

TOWN OF NORTH CASTLE

Local Law No. 12 For the Year 2007

(Adopted July 11, 2007)

A Local Law to create a new Chapter 73 (Fireworks Displays) of the Town Code.

Be it enacted by the Town Board of the Town of North Castle as follows:

Section 1. Create the following new Chapter 73 (Fireworks Displays) in its proper numerical order to the Town Code:

Chapter 72: FIREWORKS DISPLAYS

§ 72-1. Purpose and statutory authorization.

- A. This chapter is designed to promote the health, safety and general welfare of the people of the Town of North Castle by imposing regulations to help ensure the safe conduct of outdoor fireworks displays within the Town of North Castle.
- 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 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.

§ 72-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated.

ASSISTANT — A person who works under the direction of the operator to put on a public fireworks display.

BODY — A municipality, school district, private club, association or organization of individuals.

FIREWORKS — any blank cartridge, blank cartridge pistol, or toy cannon in which explosives are used, firecrackers, sparklers or other combustible or explosive of like construction, or any preparation containing any explosive or inflammable compound 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 combination of 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 substance

HIGHWAY — Any public street, road, highway or alley, or any private road or street.

OPERATOR — The person with overall responsibility for safety and the setting up and discharging of a public fireworks display.

PERMIT — The written authorization of the Permit Authority granted to any body to conduct a public fireworks display.

PERMIT AUTHORITY — The Fire Prevention Officer for the Town of North Castle.

PUBLIC FIREWORKS DISPLAY — An outdoor display of fireworks performed as entertainment.

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.

§ 72-3. Administration and enforcement authority.

The Permit Authority 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 Permit Authority, the Town of North Castle Police Department and any other persons as may be from time to time authorized by the Town Board of the Town of North Castle.

§ 72-4. Permit required.

- A. No person shall conduct an indoor fireworks display in the Town of North Castle.
- B. No public fireworks display shall be conducted in the Town of North Castle on a lot containing a one or two-family home as the principal use.
- C. No public fireworks display shall be conducted in the Town of North Castle unless a valid permit for such a display has been issued by the Permit Authority.
- D. Application for such a permit shall be made to the Permit Authority on the form provided by it at least 14 days in advance of the date of the fireworks display. The application shall set forth the following information:

- (1) The name of the person promoting the fireworks display and the name of the person actually to be in charge of the firing of the display.
 - (2) The date and time of day at which the fireworks display is to be held.
 - (3) The exact location planned for the display.
 - (4) The age, experience and physical characteristics of the operators
 - (5) The number and kind of fireworks to be discharged.
 - (6) The manner and place of storage of such fireworks prior to the display.
 - (7) 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.
 - (8) Such other information as the Permit Authority may deem necessary to protect persons or property.
- E. Both operators shall supply a photocopy of their licenses to deal in explosives, issued by the New York State Department of Labor.
- F. The application shall be signed by the sponsor and the operator and shall be accompanied by a fee of \$250.
- G. Upon receipt of an application for a permit, the Permit Authority 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.
- H. No permit granted hereunder shall be transferable, and any such permit shall apply only to the fireworks display for which it is granted.

§ 72-5. Rules and regulations for public fireworks displays.

- A. Firing distances; mortar pieces.
- (1) The actual point at which the fireworks are to be fired shall be at least 50 feet from the nearest aboveground telephone or telegraph line, tree or other overhead obstruction, and such point shall also be no nearer to the audience

or any permanent building, highway or railroad or other means of travel than the distances provided in the following table:

Shell Size Inches	Millimeters	Minimum Radius Distance (feet)
3 or less	76 or less	280
4	102	560
5	127	700
6	152	840
7	178	980
8	203	1120
10	254	1400
12	305	1680

- (2) No mortar piece exceeding 12 inches in diameter shall be used or discharged. Distances from bulk storage areas of materials that have a flammability, explosive or toxic hazard shall be twice that required by the above table.
 - (3) The Minimum Radius Distance identified in Section 72-5.A(1) shall be wholly contained within the lot containing the actual point at which the fireworks are to be fired. The Minimum Radius Distance identified in Section 72-5.A(1) may be partially located on adjacent property if written permission is provided by the adjacent property owner to the satisfaction of the Permit Authority.
- B. The audience at any fireworks display shall be restrained behind lines at such distances from the point at which the fireworks are discharged as is provided in the table contained in Subsection A above. The sponsor shall be responsible for controlling the audience.
 - C. Only persons actively involved in the fireworks display shall be allowed inside the minimum radius distance line contained in Subsection A above.

- D. All fireworks that fire a projectile shall be so set up that the projectile will go into the air as nearly as possible in a vertical direction.
- E. Any fireworks that remain unfired after the display is concluded must be immediately disposed of in a way safe for the particular type of fireworks remaining and consistent with all applicable federal and state laws, rules and regulations.
- F. All debris resulting from the fireworks display shall be properly disposed of by the operator before leaving the discharge site. The operator shall remain at the discharge site for at least one hour after the completion of the display to ensure that the site is secure and clean.
- G. No fireworks shall be left unattended at any time prior to, during or after the fireworks display. No fireworks shall be stored at the site of the display more than eight hours before actual discharge, but a longer period may be granted at the discretion of the Permit Authority. As soon as the fireworks have been delivered to the display site, they shall not be left unattended nor shall they be allowed to become wet.
- H. No fireworks display shall be held during any wind storm in which the wind reaches a velocity of more than 30 miles per hour, as determined by measurements taken at the Westchester County Airport.
- I. All operators and assistants shall be over the age of 21 years, competent and physically fit for the task. A copy of a valid driver's license or other valid picture identification acceptable to the Permit Authority must be provided for all operators and assistants.
- J. There shall be at least two operators or assistants constantly on duty during the discharge, and at least two soda-acid or other approved type fire extinguishers of at least 2 1/2 gallons' capacity each shall be kept at as widely separated points as possible within the actual area of display.
- K. Any applicant for a permit to conduct a fireworks display shall send a copy of the application to the Chief of Police of the Town of North Castle, the Chief of the local Fire Department and the Town Board. All parties shall be notified of the display location, date and time if a permit is issued.
- L. The Fire Department and the Fire Inspector (or his designee) shall be required to attend the fireworks display. Any body issued a permit shall be responsible for all personnel costs associated with on-site staffing.

- M. Any body issued a permit hereunder shall at a minimum comply with these regulations, New York State Penal Law Article 405 and should comply with the standards and guidelines contained in National Fire Protection Association (NFPA) Standard 1123 regarding outdoor display of fireworks.
- N. The operator shall have any permit issued available for examination by the Permit Authority or the Town of North Castle Police Department at the time of the display.
- O. No smoking shall be permitted within 50 feet of any area where fireworks or other associated materials are kept or stored.

§ 72-6. Bond or insurance required.

- A. No permit shall be issued until an adequate bond in a sum to be fixed by the Permit Authority, but in no case less than \$1,000,000, is provided by the applicant. The bond shall be conditioned for the payment of all damages which may be caused to a person or persons or to property by reason of the fireworks display so permitted, and arising from any acts of the sponsor, operator, his agents, employees, assistants, contractors or subcontractors. Such bond shall run to the Town of North Castle and shall be for the use and benefit of any such person or persons, or any such owner or owners of any property so injured or damaged. Any such person or persons, or such owner or owners are hereby authorized to maintain an action on such bond, which right of action shall also accrue to the heirs, executors, administrators, successors or assigns of such persons or owners.
- B. The permit authority may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to or exceeding the terms and conditions upon which bond is predicated and for the same purposes provided.

§ 72-7. Penalties for offenses.

- A. Any person or persons, associations or corporations 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.
- B. 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

- C. In addition to any fine or imprisonment imposed for a conviction of an offense to this chapter, each such offense may be subject to a civil penalty not to exceed \$250, to be recovered in an action or proceeding in a court of competent jurisdiction.

Section 2. Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section 3. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

Section 4. Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Dated: July 11, 2007