

LOCAL LAW “1” OF 2015 A Local Law Allowing for Common, Safe Items to be Excluded from the “Fireworks” and “Dangerous Fireworks” Definitions as Permitted by New York State Penal Law Section 405.00(5)(B)

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

Section 1

Legislative Intent

The Cortland County Legislature hereby finds that the intent of this Local Law is to exercise the authority granted to Cortland County pursuant to New York State Penal Law Section 405.00 subdivision 5 (b) to authorize the exemption of “sparkling device” from the definition of “fireworks” and “dangerous fireworks” contained in New York State Penal Law Section 207.00. Certain fireworks should not be labeled dangerous when they pose little or no danger to the public and labeling them as dangerous only serves to restrict business and personal enjoyment. The sale and/or use of “sparkling devices” as herein defined shall be lawful and permitted within Cortland County.

Section 2.

Definitions

A. “**Sparkling Devices**” as used in this section, includes:

- (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 not more than 75 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 200 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 ½ inch (12.7 millimeters), a maximum total weight of 500 grams of pyrotechnic composition shall be allowed.

- b.) Cone fountain: cardboard or heavy paper cone containing not more than 50 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 200 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 100 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 16 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 72 devices.
 - b.) Snapper: small, paper-wrapped devices containing not more than 1 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 50 devices each, and the inner packages must contain sawdust or similar, impact-absorbing material.

Section 3.

Permitted Sale and/or Use of Sparkling Devices

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

- (1) Pursuant to New York State General Business Law Section 392-j, and any amendments thereto, sales will only be permitted on or between the following dates:

On or between June 1st and July 5th; or on or between December 26th and January 2nd each year.

- (2) All distributors, manufacturers, wholesalers, and retailers of sparkling devices must be licensed through the New York State Office of Fire Prevention and Control or other agency so designated by New York State, and shall comply with Executive Law Section 156-h and any amendments thereto, as well as all other applicable New York State Laws and regulations regarding license and registration requirements.

- (3) Only those persons eighteen (18) years of age or older may purchase said products.

Section 4.

Non-compliance

The failure to comply with the provisions of this Local Law shall be deemed an offense as set forth in New York State Penal Law section 270.00 subdivision 2.

Section 5.

Severability

If any provision of this local law or the application thereof to any person or circumstance is held to be invalid, the remainder of this local law and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 6.

Effective Date

This Local Law shall take effect upon filing in the Office of the Secretary of State as provided by Section 27 of the Municipal Home Rule Law.

STATE OF NEW YORK) SS:

COUNTY OF CORTLAND)

This is to certify that I, the undersigned, Clerk of the Cortland County Legislature, have compared the foregoing copy with the original now on file in this office, and that the above actions were passed by the Cortland County Legislature on the 28th day of May, 2015 and that the same is a correct and true transcript of such actions taken.

IN WITNESS WHEREOF I have hereunto set my hand
and the official seal of the CORTLAND COUNTY
LEGISLATURE, this 28th day of May, 2015.



Jeremy D. Boylan, Clerk of the Legislature
Cortland County