



SARATOGA COUNTY BOARD OF SUPERVISORS

RESOLUTION 15 - 2015

Introduced by Supervisors Raymond, Barrett, Grattidge, Lunde, Richardson, Wright and Ziegler

**INTRODUCING A PROPOSED LOCAL LAW IDENTIFIED AS
INTRODUCTORY NO. 1, PRINT NO. 1 OF 2015 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),
AND SETTING A PUBLIC HEARING THEREON**

WHEREAS, on November 21, 2014 Governor Cuomo signed into law Chapter 477 of the Laws of 2014 which amends the New York State Penal Law, the Executive Law and the General Business Law to place further restrictions on the sale of dangerous fireworks, while at the same time recognizing that certain fireworks should not be labelled as dangerous when they pose little to no danger to the public, and should therefore be available for retail sale and public sale; and

WHEREAS, Chapter 477 of the Laws of 2014 allows for certain fireworks identified and described as “sparkling devices” to be excluded from the definition of “dangerous fireworks” and “fireworks” set forth in the Penal Law, and to be sold and used in counties that enact a local law authorizing such actions; and

WHEREAS, Chapter 477 of the Laws of 2014 limits the sale of sparkling devices in the State to the time periods from June 1st through July 5th and December 26th through January 2 each calendar year, and to people eighteen years of age or older; and

WHEREAS, this Board of Supervisors believes that allowing our County residents the use of safe “sparkling devices” will benefit them and our local businesses; and

WHEREAS, our Legislative and Research Committee has recommended the adoption of a proposed Local Law, identified as Introductory No. 1, Print No. 1 of 2015, entitled “A LOCAL LAW 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)”; and

WHEREAS, the proposed Local Law and Chapter 477 of the Laws of 2014 are compliant with safety standards established by the National Fire Protection Association (NFPA 1124) for the manufacture, transportation, storage and retail sale of fireworks; now, therefore, be it

RESOLVED, that a proposed Local Law, identified as Introductory No. 1, Print No. 1 of 2015, entitled “A LOCAL LAW 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)”, is hereby introduced before this Saratoga County Board of Supervisors, and this Board of Supervisors shall hold a Public Hearing thereon on February 11, 2015 at 4:55 p.m. at the Meeting Room of the Saratoga County Board of Supervisors at 40 McMaster Street, Ballston Spa, New York, 12020, on the matter of the adoption of such proposed Local Law, and the Clerk of the Board of Supervisors be and is hereby directed to give notice of such Public Hearing in the manner prescribed by law.

BUDGET IMPACT STATEMENT: No budget impact.

INTRODUCTORY NO. 1 OF 2015

PRINT NO. 1

INTRODUCED BY Supervisors Raymond, Barrett, Grattidge, Lunde, Richardson, Wright and Ziegler

COUNTY OF SARATOGA
LOCAL LAW -2015

A LOCAL LAW 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 Saratoga County Board of Supervisors 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 Saratoga 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 1st through July 5th and December 26th and January 2nd of each calendar year.
 - 2) All distributors manufacturers and retailers must be licensed though 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.

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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.