

Warren County Board of Supervisors

RESOLUTION NO. 531 OF 2021

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

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 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

WHEREAS, the Board of Supervisors adopted Resolution No. 476 of 2021 on November 19, 2021, authorizing a public hearing to be held through a special meeting of the Governmental Operations & Advocacy Committee on the 15th day of December, 2021 at 7:00 p.m. and a public hearing to be held by the Board of Supervisors on the 17th day of December, 2021 at 10:00 a.m. on the matter of the proposed Local Law, ad notice of such public hearings having been duly published and posted as required by law, and said public hearings having been held and all persons appearing at said public hearings to be heard, having been heard, now, therefore, be it

RESOLVED, that the Board of Supervisors of the County of Warren, New York, on this 17th day of December, 2021, does hereby enact and adopt Local Law No. 10 of 2021 as annexed hereto, and be it further

RESOLVED, that the Chair of the Board of Supervisors, Clerk of the Board of Supervisors, 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. 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from the Dangerous Fireworks Definition as Permitted by New York State Penal Law Section 405.00 (5)(b)” is hereby repealed upon the effective date of this law.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.