

# OFFICE OF THE CLERK OF THE LEGISLATURE

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## NOTICE OF ADOPTION

Per Section 214 of the County Law, you are hereby notified that on June 15, 2017, the Oswego County Legislature adopted the following:

**COUNTY OF OSWEGO LOCAL LAW NUMBER 2 OF 2017**  
**“A LOCAL LAW ALLOWING FOR COMMON, SAFE ITEMS TO BE EXCLUDED**  
**FROM THE DEFINITION OF DANGEROUS FIREWORKS AS PERMITTED BY NEW**  
**YORK STATE PENAL LAW§405 (5)(b)”**

Copies of Local Law #2 of 2017 are posted in the Oswego County Courthouse on East Oneida Street in Oswego, at the County Clerk’s Office at 46 E. Bridge Street in Oswego and are available upon request to Christopher Jones, Clerk of the Legislature at 46 E. Bridge Street, Oswego, NY 13126, by phone at 315-349-8230 or by e-mail at [chris.jones@oswegocounty.com](mailto:chris.jones@oswegocounty.com)

By Order of the Oswego County Legislature  
June 15, 2017  
Christopher A. Jones, Clerk

**COUNTY OF OSWEGO  
LOCAL LAW NUMBER 2 of 2017**

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

**BE IT ENACTED** by the Legislature of the County of Oswego as follows:

**SECTION 1. Legislative Intent**

- A. Whereas, Governor Cuomo signed into law Chapter 477 of the Laws of 2014 (S.7888/A10141); and
- B. Whereas, the State of New York amended the 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 as they pose little to no danger to the public and said designation only restricts business and personal enjoyment; and
- C. Whereas, the recent state law amendments permit strong home rule authority, only allowing certain fireworks to be sold and used in municipalities which affirmatively enact a local law authorizing such action; and
- D. Whereas, this Legislature finds and determines that “sparkler devices” may be sold and enjoyed, only in the manner described below, within Oswego County; and
- E. Whereas, this Legislature further finds and determines that allowing our residents the use of safe “sparkler devices” will benefit them and our local businesses; and
- F. Whereas, the National Fire Protection Association adopted a recommended safety code (NFPA 1124) for the manufacture, transportation, storage and retail sales of fireworks; and
- G. Whereas this local law and the enabling state legislation are compliant with the safety standards established in NFPA 1124; and.
- H. Whereas, this Legislature further finds that the sale and use of “sparkler devices” should be permitted subject to the following restrictions:
  - 1) Sales will only be permitted on or between June 1<sup>st</sup> through July 5<sup>th</sup> and December 26<sup>th</sup> and January 2<sup>nd</sup> 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.
  - 4) Nothing herein shall permit a person from offering or exposing for sale, selling or furnishing any dangerous fireworks, fireworks or sparkling devices to persons under the age of 18 years of age.

**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 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 as described below:

(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. Sale and Use of Sparkling Devices Permitted within Oswego County**

1. The sale and use of sparkling devices as defined in this local law be and are hereby authorized within the County of Oswego strictly subject to the following restrictions:
  - a. Sales within the County of Oswego shall only be permitted on or between June 1<sup>st</sup> through July 5<sup>th</sup> and December 26<sup>th</sup> and January 2<sup>nd</sup> of each calendar year.
  - b. All distributors, manufacturers and retailers selling sparkling devices within the County of Oswego shall be licensed through the New York State Department of State.
  - c. Only persons eighteen (18) years of age or older may purchase or use sparkling devices.
  - d. Nothing contained in this local law shall permit a person from offering or exposing for sale, selling or furnishing any dangerous fireworks, fireworks or sparkling devices to persons under the age of eighteen (18) years of age contrary to the applicable provisions of the New York State Penal Law.

### **SECTION 4. 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 5. Effective Date**

This law shall take effect immediately upon filing with the Secretary of State, 2017.