

# Warren County Board of Supervisors

## RESOLUTION NO. 223 OF 2015

**Resolution introduced by Supervisors Monroe, Girard, Sokol, Wood, Frasier, Westcott and Strough**

### TO ENACT LOCAL LAW NO. 3 OF 2015

WHEREAS, a proposed Local Law was duly presented to the Board of Supervisors and considered by them, said proposed Local Law 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 405.00 (5)(b)", and

WHEREAS, the Board of Supervisors adopted Resolution No. 167 of 2015 on March 20, 2015, authorizing a public hearing to be held by the Board of Supervisors on the 17<sup>th</sup> day of April, 2015, at 10:00 a.m. in the Supervisors' Room in the Warren County Municipal Center on the matter of the proposed Local Law, and notice of such public hearing having been duly published and posted as required by law, and said public hearing having been held and all persons appearing at said public hearing desiring to be heard, having been heard, now, therefore, be it

RESOLVED, the Board of Supervisors of the County of Warren, New York, on this 17<sup>th</sup> day of April, 2015, does hereby enact and adopt Local Law No. 3 of 2015 as set forth in Schedule "A" annexed hereto, and be it further

RESOLVED, that the Chairman of the Board of Supervisors, Clerk of the Board of Supervisors, County Administrator and County Attorney are hereby authorized to make such minor modifications to the Local Law as deemed necessary, and are authorized to execute, file and publish the Local Law and take all necessary actions for the promulgation thereof.

**COUNTY OF WARREN LOCAL LAW NO. 3 OF 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 405.00 (5)(b)**

**BE IT ENACTED**, by the Board of Supervisors of the County of Warren, New York, as follows:

**SECTION 1. Title.** This Local Law shall be titled “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 405.00 (5)(b)”.

**SECTION 2. Purpose.** Chapter 477 of the Laws of 2014 (S.7888/A10141) 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. The State legislation allows for certain fireworks to be sold and used in municipalities that affirmatively enact a local law authorizing such action. In keeping with Chapter 477 of the Laws of 2014, and Penal Law Section 405.00, the Warren County Board of Supervisors finds and determines that “sparkling devices” may be sold and enjoyed, only in the manner described below, within Warren County. The Warren County Board of Supervisors finds that allowing our residents the use of safe “sparkling devices” will benefit them and our local businesses.

**SECTION 3. Sale and use of Sparkling Devices.**

A. The sale and use of sparkling devices as defined and prescribed herein is permitted with the following restrictions:

- 1) Sales will only be permitted on or between June 1<sup>st</sup> and July 5<sup>th</sup> or from December 26<sup>th</sup> through January 2<sup>nd</sup> of each year.
- 2) All distributors, manufacturers and retailers must be licensed through the New York

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State Office of Fire Prevention and Control or other agency so designated by New York State, and shall comply with all applicable New York State laws and regulations regarding license and registration requirements.

- 3) Only those eighteen (18) years of age or older may purchase said products.

**SECTION 4. 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

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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:
  - i) 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.

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- ii) 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 5. Non-Compliance.** As provided for in Chapter 477 of the Laws of 2014 of the State of New York, the failure to comply with the provisions of Sections 3 and/or 4 hereof shall be deemed an Offense as set forth in subdivision two of section 270.00 of the New York State Penal Law.

**SECTION 6. Severability.** If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**SECTION 7. Effective Date.** This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State.