

Public Safety Committee

Tuesday, May 17, 2016, 4:15 pm, Room 331

Gerace Office Building, Mayville, NY

- A. Call to Order
- B. Approval of Minutes (04/20/16)
- C. Privilege of the Floor
 - 1. Local Law Intro 4-16-A Local Law Authorizing the Sale and Use of Sparkling Devices As Permitted by New York State Penal Law Section 405 (5)(b)
 - 2. Resolution State Homeland Security Program FY 2014 & 2015 Appropriations to 2016 Budget
 - 3. Resolution- Authorize Acceptance of the Gun Involved Violence Elimination Grant ("GIVE") for Funds for 2016-2017
 - 4. Other

LOCAL LAW
INTRODUCTORY NO. 4 - 16
CHAUTAUQUA COUNTY

A LOCAL LAW AUTHORIZING THE SALE AND USE
OF SPARKLING DEVICES AS PERMITTED
BY NEW YORK STATE PENAL LAW SECTION 405(5)(b)

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York, as follows:

Section 1. Legislative Findings and Intent.

- A. On November 21, 2014, Governor Cuomo signed into law Chapter 477 of the Laws of 2014.
- B. The aforementioned Chapter law amended the New York State Penal Law, Executive Law and 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.
- C. The Governor signed this 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.
- D. It is the intent of this Local Law to allow the sale and use of “sparkling devices” in Chautauqua County which will benefit local residents and local businesses.

Section 2. 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 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. Authorized Sale and Use of Sparkling Devices

- A. Pursuant to Penal Law § 270(3)(b)(v) and Penal Law § 405(5)(b), “sparkling devices” shall be excluded from the definition of “fireworks” and “dangerous fireworks” as those terms are defined by Penal Law § 270(1)(a) and Penal Law § 270(1)(b), respectively.
- B. The sale and use of “sparkling devices,” as defined in Penal Law § 270(1)(a)(vi) which is incorporated hereunder, shall be lawful in Chautauqua County provided such sale and use are not in violation of Penal Law § 270 or any rules and regulations thereunder.
- C. The sale and use of sparking devices is permitted subject to the following restrictions:

1. The sale of sparkling devices will only be permitted on and between June 1st and July 5th, and December 26th and January 2nd of each calendar year.
2. All distributors, manufacturers and retailers of sparkling devices must be licensed through the New York State Department of State.
3. Only persons over the age of 18 may purchase sparkling devices.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, or business 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 specific application.

Section 5. Effective Date.

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

JJL 4/1/16
KDG 4/1/16
SMA 4/1/16
KLC 4/1/16
VWH 4/1/16

**CHAUTAUQUA COUNTY
RESOLUTION NO. _____**

TITLE: State Homeland Security Program FY 2014 & 2015 Appropriations to 2016 Budget

BY: Public Safety and Audit & Control Committees:

AT THE REQUEST OF: County Executive Vincent W. Horrigan:

WHEREAS, the Office of Emergency Services was awarded funds from the FY 2014 State Homeland Security Program (SHSP) in the amount of \$150,000 which runs from 9/1/14 through 8/31/16 and from the 2015 State Homeland Security Program (SHSP) in the amount of \$150,000 which runs from 9/1/15 through 8/31/17; and

WHEREAS, the grant objective is to enhance regional preparedness in the Chautauqua County area through projects and initiatives that comply with the Federal grant guidelines and supports the implementation of the State Homeland Security Strategy; and

WHEREAS, as of December 2015, Emergency Services had spent over \$53,000 of the SHSP FY 2014 funds and none of the SHSP FY 2015 funds; and

WHEREAS, the unspent funds from 2014 and the portion of the 2015 funds that will be spent in 2016 need to be appropriated to the proper 2016 expenditure accounts as stated in the work plans; now therefore be it

RESOLVED, That the Director of Finance is hereby directed to make the following 2016 budgetary changes:

INCREASE APPROPRIATION ACCOUNTS:

A.3989.----.2	Equipment – Emergency Medical	\$ 13,500
A.3010.----.2	Equipment – Emergency Services	\$ 2,500
A.3010.----.3	Depr. Equipment – Emergency Services	\$ 30,000
A.3010.----.4	Contractual – Emergency Services	\$ 45,861

INCREASE REVENUE ACCOUNT:

A.3010.----.R430.5004	Federal Aid – Homeland Security	\$ 91,861
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APPROVED

VETOES (VETO MESSAGE ATTACHED)

County Executive

Date

