

212-18



Staff Summary

Subject: A Local Law to amend the Nassau County Administrative Code to prohibit the use and sale of sparkling devices
Department Fire Commission
Department Head Name: Scott D. Tusa
Department Head Signature
Date 5-2-18

Internal Approvals			
Date & Init.	Approval	Date & Init.	Approval
5/3/18	County Executive or Deputy Budget		Director of Legislative Affairs

Narrative

Purpose: This local law would amend Chapter XVII of the Nassau County Administrative Code to prohibit the use and sale of sparkling devices.

Discussion/Procedure: 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. 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.

Sparkling devices are ground based or handheld devices that produce a shower of colored sparks and/or a colored flame, audible crackling or whistling noise and smoke. Sparkling devices cause a significant percentage of all injuries that are caused by fireworks each year. Additionally, sparkling devices cause a majority of all fireworks injuries suffered by children under the age of five years old. The use and storage of such sparkling devices pose a significant injury and fire risk, particularly in a densely populated area like Nassau County. Due to the inherent injury and fire risks, Nassau County should prohibit the use and sale of sparkling devices.

Impact on funding: None.

Recommendation: Approve as submitted.

2018 MAY 11 A 10:26

SEAL OF NASSAU COUNTY
NEW YORK

LAURA CURRAN
County Executive



JARED A. KASSCHAU
County Attorney

County of Nassau Inter-Departmental Memo

To: Clerk of the County Legislature
From: County Attorney
Date: May 2, 2018
Subject: LOCAL LAW - ORIG. DEPT. – Fire Commission

A LOCAL LAW to amend the Nassau County Administrative Code to prohibit the use and sale of sparkling devices.

The above-described document is forwarded for your review and approval and subsequent transmittal to the County Legislature for inclusion upon its calendar.

Jared A. Kasschau
County Attorney

A handwritten signature in cursive script, reading "Kevin Hardiman".

By: Kevin Hardiman
Deputy County Attorney
Legal Counsel Bureau

Attachments

Submitted by the County Executive and Introduced by

PROPOSED LOCAL LAW NO. – 2018

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

APPROVED AS TO FORM

Kevin Hardman

Deputy County Attorney

2018 MAY -11 A P 26

RECEIVED
NASSAU COUNTY
CLERK OF COUNTY

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	<u>Definitions</u>
§17-2.0	<u>Prohibitions</u>
§17-3.0	<u>Penalties</u>
§17-4.0	<u>Applicability</u>

§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.

Submitted by the County Executive and Introduced by

LOCAL LAW NO. – 2018

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

APPROVED AS TO FORM

Kevin P. Hendry

Deputy County Attorney

2018 MAY -4 A 10 26
NASSAU COUNTY
CLERK OF THE BOARD OF SUPERVISORS

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.