

212-18



### Staff Summary

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

| Internal Approvals |                            |              |                                 |
|--------------------|----------------------------|--------------|---------------------------------|
| Date & Init.       | Approval                   | Date & Init. | Approval                        |
| <i>ST</i> 5/3/18   | County Executive or Deputy |              | Director of Legislative Affairs |
|                    | Budget                     |              |                                 |

**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  
 CLERK OF COUNTY

**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 that reads "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



Deputy County Attorney

2018 MAY -11 A P 26

CLERK OF COUNTY  
NASSAU 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

|                |                      |
|----------------|----------------------|
| <u>§17-1.0</u> | <u>Definitions</u>   |
| <u>§17-2.0</u> | <u>Prohibitions</u>  |
| <u>§17-3.0</u> | <u>Penalties</u>     |
| <u>§17-4.0</u> | <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



Deputy County Attorney

2018 MAY -4 A 10:26  
CLERK OF THE COUNTY COURTS  
NASSAU COUNTY  
NEW YORK

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,

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Prohibition of the Use and Sale of Sparkling Devices

|         |               |
|---------|---------------|
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| §17-2.0 | Prohibitions  |
| §17-3.0 | Penalties     |
| §17-4.0 | Applicability |

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§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.

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