

ADOPTION OF LOCAL LAW INTRO. NO. 1-2015, PRINT NO.1, TO ALLOW FOR COMMON, SAFE ITEMS TO BE EXCLUDED FROM THE DANGEROUS FIREWORKS DEFINITION AS PERMITTED BY NEW YORK STATE

PENAL LAW SECTION 405 (5)(b)

Offered by: Ways & Means Committee

Local Law No. 1 of 2015

Adopted by Res. No. 112-15, 4/27/15

Effective Date: May 8, 2015

RESOLVED:

1. That proposed Local Law, Intro. No. 1-2015, Print No. 1, is adopted without any change in language, to wit:

COUNTY OF ALLEGANY

Intro. No. 1-2015

Print No. 1

A LOCAL LAW OF THE COUNTY OF ALLEGANY ALLOWING FOR COMMON, SAFE ITEMS TO BE EXCLUDED FROM THE DANGEROUS FIREWORKS DEFINITION AS PERMITTED BY NEW YORK STATE PENAL LAW SECTION 405 (5)(b)

BE IT ENACTED by the Board of Legislators of the County of Allegany, State of New York, as follows:

SECTION 1. Legislative Intent

- A. Whereas on November 21, 2014, Governor Cuomo signed into law Chapter 477 of the Laws of 2014 (S.7888/A10141).
- B. Whereas this State Law amended the State Penal Law, the Executive Law and the General Business Law placing further restrictions on dangerous fireworks while at the same time recognizing that certain fireworks should not be labeled dangerous when they pose little to no danger to the public and by labeling them dangerous only restricts business and personal enjoyment.
- C. Whereas the Governor signed this version of the bill into law in part due to its strong home rule authority, only allowing for certain fireworks to be sold and used in municipalities that affirmatively enact a local law authorizing such action.
- D. In keeping with Chapter 477 of the Laws of 2014 and Penal Law Section 405, this Board further finds and determines that "sparkler devices" may be sold and enjoyed, only in the manner described below, within Allegany County.
- E. This Board finds that allowing our residents the use of safe "sparkler devices" will benefit them and our local businesses.
- F. The National Fire Protection Association adopted a recommended safety code (NFPA 1124) for the manufacture, transportation, storage and retail sales of fireworks.

G. Whereas this local law and State Chapter 477 of the Laws of 2014 are compliant with the safety standards established in NFPA 1124.

H. This Board further finds that the sale and use of "sparkler devices" is permitted with the following restrictions:

- 1) Sales will only be permitted on or between June 1 through July 5 and December 26 through January 2 of each calendar year.
- 2) All distributors, manufacturers, and retailers must be licensed through the New York Department of State.
- 3) Only those 18 years of age or older may purchase said products.

SECTION 2. Definitions

A. "Sparkling Devices" are defined as ground-based or hand-held devices that produce a shower of white, gold, or colored sparks as their primary pyrotechnic effect. Additional effects may include a colored flame, an audible crackling effect, an audible whistle effect, and smoke. These devices do not rise into the air, do not fire inserts or projectiles into the air, and do not explode or produce a report (an audible crackling-type effect is not considered to be a report). Ground-based or hand-held devices that produce a cloud of smoke as their sole pyrotechnic effect are also included in this category. Types of devices in this category include:

(1) Cylindrical fountain: cylindrical tube containing not more than seventy-five grams of pyrotechnic composition that may be contained in a different shaped exterior such as a square, rectangle, cylinder or other shape but the interior tubes are cylindrical in shape. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle to be hand held (handle fountain). When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed two hundred grams, and when tubes are securely attached to a base and the tubes are separated from each other on the base by a distance of at least half an inch (12.7 millimeters), a maximum total weight of five hundred grams of pyrotechnic composition shall be allowed.

(2) Cone fountain: cardboard or heavy paper cone containing not more than fifty grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. When more than one cone is mounted on a common base, total pyrotechnic composition may not exceed two hundred grams, as is outlined in this subparagraph.

(3) Wooden sparkler/dipped stick: these devices consist of a wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to one hundred grams of pyrotechnic composition per item.

(4) Novelties: which do not require approval from the United States Department of Transportation, and are not regulated as explosives, provided that they are manufactured and packaged as described below:

(A) Party popper: small devices with paper or plastic exteriors that are actuated by means of friction (a string or trigger is typically pulled to actuate the device). They frequently resemble champagne bottles or toy pistols in shape. Upon activation, the device expels flame-resistant paper streamers, confetti, or other novelties and produces a small report. Devices may contain not more than sixteen milligrams (0.25 grains) of explosive composition, which is limited to potassium chlorate and red phosphorus. These devices must be packaged in an inner packaging which contains a maximum of seventy-two devices.

(B) Snapper: small, paper-wrapped devices containing not more than one milligram of silver fulminate coated on small bits of sand or gravel. When dropped, the device explodes, producing a small report. Snappers must be in inner packages not to exceed fifty devices each, and the inner packages must contain sawdust or a similar, impact-absorbing material.

SECTION 3. Separability

If any part of or provisions of this law, or the application thereof to any person or circumstance, shall be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of, or application directly involved in the controversy in which such the remainder of this law, or the application thereof to other persons or circumstances.

SECTION 4. Effective Date

This law shall take effect immediately upon filing with the Secretary of State.

I, Brenda Rigby Riehle, Clerk of the Board of Legislators of the County of Allegany, State of New York, do hereby certify that the foregoing constitutes a correct copy of the original on file in my office and the whole thereof of a resolution passed by said

Board on the 27th day of April, 20 15.

Brenda Rigby Riehle Dated at Belmont, New York this 8th day of June, 20 18

Clerk, Board of Legislators, Allegany County

Moved by Jessup Seconded by Curran VOTE: Ayes 11 Noes 3 Absent 1 Voice

Absent: Curran
Voting No: Healy, LaForge, O'Grady