

Referral No. 8142
September 1, 2015

**LOCAL LAW NO. 4 OF 2015
COUNTY OF ROCKLAND
STATE OF NEW YORK**

(Introduced by Hon. Alden H. Wolfe, Hon. Christopher J. Carey)
(Co-Sponsor: Hon. Philip Soskin)

Mr. Carey offered the following Local Law, which was seconded by Chairman Wolfe and adopted

A local law allowing for "sparkling devices," commonly known as "sparklers," to be excluded from the dangerous fireworks definition as permitted by New York State Penal Law Section 405(b).

Be it enacted by the Legislature of the County of Rockland as follows:

Section 1. Name of local law

This law shall be known as "The Sparkler Act."

Section 2. Legislative intent.

The purpose of this law is to exclude "sparkling devices," commonly known as "sparklers," from the dangerous fireworks definition as permitted by New York State Penal Law Section 405(b).

On November 21, 2014 Governor Cuomo signed into law Chapter 477 of the Laws of 2014 (S.7888/A10141). This 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 danger to the public, and that by labeling them dangerous only restricts business and personal enjoyment.

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.

In keeping with Chapter 477 of the Laws of 2014 and Penal Code Section 405, this Legislature finds and determines that "sparkling devices" may be sold and enjoyed, only in the manner described below, with certain restrictions, within Rockland County.

The Legislature finds that allowing our residents the use of safe "sparkling devices" will benefit them and our local businesses.

Section 3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

A. COUNTY – The County of Rockland, New York.

B. SPARKLING DEVICES or SPARKLERS– 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 4. Permissions and Restrictions

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

A) Sales are only permitted on or between June 1st through July 5th and December 26th and January 2nd of each calendar year.

B) All distributors, manufacturers and retailers must be licensed through the appropriate New York state agency.

Only those over the age of 18 may purchase said products.

Section 5. Applicability

This law shall apply to any and all actions occurring on or after the effective date of this 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, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this 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 after it is filed with the New York State Secretary of State.

The vote resulted as follows:

Ayes:	13	(Legislators Carey, Diaz, Earl, Grant, Jobson, Low-Hogan, Meyers, Murphy, Paul, Schoenberger, Soskin, Hood, Jr., Wolfe)
Nays:	02	(Legislators Cornell, Moroney)
Absent:	02	(Legislators Hofstein, Wieder)

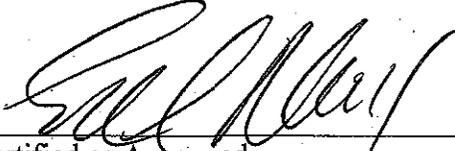
STATE OF NEW YORK)
) ss.:
COUNTY OF ROCKLAND)

I, the undersigned, Clerk to the Legislature of the County of Rockland DO HEREBY CERTIFY that the attached is an original Local Law of such Legislature, duly adopted on the 1st day of September 2015 by a majority of the members elected to the Legislature while such Legislature was in regular session with a duly constituted quorum of members present and voting.

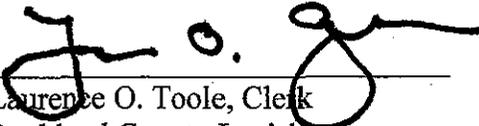
I FURTHER CERTIFY that at the time said Local Law was adopted said Legislature was comprised of seventeen members.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Legislature this 2nd day of September 2015.

Date sent to the County Executive:
September 2, 2015



Certified or Approved
Edwin J. Day
County Executive, County of Rockland



Laurence O. Toole, Clerk
Rockland County Legislature
9/2/15

(date)

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