



Resolution No. 136-15

Setting Public Hearing On Local Law Introductory Number 2 Of 2015 (A Local Law Authorizing The Sale And Use Of Sparkling Devices)

WHEREAS, the Greene County Legislature is considering authorizing the sale and use of sparkling devices; and

WHEREAS, pursuant to Section 20 of the Municipal Home Rule Law, a public hearing is required to be held concerning Local Law Introductory Number 2 of 2015, a Local Law Authorizing The Sale And Use Of Sparkling Devices;

NOW, THEREFORE, BE IT RESOLVED, said Local Law Introductory Number 2 of 2015 is hereby submitted to the Greene County Legislature and is hereby postponed, pending the holding of a public hearing thereon, to the next Regular meeting of this Legislature; and be it further

RESOLVED, that the Clerk of the Legislature be directed to cause a legal notice of said public hearing to be published in the official newspaper within ten (10) days of adoption of this resolution and at least five (5) days prior to date of said hearing and to be posted in an appropriate location; and be it further

RESOLVED, that said public hearing shall be held in the 4th Floor Legislative Chambers, Greene County Office Building, 411 Main Street, Catskill, New York 12414 on Wednesday, May 20th, 2015 at 6:20 p.m.

ATTACHMENTS:

- Local Law Introductory Number 2 Of 2015 (PDF)

Meeting History

05/06/15 Economic Development & Tourism **MOVED FOR ADOPTION**

RESULT:	MOVED FOR ADOPTION [UNANIMOUS]
MOVER:	Linda H. Overbaugh, Legislator
SECONDER:	Vincent J. Seeley, Legislator
AYES:	Handel, Overbaugh, Hitchcock, Gardner, VanSlyke, Seeley, Lewis, Lawrence, Lennon

Current Meeting

05/06/15 Greene County Legislature **ADOPTED**

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Linda H. Overbaugh, Legislator
SECONDER:	Vincent J. Seeley, Legislator
AYES:	Gardner, Handel, Hatton, Hitchcock, Kozloski, Lawrence, Lennon, Lewis, Martinez, Overbaugh, Seeley, VanSlyke
ABSENT:	Kevin C. Lennon, Wayne C. Speenburgh

(8,706.5) (1,293.5)
 Ayes 12 Noes 0 Absent 2

cc: Trans
1- Co. Atty
1- Shuib
1- Emerg. Serv.
1- Ec. Dev.
 3. File - P. Hong
 - LL. 2 of 2015

APPROVED AS TO FORM
 EDWARD I. KAPLAN, ESQ.
 GREENE COUNTY ATTORNEY

LOCAL LAW INTRODUCTORY NO. 2 Of 2015

A Local Law Authorizing The Sale And Use Of Sparkling Devices

BE IT ENACTED, by the Legislature of the County of Greene, as follows:

SECTION 1. LEGISLATIVE FINDINGS.

The Greene County Legislature finds enacted State Law Chapter 477 of the Laws of 2014 amended the State Penal Law, the Executive Law, and the General Business Law with the intent to modernize the statute dealing with illegal fireworks, provide additional definitions of what constitutes fireworks and dangerous fireworks and remove certain novelty devices, which are not recognized as fireworks by the federal government, out of the definition of fireworks.

The Greene County Legislature finds the law, prior to the recently enacted changes, was not used effectively due to poor definitions and courts had thrown out indictments due to these poor definitions. Through the modernization of the statute and clearly defining the terms fireworks, dangerous fireworks and novelty devices, the new law provides law enforcement with an important tool in reducing the use of illegal fireworks and homemade devices and encourages the use of safe and legally regulated novelty devices.

The Greene County Legislature finds the new law allows sparkling devices to be sold and used in municipalities that affirmatively enact a local law authorizing the exclusion "sparkling devices" from the definitions of "fireworks" and "dangerous fireworks".

The Greene County Legislature finds that allowing residents and visitors the opportunity to use safe "sparkling devices" will benefit them and local businesses.

The Greene County Legislature finds that only those who 18 years of age or older may purchase sparkling devices and that the sparkling devices shall only be sold between June 1st and July 5th and December 26th and January 2nd of each calendar year.

The Greene County Legislature further finds that all distributors, manufacturers, and retailers of sparkling devices must comply with any and all State laws and regulations regarding registration requirements, including and without limitation, the New York State Office of Fire Prevention and Control.

SECTION 2. AUTHORIZED SALE AND USE OF SPARKLING DEVICES.

1. Pursuant to section 405 (5) (b) of the New York State Penal Law (Penal Law) and Penal Law Section 270 (3)(b)(v) as enacted by Chapter 477 of the Laws of 2014, "sparkling devices" shall be excluded from the definition of "fireworks" and "dangerous fireworks" as those terms are defined by Penal Law Sections 270(1)(a)(i) and 270(1)(b)

respectively.

2. The sale and use of "sparkling devices" as defined in Penal Law Section 270(1)(a)(vi) which is incorporated hereunder shall be lawful in Greene County provided such sale and use are not in violation of Section 270 of the Penal Law or any rules and regulations thereunder.

3. "Sparkling Devices" are defined as follows:

"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:

- (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 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:

(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. 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 4. EFFECTIVE DATE.

This local law shall take effect immediately upon filing with the New York State Secretary of State.