

**GOVERNMENTAL OPERATIONS & ADVOCACY**

**AGENDA**

**OCTOBER 18, 2021**

***Committee Members: Supervisors Beaty, Leggett, Wild, Conover and Diamond***

- I. Committee meeting called to order by Committee Chair
- II. Approval of minutes of prior Committee meeting
- III. Action Agenda/New Business Items: None.
- IV. Discussion Items: None.
- V. Referrals/Pending Items:
  - 1) Discussion regarding Warren County Local Laws pertaining to the sale of fireworks to continue with the Committee requesting the Director of the Office of Emergency Services provide statistics pertaining to injuries sustained as a result of the use of fireworks, comparing the figures for those sustained before and after the County's Local Laws were enacted; and Clerk of the Board to reach out to the City of Glens Falls Common Council for their feelings on the possibility of the County's Local Laws being rescinded and report back to the Committee. (07.19.21)
  - 2) Referral from the Finance Committee regarding the abandonment and clean-up of Town of Johnsbury Tax Map Parcel No. 133.8-1-27 (*Mosher's Garage*), and to consider exploring the possibility of adopting a local law permitting the County to hold property owners of polluted properties who abandoned them accountable and be entitled to recoup any money spent on cleanup efforts. (07.29.21) Update: It was determined the County Attorney would review and determine what options were available to the County and would provide an update at the next Committee meeting. (11.23.21)
  - 3) It was the consensus of the Committee to hold off on discussion regarding Cattaraugus County declaring themselves a constitutional County which was brought forward by Supervisor Bruno until the next Committee meeting to allow the Committee time to review and research the matter. (09.20.21)
- VI. Privilege of the Floor to discuss any additional items to come before the Committee
- VII. Motion to adjourn

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Attachments:

- Discussion Item 1 - Fireworks Local Laws enacted by Resolution Nos. 223 of 2015; 238 of 2016; 239 of 2016;  
- Village of Lake George Resolution No. 131 of 2021 which requests that the Warren County Board of Supervisors ban the sale of fireworks within Warren County permanently.  
- Laws of Schenectady County, Chapter 405, "*Allowing for Certain Items to be Excluded from the Dangerous Fireworks Definition as Permitted by Section 405.00 of the New York State Penal Law*"  
- Albany County Local Law No. "H" for 2020, "*A Local Law of the County of Albany, New York, Repealing Local Law No. 1 for 2016 and Prohibiting the Use and Sale of Sparkling Devices*"  
- Nassau County Local Law No. 10 of 2018, "*A Local Law to Amend the Nassau County Administrative Code to Prohibit the Use and Sale of Sparkling Devices*"
- Discussion Item 3 - Cattaraugus County Act No. 329-2021, "*Opposing Infringements on the Inalienable Rights of the People and Declaring Cattaraugus County a Constitutional County and Amending the Mission Statement of the County to Conform Therewith*"

# 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

**RESOLUTION NO. 223 OF 2015**

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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.

# Warren County Board of Supervisors

## RESOLUTION NO. 238 OF 2016

**Resolution introduced by Supervisors Conover, Seeber, Sokol, Simpson, Merlino, Dickinson, Girard, Frasier, Beaty, McDevitt and Braymer**

### TO ENACT LOCAL LAW NO. 2 OF 2016

WHEREAS, proposed 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)", attached hereto and made a part hereof, be, and the same hereby was duly presented to the Warren County Board of Supervisors and considered by them, and

WHEREAS, the Board of Supervisors adopted Resolution No. 194 of 2016 on April 15, 2016, authorizing a public hearing to be held by the Board of Supervisors on the 20<sup>th</sup> day of May, 2016 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 public hearing having been 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, that the Board of Supervisors of the County of Warren, New York, on this 20<sup>th</sup> day of May, 2016 does hereby enact and adopt Local Law No. 2 of 2016 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.

**Schedule "A"**

**COUNTY OF WARREN LOCAL LAW NO. 2 OF 2016**

**"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 A NEW SECTION 3 A.(4)"**

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

**SECTION 1. Purpose.** The purpose of this Local Law is to add a new Section 3 A.(4) to the above Local Law to read "4) Upon any sale allowed and regulated by this Local Law the seller must give to the purchaser or include with the packaged and sold items a safety brochure that includes safety instructions applicable to the items sold in the particular transaction then occurring. Posting or making such instructions available at the point of sale shall not satisfy the requirements of this paragraph."

**SECTION 2.** Except as otherwise amended herein, all provisions of Local Law No. 3 of 2015 shall remain as is and in full force and effect.

**SECTION 3. Effective Date.** This Local Law shall take effect immediately upon filing with the Secretary of State.

# Warren County Board of Supervisors

## RESOLUTION NO. 239 OF 2016

**Resolution introduced by Supervisors Braymer and Montesi**

### **TO ENACT LOCAL LAW NO. 3 OF 2016**

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 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", and

WHEREAS, the Board of Supervisors adopted Resolution No. 199 of 2016 on April 15, 2016, authorizing a public hearing to be held by the Board of Supervisors on the 20<sup>th</sup> day of May, 2016, 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 20<sup>th</sup> day of May, 2016, does hereby enact and adopt Local Law No. 3 of 2016 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.

**Schedule "A"**

**COUNTY OF WARREN LOCAL LAW NO. 3 OF 2016**

**"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 A NEW SECTION 7 AND RENUMBERING THE EXISTING SECTION 7 AS SECTION 8"**

WHEREAS, in view of the ability of merchants, pursuant to Local Law No. 3 of 2015, to sell certain common, safe items for limited time periods every year, and

WHEREAS, municipalities in Warren County that have transient merchant laws, or similar provisions of rule or law, wish to protect the interests of those laws, and

WHEREAS, to protect the integrity of those laws and to protect the adjoining land owners where such sales may take place, and to protect the public at large by ensuring the protections of such laws are implemented in relation to temporary sales, now, therefore,

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

**SECTION 1. Purpose.** The purpose of this Local Law is to add a new SECTION 7 to the above Local Law to read "This Local Law No. 3 of 2015 shall not supersede or render inapplicable any local law, ordinance, policy or requirement of any municipality in Warren County."

**SECTION 2.** The existing "SECTION 7" shall be renumbered to "SECTION 8".

**SECTION 3.** Except as otherwise amended herein, all provisions of Local Law No. 3 of 2015, shall remain as is and in full force and effect.

**SECTION 4. Effective Date.** This Local Law shall take effect immediately upon filing with the Secretary of State.

Trustee Perry, seconded by Trustee Root offered the following resolution:

**VILLAGE OF LAKE GEORGE RESOLUTION NO. 131, 2021**

**WHEREAS the Warren County Board of Supervisors are considering rescinding a law that permits the sale of Fireworks within Warren County; and**

**WHEREAS the Lake George Village Board affords residents and visitors alike the opportunity to enjoy professional, spectacular shows weekly and all holidays; and**

**WHEREAS, the use of fireworks of any nature by the public are dangerous, unsafe and disturbing; and**

**WHEREAS, the sale of such fireworks from temporary enclosures, by transient vendors are unsightly, unsafe and have no redeeming value;**

**BE IT RESOLVED that the Village Board of Trustees of the Village of Lake George does hereby respectfully ask the Warren County Board of Supervisors to ban the sale of fireworks within Warren County permanently.**

**VOTING      Ayes: 5      Blais, Earl, Mastrodomenico, Perry, Root  
                 Nays: 0**

**RESOLUTION NO. 131, 2021 ADOPTED.**

**August 16, 2021**

**Chapter 405. ALLOWING FOR CERTAIN ITEMS TO BE EXCLUDED FROM THE DANGEROUS FIREWORKS DEFINITION AS PERMITTED BY SECTION 405.00 OF THE NEW YORK STATE PENAL LAW**

[HISTORY: Adopted 5-12-2015 by Local Law 3-2015. REPEALED 5-9-17 by Local Law 1-2017. Amended by Local Law 3-2018.]

**Section 405.01. Legislative Intent.**

1. On October 23, 2017 Governor Andrew Cuomo signed into law Chapter 371 of the Laws of 2017, entitled An Act to amend the penal law, in relation to authorizing the sale and possession of sparkling devices outside of cities with a population of one million or more;
2. This law amended the Penal Law to authorize the sale and possession of sparkling devices outside of cities with a population of one million or more
3. This law allows a county to enact a local law to prohibit the sale and use sparkling devices within its jurisdiction.

**Section 405.02. Definitions.**

“Sparkling Devices” as used in this local law, include:

1. “Sparkling Devices” which are 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:
  - (a) 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.
  - (b) 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.

(c) 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.

2. 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 405.03. Prohibition.**

1. This Governing Body finds that the sale, possession, exploding or causing to explode, or use of "sparkler devices" is not permitted in the County of Schenectady.
2. Except where a permit is obtained from a permit authority, any person who shall possess, use, explode or cause to explode any "sparkler devices" shall be guilty of a violation, as such term is defined in the Penal Law, and the court shall impose sentence upon a person convicted of such offense as prescribed in the Penal Law, provided, however, a sentence to pay a fine shall be an amount not to exceed one hundred dollars.
3. Except where a permit is obtained from a permit authority, any person who shall offer or expose for sale, sell or furnish, any "sparkler devices" shall be guilty of a class B misdemeanor, as such term is defined in the Penal Law, and the court shall impose sentence upon a person convicted of such offense as prescribed in the Penal Law, provided, however, a sentence to pay a fine shall be an amount not to exceed three hundred fifty dollars.

4. Except where a permit is obtained from a permit authority, any person who shall offer or expose for sale, sell or furnish, any “sparkler devices” valued at five hundred dollars or more shall be guilty of a class A misdemeanor, as such term is defined in the Penal Law, and the court shall impose sentence upon a person convicted of such offense as prescribed in the Penal Law, provided, however, a sentence to pay a fine shall be an amount not to exceed seven hundred fifty dollars.
5. Except where a permit is obtained from a permit authority, any person who shall offer or expose for sale, sell or furnish, any “sparkler devices” to any person who is under the age of eighteen shall be guilty of a class A misdemeanor, as such term is defined in the Penal Law, and the court shall impose sentence upon a person convicted of such offense as prescribed in the Penal Law, provided, however, a sentence to pay a fine shall be an amount not to exceed seven hundred fifty dollars.

**Section 405.04. Exceptions.**

The provisions of this local law shall not apply to:

1. “Sparkling devices” while in possession of railroads, common or contract carriers, retailers, wholesalers, distributors, jobbers and transportation companies or transportation agencies for the purpose of transportation to points without the state, the shipment of which is not prohibited by interstate commerce commission regulations as formulated and published from time to time, unless they be held voluntarily by such railroads, common or contract carriers, retailers, wholesalers, distributors, jobbers and transportation agencies or transporting companies as warehouseman for delivery to points within the state.
2. Signaling devices used by railroad companies or motor vehicles referred to in subdivision seventeen of section three hundred seventy-five of the vehicle and traffic law.
3. “Sparkling devices” for the use thereof by the United States military, and departments of the state and federal government.
4. The use, transportation, storage or sale or transfer for use of “sparkling devices” in the preparation for or in connection with motion pictures, television programs, commercials, and all entertainment media recorded in any current or to be designed format when such use, transportation and storage has been appropriately permitted by Schenectady County.
5. The manufacture, possession, or sale at wholesale of a “sparkling device” to a municipality, religious or civic organization, fair association, amusement park or other organizations authorized by the state to store, transport, possess and use “sparkling devices.”

6. The manufacture or sale of “sparkling devices” provided they are to be shipped directly out of the county.

**Section 405.05. Separability.**

If any clause, sentence, paragraph, subdivision, section or part of this 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 405.06. Effective Date.**

This law shall take effect immediately after its final adoption, filing and publication in accordance with section 27 of the Municipal Home Rule Law and section 2.12 of the Charter of the County of Schenectady.

## LOCAL LAW NO. "H" FOR 2020

### A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, REPEALING LOCAL LAW 1 FOR 2016 AND PROHIBITING THE USE AND SALE OF SPARKLING DEVICES

Introduced: 7/13/20

By Messrs. Peter, R. Joyce, Ward, A. Joyce and Ricard:

BE IT ENACTED by the Albany County Legislature as follows:

#### SECTION 1. Repeal of Local Law 1 for 2016

Local Law 1 for 2016, "A Local Law of the County of Albany, New York, Allowing for Common, Safe Items to be Excluded from the Dangerous Fireworks Definition as Permitted by New York State Penal Law Section 405 (b)" is hereby repealed upon the effective date of this law.

#### SECTION 2. 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 Law 1 for 2016, which legalized sparkling devices in Albany 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 sparking devices anticipated in 2016 when Albany 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 sparking 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 Albany County.

### Section 3. Definitions

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

### Section 4. Prohibitions

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

### Section 5. 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 6. Applicability

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

### Section 7. 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 8. 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 9. Effective Date

This law shall take effect January 3, 2021.

*Referred to Audit and Finance and Law Committees – 7/13/20*

Submitted by the County Executive and Introduced by  
Presiding Officer Richard Nicoletto

LOCAL LAW NO.10 - 2018

A LOCAL LAW TO AMEND THE NASSAU COUNTY  
ADMINISTRATIVE CODE TO PROHIBIT THE USE AND SALE OF SPARKLING  
DEVICES.

Passed by the Nassau County Legislature on May 23, 2018.

Voting: Ayes: 18, Nays:0, Abstained : 0

Became a law on June 12, 2018 with the approval of the County Executive  
June 12, 2018

APPROVED AS TO FORM

*Roni Anderson*

Deputy County Attorney

WHEREAS, the New York State Legislature approved, and the Governor of New York signed into law, Chapter 371 of the Laws of the State of New York legalizing the sale and use of sparkling devices throughout the state, outside of New York City; and

WHEREAS, the state legislation that legalized sparkling devices also authorized counties to enact local legislation to prohibit the sale and use of sparkling devices within their jurisdiction; and

WHEREAS, sparkling devices cause a significant percentage of all injuries that are caused by fireworks each year; and

WHEREAS, sparkling devices cause a majority of all fireworks injuries suffered by children under the age of five years old; and

WHEREAS, the use and storage of sparkling devices pose a significant injury and fire risk, particularly in a densely populated area like Nassau County; now therefore,

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. Chapter XVII of the Nassau County Administrative Code is amended to read as follows:

Title A.

Prohibition of the Use and Sale of Sparkling Devices

§17-1.0	Definitions
§17-2.0	Prohibitions
§17-3.0	Penalties
§17-4.0	Applicability

§17-1.0      **Definitions.**

As defined in this law, the following term shall have the meaning indicated:

“Sparkling Devices” – as defined in Section 270.00 of New York Penal Law.

§17-2.0      **Prohibitions.**

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

§17-3.0      **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.

§17-4.0 **Applicability.**

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

§2 Severability. If any clause, sentence, paragraph, subdivision, section, or part of this 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 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.

§3 It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act (SEQRA), 8 N.Y.E.C.L. Section 0101 et seq. and its implementing regulations, Part 617 of Title 6 of 6 N.Y.C.R.R. and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

§4 This local law shall take effect immediately.

APPROVED

County Executive

DATE 6/12/18

**ACT NO. 328-2021** by Mrs. Andreano

**AUTHORIZING THE CHAIR TO EXECUTE LEASE AGREEMENT WITH  
CATTARAUGUS COUNTY COMMUNITY SERVICES BOARD AND OLEAN MEDICAL GROUP, LLP  
FOR DEPARTMENT OF COMMUNITY SERVICES OFFICE SPACE**

Pursuant to Section 450 of the County Law.

WHEREAS, Act 323-2019 authorized a lease agreement with the Olean Medical Group, LLP, 535 Main Street, Olean, New York 14760, for the leasing of general medical office space and access to common area space in its facility for individual counseling services to children, adolescents and adults at the Olean Medical Group, the term of which expires August 31, 2021, and

WHEREAS, the Cattaraugus County Community Services Board is desirous of renewing the aforementioned lease, and

WHEREAS, the Olean Medical Group, LLP, shall lease approximately 360 square feet of general medical space and grant access to approximately 1,890 square feet of common area space in its facility to the Cattaraugus County Community Services Board for an amount of \$400.00 per month, for an amount of \$4,800.00 per year, to be paid on a monthly basis, as invoiced, and

WHEREAS, sufficient funds are included in the budget to cover the cost of the aforementioned leased space, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a lease agreement, between the Cattaraugus County Community Services Board and Olean Medical Group, LLP, to signify the County's approval, for the provision of the above-described leased space, for a term commencing September 1, 2021 and terminating August 31, 2022, with the option to extend the lease for one (1) additional year to August 31, 2023 at the same rates, terms and conditions, if acceptable to both parties, according to the above-described terms.

Approved by 5 members of the Finance Committee and 5 members of the Human Services Committee.

Adopted August 25, 2021 by voice vote.

**ACT NO. 329-2021** by Mrs. Andreano, Mr. Benson, Mrs. Hunt,  
Mr. Morrow, Ms. Schröder, Mr. Snyder and Mr. VanRensselaer  
and Mr. Boberg, Mr. Brisky, Mr. Burr, Mr. Helmich, Mr. Higgins,  
Mr. Klancer, Mr. Marsh, Mr. Parker, Mr. Smith and Mr. Koch<sup>1</sup>

**OPPOSING INFRINGEMENTS ON THE INALIENABLE RIGHTS OF THE PEOPLE AND  
DECLARING CATTARAUGUS COUNTY A CONSTITUTIONAL COUNTY AND  
AMENDING THE MISSION STATEMENT OF THE COUNTY TO CONFORM THEREWITH**

Pursuant to Section 153 of the County Law.

WHEREAS, members of the Cattaraugus County Legislature, being elected to represent the people of Cattaraugus County, are duly sworn by their oath of office to uphold the Constitution of the United States and the New York State Constitution and Laws, including the New York State Civil Rights Law, and

WHEREAS, the Cattaraugus County Legislature is determined to stand as a Constitutional County to protect the rights provided to its citizens under the U.S. Constitution and its amendments, and

WHEREAS, such protections will extend to rights specifically enumerated in the Constitution and its amendments, including, but not limited to, rights to freedom of expression, speech, association, religion, press and petition, the right to keep and bear arms, the right to protection of person and property from government overreach and the right not to be deprived of life, liberty or property without due process of law, and

WHEREAS, such protections will also extend to all other rights neither enumerated in the Constitution nor its amendments, but which exist alongside the same as inalienable, basic, fundamental rights that are so deep rooted in our society that they are deserving of protection from governmental infringement and are thus protected by the Ninth Amendment, including, but not limited to, the right to equality, liberty and the pursuit of livelihood and happiness, and

WHEREAS, the Cattaraugus County Legislature wishes to express its profound commitment to the rights of all citizens of Cattaraugus County to keep and bear arms and proclaim that it is determined to stand as a Constitutional County that recognizes, respects and upholds Second Amendment rights, and states that it will use all legal means at its disposal to oppose, within the limits of the Constitution of the United States and the Civil Rights Law of the State of New York, any efforts to unconstitutionally restrict such rights in order to assure that its citizens will be able to keep and bear arms and use the same in defense of life, liberty and property, whether in a well-regulated militia, or individually, and

WHEREAS, the Cattaraugus County Legislature stands and will continue to stand in strong opposition to any law that would unconstitutionally restrict, or infringe upon, the above recognized rights, and

WHEREAS, the goal statement on the Cattaraugus County webpage ([www.cattco.org/government](http://www.cattco.org/government)) currently states: "The goal of County government and the County Legislature is to provide the traditional role as an arm of State government, while also taking a more non-traditional role which seeks to establish the County as an agency that analyzes service needs, sorts them in an orderly manner, and realigns and consolidates services so they may be performed most effectively and financed most economically", and

WHEREAS, this current mission (goal) statement fails to recognize the Constitutional, historical, and rightful role of the Legislature to act as a check and balance upon not only local executive and judicial branches, but upon the State government itself, and

WHEREAS, this current mission (goal) statement fails to recognize the Constitutional, historical, and rightful role of the legislature as a voice of the People of Cattaraugus County and a guarantor of their liberties, now, therefore, be it

RESOLVED, that the mission (goal) statement shall be revised to state: "The goal of the Cattaraugus County Government is to support and respect the Constitution of the United States of America and its amendments, and to provide essential services financed most economically to its citizens. Also, it is to establish an environment in which the citizens of Cattaraugus County can pursue life, liberty, and happiness unencumbered by excessive and oppressive governmental mandates and intrusions into their day-to-day lives. The goal of the government of this County is to uphold the freedoms enshrined in the Bill of Rights. The County Legislature recognizes that governments in the United States of America - at all levels - are to be restrained and limited and that the power of government resides in the people. The Legislators of this County, accept with humility and gratitude the reality that they serve at the consent of the governed and at the will of the people. The Legislators believe in the rule of law, equality before the law, due process, private property protections, and the rights of citizens to pursue their livelihoods without excessive governmental oversight. Wherever possible, the Legislature will encourage local solutions, local funding, and creative approaches to the problems our community encounters. The

Legislature stands as a protector between the citizens of this County and the tendency of governments at state and federal levels to advance into territory not their own and consume, rather than secure, the liberties endowed to the people by the Constitution and the Bill of Rights. The County's guide and standard will be the Constitution of the United States and the Founding Documents upon which our Nation, our State, and the local communities of Cattaraugus County are built", and be it further

RESOLVED, that the Cattaraugus County Legislature hereby expresses its intent to uphold all such rights of the citizens of Cattaraugus County and that public funds, resources, employees, buildings or offices not be used to restrict such rights or to aid or assist in the enforcement of any restriction of the rights granted under the Constitution or its Bill of Rights (such constitutionality to be determined by the Courts), and be it further

RESOLVED, that the Cattaraugus County Legislature recognizes that Government must be limited and that the people must be free from unnecessary and arbitrary Governmental overreach and intrusions, and be it further

RESOLVED, that the Cattaraugus County Legislature hereby declares Cattaraugus County, New York, a Constitutional County, unwavering in its commitment to protect the constitutional rights of its citizens.

Approved by 5 members of the Finance Committee.

<sup>1</sup>The following Legislators requested their names be listed as additional sponsors: "Mr. Boberg, Mr. Brisky, Mr. Burr, Mr. Helmich, Mr. Higgins, Mr. Klancer, Mr. Marsh, Mr. Parker, Mr. Smith and Mr. Koch".

MR. BRISKY and MR. BURR requested a Roll Call vote, which disclosed as follows:

Ayes: Andreano, Benson, Boberg, Brisky, Burr, Helmich, Higgins, Koch, Marsh, Morrow, Parker, Schröder, Smith, Snyder, VanRensselaer -15.

Nays: none.

Act No. 329-2021, having received a unanimous vote of the Legislature, was declared Adopted.

\* \* \* \* \*

MR. MARSH moved, seconded by Mr. Koch, to waive Rule 12, pursuant to Rule 33.1, regarding Act No. 330-2021 through Act No. 336-2021. Carried.

\* \* \* \* \*

~~ACT NO. 330-2021 by Mr. VanRensselaer  
who asks immediate consideration~~

~~APPOINTMENTS TO COMMUNITY SERVICES BOARD~~

~~Pursuant to Section 41.11 of the Mental Hygiene Law.~~

~~RESOLVED, that the following individuals are appointed to the Community Services Board effective July 23, 2021:~~