

Permits for Fireworks Displays (Explanation)

Under §405 of Penal Law, towns are required to review applications for permits for display of fireworks within the town. This provision and accompanying regulations of the Department of Labor have made significant changes in permitting requirements. Attached is the application prepared by the Department of Labor which reflects changes in state law and regulations.

Formerly, §405 authorized the issuance of permits only for “public displays” of fireworks. The section was amended to allow individuals to obtain permits for displays at private events. Additionally, the person in charge of the fireworks display must now have state certification. 12 NYCRR 61-2.1 thru 61-2.7. These certification requirements are administered and enforced by the state Commissioner of Labor. A single, state-certified pyrotechnician must have overall responsibility for the fireworks display, ensuring that the display conforms to required standards. The operator has sole responsibility for authorized assistants. If these assistants are not certified pyrotechnicians, to qualify as an authorized assistant, the person must be at least 18 years old, be trained in the performance of the tasks assigned and educated with regard to safety hazards. The application display permit is required to identify the certified operator and state his certificate number. Additionally, assistants must be named, along with their certificate number, if certified, and their age.

New regulations to protect the public have replaced prior provisions. The Department Labor regulations 12 NYCRR 61-2.8 provide that every outdoor fireworks show must be conducted in accordance with National Fire Protection Association (NFPA) §1123, in addition to the requirements of §405 of the Penal Law.

Chapter 4 of §1123 provides safety requirements for the display of fireworks and aerial shows and equipment. It also includes provisions regarding the storage and transportation of fireworks. Thus, the provisions of the NFPA, as incorporated into the Department of Labor regulations, provides specific provisions regarding the firing of explosives and pyrotechnics and their transportation and storage. Section 1123 also requires a site plan that must include the dimensions of display site and location of discharge sites, spectator viewing areas, parking areas and the associated separation distances.

Section 1126 of the NFPA regulates indoor displays of fireworks and provides standards for the use of pyrotechnics in relation to any theatrical, musical or similar production before a proximate audience. This section also includes storage requirements, transportation requirements and requirements regarding the actual discharge of fireworks.

The NFPA requirements are available on a viewing only basis at the NFPA website (www.nfpa.org). Under §405 of the Penal Law, the permit application, as detailed in the attached permit application, must include the name of the body sponsoring the display and the names of people in charge, their certificate numbers and identification of any individuals assisting in the display and their qualifications. Also, the permit must include the date and time of the day when the display is to be held; the location of the display; the number and kind of fireworks to be discharged; and the manner and place of storage of the fireworks prior to display. Also, the permit must include a diagram of the grounds on which the display is to be held, including the location of all buildings, highways and other means of transportation, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph and telephone lines or other overhead obstructions. Significantly, the permit authority—in this case the town—may require other information necessary to protect people or property.

As a condition of granting the permit, the town must require an adequate bond or indemnity insurance policy, of which coverage may not be less than \$1 million for the payment of damages to any people resulting from the fireworks display. The town should ensure that the terms of the bond or indemnity policy covers it and its officers and employees from any liability.

The town, as permit authority, has discretion to determine whether the applicant has satisfied all of these requirements.

FIREWORKS DISPLAY PERMIT

Town, Village or City of _____

Ref. NY State Penal Law, Article 405.00

Application date: _____

(A) Sponsor of the show

Name: _____

Address: _____

Phone: _____ Contact Person: _____

Display Company

Company Name: _____

As a condition of granting the permit, the town requires an adequate bond or indemnity insurance policy, of which coverage may not be less than \$ 1 million for the payment of damages to any people or property resulting from the fireworks display. The town will ensure that the terms of the bond or indemnity insurance policy covers and its officers and employees from any liability.

Address: _____

Phone: _____ Contact Person: _____

NYS Dept. of Labor Explosives License# _____ Expires _____

Operator – Name of the certifies pyrotechnician who will be in charge of the display

Name	Certificate #	Expires
_____	_____	_____

Authorized Assistants: Names of the individuals, who are authorized by the operator to work on the show, identified either by their certificate number and expiration date, if they are certified, or by their age and phone number, if they are not certified.

Name	Certificate #/Age	Expires/Phone
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Continue in a separate sheet, if necessary)

(B) Display Date/Time: _____ Expected Duration: _____

(C) Display Location: _____

(D) Display Content: _____

(E) How will fireworks be stored prior to display: _____

(F) Rain Date for display: _____

(G) If rained out how will fireworks be stored: _____

(H) For outdoor displays not before a proximate audience, attach a diagram of the area where the display will take place, showing location where the fireworks will be discharged from, the location of and distance to: all buildings, highways, lines of communications, location of the audience, trees, overhead obstructions or other structures or devices that could be affected by the display or fallout from it.

(I) Proof of Insurance or Bond (Minimum One Million Dollars). Please attach a copy of the policy certificate or other proof of Insurance Bond.

(J) For Indoor displays, in addition to the information provided above, include a written plan for how you intend to use the pyrotechnics as required by the New York State Penal Law 405.10. That plan shall be submitted at least five days prior to the performance and include:

- In addition to the State Licenses and Certificates already included in this application, proof of Federal ATF Licenses if required,
- Proof of experience of the pyrotechnician in charge,
- Proof of experience with the types of devices being used and a description of duties of any authorized assistants,
- Point of assembly of the pyrotechnic devices,
- Manner and place of storage of the pyrotechnic materials and devices,
- Material safety Data Sheets (MSDS) for the pyrotechnic materials to be used,
- Certification that set, scenery and rigging materials are inherently flame-retardant or have been treated to achieve flame retardancy,
- For indoor displays attach a diagram of the area where the display will take place, showing location where the fireworks will be discharged from, the location of, and distance to the audience, the location of sprinklers and the fallout radius for each pyrotechnic device used,
- A copy of the approved permit and plan shall be kept on the site and available for the review,
- Any significant changes to the plan shall be approved prior to the performance.

(K) I attest that the information contained in this permit application is accurate, true and complete to the best of my knowledge, and I understand that the false statements made in this permit application are subject to the application versions of the NYS Penal Law.

Signature of Applicant

Date