

**TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE #14/21

**AN ORDINANCE IN FURTHERANCE OF THE PREVENTION OF DISTURBANCES
AND DANGERS RESULTING FROM THE USE OF PYROTECHNICS WITHIN THE
TOWN OF WEST NEW YORK**

WHEREAS, the Town of West New York (the “Town”) is a municipality as defined by Title 40 of the New Jersey Statutes; and

WHEREAS, in 2020, The Town of West New York received an overwhelming amount of noise complaints, and other quality of life and safety complaints arising from the use of pyrotechnics both lawful and unlawful within the Town at all hours of the day and night often in a manner that would cause annoyance, alarm and injury to persons and the dangers of fires and explosions to property and obstruction of the public rights of way; and

WHEREAS, pursuant to N.J.S.A. 40:48-1, a municipality may make, amend, repeal and enforce ordinances not contrary to the laws of this State or of the United States, to preserve the public peace and order and disorderly assemblages and prevent disturbing noises and the annoyance of persons in the public streets and protect property from fires, explosions or other dangers; and

WHEREAS, the dangers, disturbances and annoyances that may arise due to the improper and/or illegal denotation of pyrotechnic devices, both legal and illegal, within the Town is made all the more acute as the Town is densely populated with residents living in close proximity to each other; and

WHEREAS, furthermore, pursuant to N.J.S.A. 40:48-2, a municipality may make, amend, repeal and enforce ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, pursuant to N.J.S.A. 40:61-1 a municipality may by ordinance make and enforce rules and regulations for the government, use and policing of all such public parks, open spaces, playgrounds, beaches, water fronts and places for public resort and recreation and to provide penalties for violations thereof; and

WHEREAS, the Board of Commissioners has determined that it must act to preserve the public peace and order and prevent disturbing noises and the annoyance of persons in the public streets and parks and protect property from fires, explosions or other dangers in the manner set forth in this Ordinance; and

WHEREAS, the Board of Commissioners has determined that the regulations set forth in this Ordinance comply with the provisions of N.J.S.A. 21:3-2, in that they are not intended to

regulate the sale or use of sparkling devices and novelties, but are instead intended to prevent the improper use thereof, and prevent disturbing noises, and the annoyance of persons in the public streets and parks, protects persons from injuries, and protect property from fires, explosions or other dangers in the manner set forth in this Ordinance, powers that necessarily remain reserved to municipalities under N.J.S.A. 21:3-2;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the Town of West New York, County of Hudson, State of New Jersey that the Code of the Town of West New York is hereby amended and revised as follows:

SECTION ONE

The following subparagraph shall be added to Chapter 266 entitled “Noise”:

H. Fireworks and sparkling devices and novelties as defined in N.J.S.A. 21:2-2. It is unlawful to operate any firework or sparking device or novelty as defined in N.J.S.A. 21:2-2:

(a) between the hours of 7:00 p.m. and 10:00 a.m. that may annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or of any persons in the vicinity; or

(b) at any other time or place, which annoys or disturbs the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or of any persons in the vicinity.

SECTION TWO

The following paragraph shall be added to Chapter 352 of the Code of the Town of West New York entitled “Streets and Sidewalks”:

§ 352-3.1 Fireworks and Sparkling Devices.

At no time may any person obstruct any public sidewalk, alley, street, avenue, boulevard, road, or other right of way within the Town for the purpose of utilizing any fireworks and/or sparkling devices and novelties as defined in N.J.S.A. 21:2-2 thereupon.

SECTION THREE

The following paragraphs shall be added to Chapter 192 entitled “Firearms and Fireworks” as Article IV of the Code of the Town of West New York entitled “Sparkling Devices and Novelties”:

§ 192-10 Sparkling Devices and Novelties.

It shall be unlawful to utilize sparkling devices and novelties as defined in N.J.S.A. 21:2-2 et seq. in any public park or recreation area.

§ 192-11

Violations of this article shall be punishable as provided for in Chapter 1, General Provisions, Article I.

SECTION FOUR

Chapter 198 entitled “Fire Prevention” shall be amended to add a new Article VI which shall be entitled “Fire Restrictions” and shall set forth the following:

Article VI

§ 198-43 Fire Restrictions

Definition

Open burning: The burning of any materials wherein products of combustion are emitted directly into the ambient air with-out passing through a stack or chimney from an enclosed chamber. For the purpose of this definition, a chamber shall be regarded as enclosed, when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open, and shall include the burning or combustion resulting from or associated with fireworks and sparkling devices and novelties as defined in N.J.S.A. 21:2-2.

Open Burning Prohibited.

It shall be unlawful for a person or entity to make, continue or cause to be made or continued any Open Burning at any location throughout the Town, except for any Open Burning resulting from sparkling devices and novelties as defined in N.J.S.A. 21:2-2 utilized more than fifty (50) feet from any structure.

§ 198-44 Violations and penalties.

A. The maximum penalty for any act in violation of the foregoing section shall be, per occurrence:

- (1) First offense: \$250.
- (2) Second offense: \$500.
- (3) Third offense: \$1,000.
- (4) Fourth offense: \$2,500.

B. Each separate occurrence of any act prohibited by this section may be considered a separate act or omission in violation of the foregoing section.

SECTION FIVE:

Severability. If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION SIX:

Repealer. To the extent that any provision of the Code of the Town of West New York is found to conflict with this Ordinance, in whole or in part, this Ordinance shall control. In all other respects, the Code of the Town of West New York shall remain unchanged.

SECTION SEVEN:

In order to avoid accidental repeal of existing provisions, the Town Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION EIGHT:

This Ordinance shall take effect upon passage and publication as required by law.

SUMMARY OF ORDINANCE

This ordinance is in furtherance of the prevention of disturbances and dangers resulting from the use of pyrotechnics within the Town of West New York as set forth herein.

Introduced: July 7, 2021

Notice

The foregoing Ordinance was adopted for first reading by the Mayor and Board of Commissioners of the Town of West New York, New Jersey, on **July 7, 2021** and ordered published, and will be further considered before final passage at a public hearing on **August 4, 2021 at 12:30 p.m.** held remotely. Instructions regarding attendance and participation in the meeting will be posted on the Town's website: <http://www.westnewyorknj.org> . A copy of this Ordinance has been posted on the bulletin board upon which public notices are customarily posted on in the Town Hall of the Town of West New York, and a copy (at no charge) is available up to and including the time of such meeting to the members of the public of the Town who shall request such copies, at the Office of the Town Clerk in said Town Hall in West New York, N.J.