

June 1, 2015

Finance Committee: 5-18-2015

RESOLUTION NO. 158-2015

ADOPTING PROPOSED LOCAL LAW F (NO.) FOR THE YEAR 2015, "ALLOWING FOR COMMON, SAFE ITEMS TO BE EXCLUDED FROM THE "FIREWORKS" AND "DANGEROUS FIREWORKS" DEFINITIONS CONTAINED IN CHAPTER 477 OF LAWS OF THE STATE OF NEW YORK FOR 2014 AND FURTHER PROVIDING FOR THE MANUFACTURE, SALE, AND USE OF "SPARKLER DEVICES" WITHIN ST. LAWRENCE COUNTY AS PERMITTED BY CHAPTER 477 OF LAWS OF THE STATE OF NEW YORK"

By Mr. Hooper, Chair, Finance Committee

BE IT ENACTED by the Board of Legislators of the County of St. Lawrence as follows:

Section 1. Purpose

On November 21, 2014, Governor Cuomo signed into law Chapter 477 of Laws of the State of New York for 2014 (S.7888/A10141) amending New York State Penal Law, New York State Executive Law and New York State 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 or no danger to the public.

This law allows for certain fireworks to be sold and used in municipalities that enact local laws authorizing such sale and use.

The purpose of this local law is to allow for the manufacture, sale and use of "sparkler devices" as herein described within the County of St. Lawrence and to exclude "sparkler devices" from the "fireworks" and "dangerous fireworks" definition contained in Chapter 477 of Laws of the State of New York for 2014 pursuant to authority granted by New York State Penal Law Section.

Section 2. Definitions

1. "Sparkling devices" – which are ground-based or hand-held.
2. "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 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.

3. "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.
4. "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.
5. 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 no 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. Permitted Manufacture, Sale and Use of "Sparkler Devices"

Pursuant to authority granted at Penal Law Section 405, "sparkler devices" as herein defined shall be excluded from the definition of "fireworks" and "dangerous fireworks" as defined in Chapter 477 of Laws of the State of New York for 2014, and the manufacture, sale and use of "sparkler devices" as herein defined shall be lawful and permitted within St. Lawrence County.

Section 4. Restrictions

This local law allows for the sale and use of "sparkler devices" subject to the following restrictions:

1. Sales will only be permitted on or between June 1 through July 5 and December 26 through January 2 of each calendar year.
2. All distributors, manufacturers and retailers must be licensed through the New York State Department of State to sell "sparkler devices" and shall register with the State Office of Fire Prevention and Control, as well as comply with any and all other laws which apply.
3. Only those 18 years of age or older may purchase said products.

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4. The sale and use of "sparkler devices" shall comply with the National Fire Protection Association (NFPA) safety standards established in NFPA 1124.

Section 5. Authority

This local law has been enacted pursuant to the provisions of Chapter 477 of Laws of the State of New York for 2014.

Section 6. Effect of this Local Law

Except as stated or modified by this local law, all terms and conditions of Chapter 477 of Laws of the State of New York for 2014, shall apply and remain in full legal force and effect.

Section 7. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted 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, or part of this Local Law or in its application to the person, individual, form or corporation, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 8. Effective Date

This local law shall take effect immediately upon the date it is files in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule of the State of New York.

STATE OF NEW YORK)
) ss:
COUNTY OF ST. LAWRENCE)

I, Kelly S. Pearson, Deputy Clerk of the St. Lawrence County Board of Legislators, DO HEREBY CERTIFY that I have compared this Resolution No. 158-2015 entitled "Adopting Proposed Local Law F (No. ____) for the Year 2015, "Allowing for Common, Safe Items to be Excluded from the "Fireworks" and "Dangerous Fireworks" Definitions Contained in Chapter 477 of Laws of the State of New York for 2014 and Further Providing for the Manufacture, Sale, and Use of "Sparkler Devices" within St. Lawrence County as Permitted by Chapter 477 of Laws of the State of New York", Adopted June 1, 2015, with the original record in this office and that the same is a correct transcript thereof and of the whole of said original record.

Kelly S. Pearson
Kelly S. Pearson, Deputy Clerk
St. Lawrence County Board of Legislators
June 2, 2015