

ORDINANCE 2010-08

AN ORDINANCE ENACTING CHAPTER 23, DISPLAY OF FIREWORKS, OF TITLE 6, PUBLIC SAFETY, OF THE TOOELE COUNTY CODE, ESTABLISHING MINIMUM STANDARDS FOR OUTDOOR FIREWORK DISPLAYS

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF TOOELE COUNTY, UTAH AS FOLLOWS:

SECTION I - PURPOSE. North Tooele County Fire Department Battalion Chief, John Stout, has requested an amendment to the County Code establishing minimum standards for outdoor firework displays to promote public safety for spectators, nearby residents, businesses, and the display operators. Utah Code Annotated 11-3-3.5(2) states:

- (a) A municipality or county shall require:
 - (i) a permit to discharge all display fireworks, special effects, and flame effects performances; and
 - (ii) evidence that the display operator, special effects operator, or flame effects operator who will set up and discharge the display has received a license from the State Fire Marshal Division, Department of Public Safety.
- (b) A municipality or county may require a fee, insurance, or a bond before issuing a permit under this Subsection (2).

The Engineering Department has developed an application to be submitted to the North Tooele County Fire Department prior to an event. NTCFD will perform inspections, issue orders, approve or deny permits, and enforce other power and duties as needed.

The Erda and Pine Canyon Planning Commissions held public hearings on the proposed amendment and recommend passage. The Tooele County Planning Commission also held a public hearing and recommends passage of the amendment with a revision that eliminates a license permit fee.

SECTION II - CHAPTER ENACTED. Chapter 23, Display of Fireworks, of Title 6, Public Safety, of the Tooele County Code is hereby enacted to read as attached hereto, which attachment is, by this reference, made a part hereof.

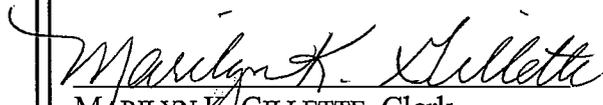
SECTION III - REPEALER. Ordinances and resolutions in conflict herewith are hereby repealed to the extent of such conflict.

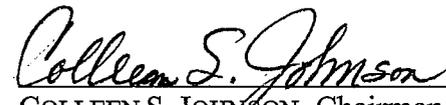
SECTION IV - EFFECTIVE DATE. This ordinance shall become effective 15 days after its passage provided it has been published, or at such publication date if more than 15 days after passage.

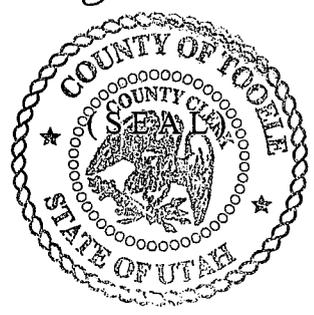
IN WITNESS WHEREOF the Tooele County Commission, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 3rd day of August 2010.

ATTEST:

TOOELE COUNTY COMMISSION:


MARILYN K. GILLETTE, Clerk


COLLEEN S. JOHNSON, Chairman



Commissioner Johnson voted aye
Commissioner Clegg voted aye
Commissioner Hurst voted aye

APPROVED AS TO FORM:


DOUG HOGAN
Tooele County Attorney

CHAPTER 23
DISPLAY OF FIREWORKS

Section

- 6-23-1. Purpose.**
- 6-23-2. Definitions.**
- 6-23-3. Powers and Duties.**
- 6-23-4. Permit Required.**
- 6-23-5. Permit Application.**
- 6-23-6. Issuance.**
- 6-23-7. Reimbursement for County Services.**
- 6-23-8. Denial.**
- 6-23-9. Revocation.**
- 6-23-10. Appeals.**

6-23-1. Purpose.

It is the intent and purpose of this chapter to provide requirements for the safe conduct of outdoor firework displays and to establish minimum standards for the prevention of fire and for the protection of life and property. This chapter shall apply to the construction, handling, storage, and use of fireworks and equipment intended for an outdoor fireworks display. The authority having jurisdiction (AHJ) is hereby authorized to administer and enforce this chapter and any other Tooele County ordinances pertaining to the display of fireworks.

6-23-2. Definitions.

As used in this chapter:

- (1) "Agent" means any person who can show written proof that he/she is acting for another and with the such person's knowledge and permission.
- (2) "AHJ" means the authority having jurisdiction, which describes the organization, office, or individual responsible for approving equipment, an installation, or a procedure.
- (3) "Display Firework" means an aerial shell, salute, flash shell, comet, sky battle, mine, and any similar Class C explosive or Class B explosive.
- (4) "Display Operator" means the person(s) who purchases and is responsible for setting up and discharging display fireworks.
- (5) "Fire Warden" means the County Fire Warden or in that person's absence, the Sheriff's designee. This AHJ shall have power and authority within their authorized jurisdiction.
- (6) "Battalion Chief" means the North Tooele County Battalion Chief or in that person's absence, the Battalion Chief's designee. This AHJ shall have power and authority within their authorized jurisdiction.
- (7) "North Tooele County Fire Protection Service District" means a fire protection service district that was established on October 6, 1987 and provides services in northern Tooele County.
- (8) "Owner" means the holder of fee title to land or buildings or to property, whether a person, partnership, corporation, or other entity recognized by law, including any lessee, permittee, assignee, or successor in interest.
- (9) "Tooele County Fire Warden" means a fire protection service, under the supervision of the State of Utah, Department of Natural Resources, Division of Forestry, Fire, & State Lands, that provides services to all areas within unincorporated Tooele County and any such areas not overseen by a designated AHJ.

6-23-3. Powers and Duties.

(1) The North Tooele County Fire Department AHJ and/or Tooele County Fire Warden AHJ shall be responsible for the administration of this regulation and shall make inspections of any premises and issue orders as necessary to effect the purpose of these regulations.

(2) The North Tooele County Fire Department AHJ and/or Tooele County Fire Warden AHJ shall have the responsibility to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this chapter.

6-23-4. Permit Required.

(1) It shall be unlawful for any person, corporation, organization, landowner, or lessor to allow, encourage, organize, permit, maintain, promote, conduct, undertake, manage, sell or give tickets to an actual or reasonably anticipated display of fireworks unless a permit to hold such an event has first been issued by an AHJ. A permit for a display of fireworks issued to one person shall permit any person to engage in any lawful activity in connection with the same display of fireworks.

6-23-5. Permit Application.

(1) A permit for a display of fireworks shall be made upon an authorized application, to the North Tooele County Fire Department and/or Tooele County Fire Warden. The permit application shall contain the following information:

- (a) the address and legal descriptions of all property upon which the event is to be held, together with the name, residence and mailing address of the recorded owner(s) of all such property;
- (b) proof of ownership of all property upon which the event is to be held or a statement made upon oath or affirmation by the record of owner(s) of all such property that the applicant(s) has permission to use such property for such an event;
- (c) the event name, event date(s), event time(s), and event location(s);
- (d) the name, mailing address, and contact information of the agency requesting such a permit;
- (e) the designated name and copy of a current Utah state "Display Operator's License." An invalid license shall immediately cease operation upon revocation, suspension, or failure to renew such license.
- (f) the designated name and copy of a current "Verification of Insurance," including either the North Tooele County Fire Department and/or the Tooele County Fire Warden and Tooele County as "additionally insured," for a minimum amount of one million dollars USD (\$1,000,000 USD);
- (g) a site diagram, including but not limited to, the following:
 - (i) diagram of the location for the display;
 - (ii) site from which fireworks will be discharged;
 - (iii) location of all buildings and structures in the vicinity of the fallout area;
 - (iv) location of highways;
 - (v) location of above ground utilities;
 - (vi) specific crowd control measures to be used, i.e. barricades, fencing;
 - (vii) spectator viewing area;
 - (viii) parking areas, including size and location of lots, points of access, and any routes between highway access and parking lots;
 - (ix) fallout areas and associated separation distances to spectators and structures;
 - (x) a plan establishing procedures to follow and actions to be taken in the event that a shell fails to ignite in or discharge from a mortar, or fails to function over the fallout area or other malfunctions;
 - (xi) plans for emergency first aid care;
 - (xii) dimensions of the discharge site shall be legible and reasonably to scale.

6-23-6. Issuance.

The application for a permit shall be processed, reviewed, and approved by the AHJ. The AHJ may impose additional conditions to protect health and safety.

6-23-7. Reimbursement for County Services.

Should the licensed event necessitate the deployment of additional county personnel and equipment, such added expense shall be paid by the applicant. In the event the party or parties determined to be responsible for the repayment of expenses incurred due to the county's or other agencies' response to such an emergency, fail to make payment to the AHJ within thirty (30) days after a final administrative determination of any appeal to the Appeal Authority or thirty (30) days from the deadline for appeal in the event no appeal is filed, the AHJ may initiate legal action to recover from the determined responsible party the expenses determined to be owing, including the county's reasonable attorney's fees.

6-23-8. Denial.

The permit shall not be granted if any of the items set forth in said application are determined by the AHJ to be insufficient to properly safeguard the safety, health, welfare, and well-being of person(s) or property or do not comply with any of the requirements of this chapter.

6-23-9. Revocation.

A Display of Fireworks License may be revoked by the AHJ at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, or, if any conditions previously met cease to be complied with. If after a license is issued the AHJ determines that any of the items required as a condition of the license are not adhered to and accomplished within the required time limits or if any of the arrangements for provision of services and facilities or any insurance shall become terminated prior to the completion of the event, then this license may immediately be terminated. Notice of termination of the license shall be in writing, addressed to the licensee at the address set forth in the application or on-site.

6-23-10. Appeals.

(1) Any person aggrieved by a decision of the AHJ regarding the issuance, denial, or revocation or amendment of a Display of Fireworks License may appeal such decision to the Appeal Authority whose decision shall be final. All appeals to the Appeal Authority must be in writing and filed with the AHJ within thirty (30) days of the date of the decision appealed from.

(2) The decision of the Appeal Authority may be appealed to the District Court provided such appeal is filed within thirty (30) days of the Appeal Authority's decision. This appeal shall be filed with the AHJ and with the Clerk of the District Court.