

## LOCAL LAW 01-2013 FIREWORKS

NEW YORK STATE DEPARTMENT OF STATE 41 STATE STREET ALBANY, NY 12231

NEW YORK STATE DEPARTMENT OF STATE Local Law Filing, 41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State.) Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter. Town of Santa Clara, Local Law No. 1 of the year 2013.

A local law pursuant to New York State Penal Law Section 405.00 authorizing the approval and issuance of permits for fireworks displays, under specified conditions and in the discretion of the Town of Santa Clara.

Be it enacted by the Town Board of the Town of Santa Clara (the "Town") as follows:

Section I. Purpose and Statutory Authorization.

A. Recent New York State legislative enactments requiring the regulation of fireworks and pyrotechnics displays at private events have been enacted and, among other things, require the local municipality, as the permitting agency, to address safety issues to better protect localities and the public. This local law is designed to promote the health, safety and general welfare of the people of the Town by imposing regulations to help ensure the safe conduct of outdoor fireworks displays within the Town.

B. This local law is enacted pursuant to the authority granted by Section 405.00 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 Displays, and is subject to all of the conditions and provisions contained in said laws and codes, as may be amended from time to time.

Section II. Definitions. As used in this local law, the following terms shall have the meanings indicated.

APPLICANT - A person, municipality, private club, association or organization of individuals.

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

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 and/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 or private fireworks display.

PERMIT - The written authorization of the Permit Authority granted to an applicant to conduct a public or private fireworks display.

PERMIT AUTHORITY - The Codes Enforcement Officer of the Town of Santa Clara, or other officer designated by the Town Board of the Town.

PUBLIC OR PRIVATE FIREWORKS DISPLAY - An outdoor display of fireworks performed as entertainment.

SPONSOR - The person who exercises general control over the arrangements for the public or private fireworks display. The sponsor and the operator may sometimes be the same person. TOWN - The Town of Santa Clara.

Section III. Administration and Enforcement. The Permit Authority is hereby authorized and required to grant and issue a permit for the public or private 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, and any other persons, or police agencies, as may from time to time be so authorized by the Town Board.

Section IV. Permit Required.

A. No person shall conduct an indoor fireworks display in the Town.

B. No public or private fireworks display shall be conducted in the Town on a lot containing a one or two-family home as its principal use.

C. No public or private fireworks display shall be conducted in the Town 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 proposed fireworks display. The permit application shall set forth the following information:

1. The name of the person or organization sponsoring the fireworks display, and the names of the persons who will actually be in charge of the firing of the display, who shall possess a valid certificate of competence as a pyrotechnician as required under the General Business Law and Article 16 of the Labor Law.

2. A verified statement from the applicant identifying the individuals who are authorized to fire the display, and a statement that each of such individuals possesses a valid certificate of competence as a pyrotechnician, with his/her certificate number.

3. The date and time of day at which the fireworks display is to be held, including a rain date.

4. The exact location planned for the display.

5. The number and kind of fireworks to be discharged.

6. The manner and place of storage of such fireworks prior to the display, including where fireworks are to be stored if the event is rained out.

7. A diagram of the grounds on which the display is to take place, showing the point at which the fireworks are to be discharged, and the location of, and distance to, all the buildings, highways, power and telephone lines, audience, trees, overhead obstructions or other structures or devices that could be affected by the display or fallout from it. The diagram must also show the lines behind which the audience will be restrained.

8. Such other information as the Permit Authority may deem necessary to protect persons or property.

E. For good cause shown, the Permit Authority may accept an application for a permit less than 14 days in advance of the date of the fireworks display. In no event, however, may the Permit Authority accept such application less than 5 days in advance of the display.

F. Operators shall supply a photocopy of their licenses issued by the New York State Department of Labor licensing them to deal in explosives.

G. The application shall be signed by the Sponsor and the Operator and shall be accompanied by a fee as established by Town Board resolution and set forth in the fireworks permit.

H. 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.

I. No permit granted and issued hereunder shall be transferable to another Sponsor or Operator, or another location, and any such permit shall apply only to the fireworks display for which it is granted.

J. The Permit Authority's decision of whether to grant a permit hereunder is completely discretionary. Section V. Rules and Regulations of Public and Private 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 above-ground telephone or power line, tree or other overhead obstruction, and such point shall also be no nearer to the audience or any permanent building, highway or other means of travel than the distances provided in the following table:

<b>Shell Size Inches</b>	<b>Millimeters</b>	<b>Minimum Radius Distance (feet)</b>
3 or less	76 or less	420
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 flammable, explosive or toxic hazard shall be twice that required by the above table.

3. The minimum radius distance identified in Section V. A (1) shall be wholly contained within the lot containing the actual point at which the fireworks are to be fired. Said minimum radius distance 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 manner that is 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. After completion of the display the operator shall remain at the discharge site until 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 8 hours before actual discharge, but a longer period may be granted in the discretion of the Permit Authority. As soon as the fireworks have been delivered to the display site they shall not be left unattended, and they shall not be allowed to become wet.

H. No fireworks display shall be held when the wind reaches a velocity of more than 30 miles per hour.

I. All operators, assistants and persons in actual charge of firing the fireworks shall be over the age of 18 years, competent and physically fit for the task. A copy of his/her valid driver's license, or other valid picture identification acceptable to the Permit Authority, must be provided for all operators and assistants. At least 2 operators shall be constantly on duty during the discharge.

J. At least 2 soda-acid or other approved-type fire extinguishers of at least 2 IA gallons capacity each shall be kept within the actual area of the display, and shall be placed at as widely separated points as possible. K. Anyone issued a permit hereunder shall, at a minimum, comply with this local law, New York State Penal Law Section 405.00, and the standards and guidelines contained in National Fire Protection Association (NFPA) Standard 1123 regarding the outdoor display of fireworks. L. No smoking shall be permitted within 50 feet of any area where fireworks or other associated materials are kept or stored.

#### Section VI. Bond or Insurance Required.

A. The Permit Authority shall not issue a permit unless and until the permit applicant provides an adequate bond in a sum of not less than One million dollars (\$1,000,000.00). 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 permittee, his agents, employees, assistants, contractors or subcontractors. Such bond shall run to the Town and shall be for the use and benefit of any person or persons, or any 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 person or persons, or owner 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 such bond is predicated and for the same purposes provided in this section. Such policy shall name the Town as an additional insured.

#### Section VII. Penalties for Offenses.

A. Any person or persons, associations or corporations committing an offense against any section or provision of this local law shall be subject to the penalties imposed by Sections 270.00 and 405.05 of the Penal Law.

B. A person or entity committing an offense under this local law shall be subject to revocation of any permit herein granted, without reimbursement of fees paid therefore.

C. In addition to any fine or imprisonment imposed for a conviction of an offense under this local law, each such offense may be subject to a civil penalty not to exceed \$250.00, to be recovered in an action or proceeding in a court of competent jurisdiction.

#### Section VIII. Severability

The invalidity of any word, section, clause, paragraph, section, 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 IX. Effective date.

**This local law shall take effect immediately upon its being filed in the office of the New York State Secretary of State. (Complete the certification in the**

**paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

1. (Final adoption by local legislative body only.) I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2013 the Town of Santa Clara was duly passed by the Town Board on March 14, 2013 accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.) I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was {approved}(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.) I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.and was (approved)( not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ (Elective Chief Executive Officer\*) Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.) I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ Such local (Elective Chief Executive Office f) law was subject to permissive referendum and no valid petition requesting such referendum was filed as Of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances. DOS-239 (Rev. 05/05)

5. (City local law concerning Charter revision proposed by petition.) I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of 20 . \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section

(36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_, became operative.

6. (County local law concerning adoption of Charter.) I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.) I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Signature of the Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: March 14, 2013

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK COUNTY OF FRANKLIN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature of Town Attorney Date: March 14, 2013 DOS-239 (Rev. 05/05))

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County - City of - Town - Village

SANTA CLARA Local Law No. 2 of the year 2009

A local law to prevent the introduction and spread of aquatic invasive species into and within the (In State Title) waters of the Town of Santa Clara, to be known as "The Town of Santa Clara Aquatic Invasive Species Prevention Law"

Be it enacted by the Town Board (Name of legislative Body) of the

**County of City of ~ Town**

**Village**

Town of Santa Clara as follows:

## ARTICLE A: INTRODUCTION

### Section 1. Authority

This local law is adopted pursuant to the authority granted to the municipality in Section 10 (1) (ii) (a) (11) of the Municipal Home Rule Law of the State of New York.

### Section 2. Title

This local law shall be known as "The Town of Santa Clara Aquatic Invasive Species Prevention Law."

### Section 3. Purpose.

The purpose of this local law is to prevent the introduction and spread of aquatic invasive species into and within the waters of the Town of Santa Clara, and to thereby protect aquatic native species populations, biodiversity and aquatic recreational activities for the public good.

### Section 4. Applicability

The provisions of this law shall apply in addition to the provisions of any other local law or ordinance adopted by the municipality. Where there is a conflict the more restrictive provision shall apply. (If additional space is needed, attach pages the same size as this sheet, and number each.)

### Section 5. Definitions

For the purposes of this local law, the following terms shall have the following meanings:

1. "Aquatic animals" shall mean an animal that spends part of its life in water, including, but not limited to, freshwater, estuarine and wetland species.
2. "Aquatic plants" shall mean plants living in the water or at the shoreline, and includes roots, rhizomes, stems, leaves or seeds; including freshwater, estuarine and wetland species.
3. "Boater" shall mean the operator of the boat or towing vehicle.
4. "Invasive species" shall mean any species listed by the NYS DEC as being invasive to the waters of New York State. Such species include, but are not limited to, Eurasian water milfoil (*Myriophyllum spicatum*), variable leafmilfoil (*Myriophyllum heterophyllum*), water chestnut (*Fragaria natanans*), curly-leaf pondweed (*Potamogeton crispus*), Brazilian waterweed (*Egeria densa*), zebra mussels (*Dreissena polymorpha*) and round goby (*Neogobius melanostomus*)
5. "Standing water" shall mean bilge water and other water inside boat compartments that could easily be removed by pump or hand.
6. "Water body" shall mean any freshwater or estuarine lake, river, pond, stream or wetland existing in the state, whether publicly or privately owned, including the banks and shores thereof.

## ARTICLE B: PROHIBITED ACTS

No watercraft or trailer shall enter or exit a water body of the Town unless the boater removes all aquatic plants and/or animals from inside and outside of his/her vehicle, watercraft, trailer or any other equipment that had previously come into contact with any water body. The boater must also remove any standing water that is visible to the unaided eye from the boat and trailer before he/she enters a water body. Removed items must be discarded away from the shoreline.



Exceptions:

- 1) Those persons with a permit to do such activities.
- 2) Those persons who have legally purchased bait or harvested fish.
- 3) Those persons who have legally taken waterfowl.

#### ARTICLE C: PENALTY FOR NONCOMPLIANCE

Any person who violates this local law is guilty of a criminal violation, punishable with a maximum fine of two hundred fifty dollars.

#### ARTICLE D: ADMINISTRATION AND ENFORCEMENT

##### Section I. Complaints

Any person may file a complaint with any state, county or local law enforcement officer having jurisdiction that a violation of this law may have taken place.

##### Section 2. Enforcement

This law may be enforced by the Franklin County Sheriffs Department or any other law enforcement officer having jurisdiction.

#### ARTICLE E: ENACTMENT

This local law shall become effective upon its being filed with the New York State Department of State.