

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Ontario

Local Law No. One (1) of the year 2017

A local law A LOCAL LAW AMENDING LOCAL LAW NO. 2 OF 2015,  
(Insert Title)  
WHICH AUTHORIZED THE SALE AND USE OF SPARKLER  
DEVICES IN ONTARIO COUNTY

Be it enacted by the Board of Supervisors of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Ontario

as follows:

**Section 1: Title.**

This law shall be known as the "Law to Amend Local Law No. 2 of 2015, Which Authorized the Sale and Use of Sparkler Devices in Ontario County".

**Section 2: Declaration of Intent.**

On November 21, 2014 Governor Cuomo signed into law Chapter 477 of the Laws of 2014 (S.788/A1041) which allows for certain fireworks to be sold and used in municipalities that affirmatively enact a local law authorizing such action. This state law 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 Governor signed this version of the bill into law in part due to its 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.

In keeping with Chapter 477 of the Laws of 2014, and Penal Code Section 405(B), this Board of Supervisors passed Local Law 2 of 2015, which further found and determined that "sparkler devices" are neither "fireworks" nor "dangerous fireworks" as defined in Section 270 of the New York State Penal Law, and may be sold and enjoyed, only in the manner described below, within Ontario County. This Board of Supervisors found that allowing our residents the use of safe "sparkler devices" did benefit them and our local businesses, and wishes to amend Local Law No. 2 of 2015 to eliminate the termination date, which is June 3, 2017, and extend Local Law No. 2 of 2015 until further action of the Board of Supervisors.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

The National Fire Protection Association adopted a recommended safety code (NFPA 1124) for the manufacture, transportation, storage and retail sales of fireworks. Local Law 2 of 2015 as amended by Local Law 1 Intro of 2017 and State Chapter 477 of the Laws of 2014 are compliant with the safety standards established in NFPA 1124, 2006 edition.

**Section 3: Restrictions.**

The sale and use of “sparkler devices” is permitted with the following restrictions:

- A. Sales will only be permitted on or between June 1<sup>st</sup> through July 5<sup>th</sup> and December 26<sup>th</sup> through January 2<sup>nd</sup> of each calendar year.
- B. All distributors, manufacturers and retailers must be licensed through the New York Department of State.
- C. All distributors, manufacturers and retailers must be registered through the New York State Office of Fire Prevention and Control.
- D. Only those individuals 18 years of age or older may purchase said products.
- E. Appropriate adult supervision must be provided at all times when said products are used by anyone under the age of 18 years.
- F. Comply with Part 1228 of Title NYCRR Section 1228.3 of the New York State Uniform Fire Prevention and Building Code.

**Section 4: Definitions.**

“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 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 in 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.
- D. Novelties which do not require approval from the United State department of transportation and are not regulated as explosives, provided that they are manufactured and packaged as described below:
  - 1. **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.
  - 2. **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: Separability.**

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 this 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 6: Effective date.**

This law shall take effect immediately upon filing with the Secretary of State. This law shall remain in effect until further action of the Ontario County Board of Supervisors.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. One (1) of 2017 of the ~~(County)(City)(Town)(Village)~~ of Ontario was duly passed by the Ontario County Board of Supervisors on May 11 2017, in accordance with the applicable *(Name of Legislative Body)* provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20  , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

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\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph , 1 above.

*Karen R. DeMay*

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Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: May 12, 2017

(Seal)