

# Warren County Board of Supervisors

## RESOLUTION NO. 476 OF 2021

**RESOLUTION INTRODUCED BY SUPERVISORS BEATY, LEGGETT, WILD, CONOVER AND DIAMOND**

**INTRODUCING PROPOSED LOCAL LAW NO. 10 OF 2021, ENTITLED “A LOCAL LAW OF THE COUNTY OF WARREN, NEW YORK, REPEALING LOCAL LAWS 3 OF 2015, 2 OF 2016 AND 3 OF 2016 AND PROHIBITING THE USE AND SALE OF SPARKLING DEVICES IN WARREN COUNTY”, AND AUTHORIZING PUBLIC HEARINGS THEREON**

*RESOLUTION AMENDED FROM THE FLOOR*

WHEREAS, Resolution No. 223 of 2015 enacted Local Law No. 3 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 405.00 (5)(b),” and

WHEREAS, Resolution No. 238 of 2016 enacted Local Law No. 2 of 2016, entitled “A Local Law Amending 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)’ - by adding new Section 3 A. (4),” and

WHEREAS, Resolution No. 239 of 2016 enacted Local Law No. 3 of 2016, entitled “A Local Law Amending 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)’ - by adding new Section 7 and renumbering the existing Section 7 to Section 8,” now, therefore, be it

RESOLVED, that upon adoption of Local Law No. 10 of 2021, Resolution Nos. 223 of 2015, 238 of 2016 and 239 of 2016 shall be rescinded accordingly, and be it further

RESOLVED, that proposed Local Law No. 10 of 2021 entitled “A Local Law of the County of Warren, New York, Repealing Local Laws 3 of 2015, 2 of 2016 and 3 of 2016 and Prohibiting the Use and Sale of Sparkling Devices in Warren County,” attached hereto and made a part hereof, be, and the same hereby is, introduced before the Warren County Board of Supervisors, and in order to give interested

***RESOLUTION NO. 476 OF 2021***

***PAGE 2 OF 4***

members of the public the opportunity to be heard thereon, the Board of Supervisors shall hold two (2) public hearings on the matter of the adoption of said proposed Local Law No. 10 of 2021 which shall be held:

1. Through a special meeting of the Governmental Operations & Advocacy Committee, to be held on December 15, 2021 at 7:00 p.m. in the Supervisors' Room at the Warren County Municipal Center, 1340 State Route 9, Lake George, NY 12845; and
2. During the next regular meeting of the Board of Supervisors, to be held on December 17, 2021 at 10:00 a.m. in the Supervisors' Room at the Warren County Municipal Center, 1340 State Route 9, Lake George, NY 12845

and be it further

RESOLVED, that the Clerk of the Board of Supervisors be, and hereby is, authorized and directed to give notice of such public hearings in the manner provided by law.

**COUNTY OF WARREN  
PROPOSED LOCAL LAW NO. 10 OF 2021**

**A LOCAL LAW OF THE COUNTY OF WARREN, NEW YORK, REPEALING LOCAL LAWS  
3 OF 2015, 2 OF 2016 AND 3 OF 2016 AND PROHIBITING THE USE AND SALE OF  
SPARKLING DEVICES IN WARREN COUNTY**

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

SECTION 1. Repeal of Local Law 3 of 2015

Local Law No. 3 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 405.00 (5)(b)” is hereby repealed upon the effective date of this law.

SECTION 2. Repeal of Local Law 2 of 2016

Local Law No. 2 of 2016, entitled “A Local Law Amending 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)’ - by adding new Section 3A. (4)” is hereby repealed upon the effective date of this law.

SECTION 3. Repeal of Local Law 3 of 2016

Local Law No. 3 of 2016, entitled “ A Local Law Amending 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)’- by adding new Section 7 and renumbering the existing Section 7 to Section 8” is hereby repealed upon the effective date of this law.

SECTION 4. Legislative Intent.

The New York State Legislature approved, and the Governor of New York signed into law, Chapter 477 of the Laws of 2014 that amended the New York 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.

The Governor signed this bill into law in part due to New York’s 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.

Thereafter, Chapter 371 of the Laws of 2017 amended the previous grant of home rule authority, and legalized the sale and use of sparkling devices throughout the state, outside of New York City. This amendment did not require County’s to opt-in, instead it allowed them to opt-out.

Since the passage of Local Law Nos. 3 of 2015, 2 of 2016 and 3 of 2016, which legalized sparkling

devices in Warren County, significant problems have arisen due to members of the public engaging in the practice of lighting off fireworks at all hours of the night. The scope and use of sparkling devices anticipated in 2015 and 2016 when Warren County opted-in has grown into something entirely different. These devices are far more powerful than originally envisioned. This has significantly affected the quality of life and safety of the residents of the County. While this Legislature cannot stop the conduct of all those using sparkling devices irresponsibly, it can do its part to limit their ability to obtain these tools of nuisance.

Therefore, the purpose of this Local Law is to prohibit the previously believed to be safe sparkling devices from being sold or used in Warren County.

**SECTION 5.** Definitions

“Sparkling Devices” are defined in Section 270.00 of the New York Penal Law.

**SECTION 6.** Prohibitions

The sale and use of sparkling devices is hereby prohibited within the County of Warren.

**SECTION 7.** Penalties

- (i) Any person who shall use or explode a sparkling device, or cause an exploding device to be exploded, shall be guilty of a violation punishable by a fine not to exceed \$500;
- (ii) Any person who offers a sparkling device for sale, or sells or furnishes a sparkling device to another person or persons, shall be guilty of a Class B misdemeanor, punishable by a fine of \$1,000 and fifteen (15) days in jail.

**SECTION 8.** Applicability

This law shall apply to all actions occurring on or after the effective date of this law.

**SECTION 9.** Severability

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 10.** State Environmental Quality Review Act Compliance

This County Legislature determines that the adoption of this Local Law constitutes a “Type II action” as said term is defined in the State Environmental Quality Review Act (“SEQRA”), and that no further action with respect to same is required under SEQRA.

**SECTION 11.** Effective Date

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