port Jervis reserves the right to waive the fee upon a showing that it is in the best interest of the public.
3. Any permit issued under this Chapter shall require a deposit for the purpose of maintenance of the City property. The deposit shall be set by the City Council of the City of Port Jervis from time to time by resolution.
4. Permits shall be obtained after completion of the application as set forth by the City of Port Jervis. The application for a permit must be submitted at least 60 days prior to the date the display is to take place.
5. The City of Port Jervis may reject the application if it finds the proposed display to be contrary to the public health, safety or welfare.
6. Application for such a permit shall be made to the Building Department of the City of Port Jervis on the form provided by it. The application shall set forth the following information:
 - a. The name of the person or entity promoting the fireworks display and the name of the person actually to be in charge of the display.
 - b. The date and time of day at which the fireworks display is to be held, including two (2) additional dates in case of inclement weather.
 - c. The exact location planned for the display.
 - d. The age, experience and physical characteristics of operators.
 - e. The Inventory Pull Sheet listing all types and quantities of pyrotechnic devices being used in the display. The Inventory Pull Sheet shall also provide information regarding the blast radius and fallout zone for the devices that will be used.
 - f. The manner and place of storage of such fireworks prior to the display.
 - g. A diagram, with distances shown in feet, of the grounds on which the fireworks display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions. The diagram shall also show all necessary emergency access points to the proposed site.

- h. A copy of the appropriate licenses required by New York State and the Federal Government or appropriate Federal Agencies to operate the display including, but not limited to:
 - i. A copy of the operator's United States Department of Transportation hazardous material certificate of registration;
 - ii. A copy of the operator's United States Treasury Department, Bureau of Alcohol, Tobacco and Firearms explosives permit;
 - iii. A copy of the operator's New York State Department of Labor, Division of Safety and Health certificate of competence;
 - iv. Copies of the licenses of the individual assistants who will assist the operator in execution of the fireworks display; and
 - v. Copies of necessary licenses, approvals and notification verification from the Federal Aviation Agency.
 - i. All operators shall supply a photocopy of their licenses to deal in explosives, issued by the New York State Department of Labor.
 - j. A copy of the promoter's or sponsor's insurance with the City of Port Jervis named as an additional insured.
 - k. A fully explained plan for the set up of the display, clean up of the display, and an emergency plan in the event of an emergency related to the display.
 - l. Such other information as the City of Port Jervis may deem necessary to protect persons or property.
7. Upon receipt of an application for a permit, the City Council may make an investigation of the site of the proposed display for the purpose of determining whether the regulations provided for herein have been complied with.
8. No permit granted hereunder shall be transferable, and any such permit shall apply only to the fireworks display for which it is granted.
9. Denial of an application for a permit shall be in writing, addressed to the sponsor of the permit, setting forth the reasons for such denial. Such denial must be provided within ten (10) days of the determination by the City Council.

C. Regulations.

1. Any person or entity issued a permit hereunder shall comply with these regulations, New York State Penal Law Article 405 and shall comply with the standards and guidelines contained in National Fire Protection Association (NFPA) Standard 1123 regarding outdoor display of fireworks.
2. Any applicant for a permit to conduct a fireworks display shall send a copy of the application to the City of Port Jervis Building Department, Building Inspector, the Chief of the Fire Department and the City Council. All parties shall be notified of the display location, date and time if a permit is issued, and the Fire Department and other officers and employees of the City of Port Jervis shall be permitted on the property for inspection prior to and following the event.
3. Each sponsor and operator to whom a permit has been issued shall be responsible for reimbursing the City of Port Jervis for personnel and

equipment costs for inspections. The City Council of the City of Port Jervis reserves the right to waive the fee if it determines such a waiver is in the best interest of the public.

4. The operator shall have all permits issued available for examination by the City of Port Jervis, its employees and officers, or the City of Port Jervis Police Department and Building Inspector at the time of the display.

D. Prohibitions.

1. No person or other legal entity shall conduct an indoor fireworks display in the City of Port Jervis.
2. No public fireworks display shall be conducted in the City of Port Jervis on a lot containing a one- or two-family home as the principal use.
3. No public fireworks display shall be conducted prior to 8:00 P.M. or after 10 P.M.
4. No public fireworks display may last for longer than 45 minutes.

E. Notice.

1. Any applicant for a permit to conduct a fireworks display shall give proper public notice by placing an advertisement in the City's official newspaper (not a legal notice) and by posting notification in at least five public places in City, one of which shall be the Official City Bulletin Board located at the City Hall, no more than twenty (20) days and no less than five (5) days prior to the display.

F. Insurance.

1. No permit shall be issued until an indemnity insurance policy with liability coverage and indemnity protection naming the City of Port Jervis as an insured and indemnified party in a sum to be fixed by the City of Port Jervis, but in no case less than \$3,000,000.00 is provided by the applicant.

G. Exceptions.

1. Fireworks, as regulated herein, shall not include devices that ignite or explode and are commonly used for purposes other than the display of fireworks for recreational purposes, including, but not limited to:
 - a. Flare guns, intended to signal distress;
 - b. Road flares, designed for road safety;
 - c. Firearms.

H. Penalties for Offenses.

1. Any person or persons or entities committing an offense against this chapter or any section or provision thereof shall be subject to the penalties imposed by §§ 270.00 and 405.05 of the Penal Law, including the provisions relating to the seizure of fireworks contained in § 405.05.
2. Notwithstanding a conviction for an offense against any provisions, a person or entity committing an offense under this chapter shall be subject to

revocation of any permit herein granted without reimbursement of fees paid thereof.

3. In addition to any fine or imprisonment imposed for a conviction of an offense to this chapter, each such offense shall be subject to a civil penalty of at least \$1,000.00, not to exceed \$2,500.00, to be recovered in an action or proceeding or pursuant to an order on consent with the defendant in a court of competent jurisdiction.

I. Fees.

1. The City Council may from time to time approve by simple resolution the fees and deposits to be charged pursuant to this chapter. Such fees shall be adequate for recovery by the City of its costs incurred in the administration and enforcement of this chapter.

J. Conflicting Standards.

1. Where the requirements of this Chapter impose a different restriction or requirement than imposed by other sections of the Code of the City of Port Jervis, the City Law of the State of New York or other applicable rules or regulations, the requirements of this Chapter shall prevail.

-4. Use of Private Fireworks.

A. Offense.

1. Except as herein otherwise provide, or except where a permit is obtained pursuant to this Chapter, any person who shall possess, use, explode or cause to explode any fireworks or dangerous fireworks as defined by §270.00 of the Penal Law of the State of New York shall be guilty of a violation of this Chapter.

B. Penalty for Offenses.

1. Any person or persons or entities committing an offense against this chapter or any section or provision thereof shall be subject to the penalties imposed by §§ 270.00 and 405.05 of the Penal Law, including the provisions relating to the seizure of fireworks contained in § 405.05.

PLEASE TAKE NOTICE TO THE EXTENT THAT THIS LOCAL LAW MAY CONFLICT WITH APPLICABLE PORTIONS OF THE CITY LAW OF THE STATE OF NEW YORK, IT IS THE STATED INTENTION OF THE CITY TO EXERCISE ITS AUTHORITY TO SUPERSEDE AND AMEND, AS GRANTED UNDER THE MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK, SECTION 10. THE CITY HEREBY PROVIDES NOTICE THAT IT IS EXERCISING ITS AUTHORITY TO SUPERSEDE AND AMEND PURSUANT TO MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK SECTION 22.