



Sparkling Devices

Common questions and answers for local codes enforcement officials

Q. What is a Sparkling Device?

A. Ground based, spiked, or handheld devices that produce showers of sparks and/or colored flame, audible crackling, whistling and smoke. These devices do not rise into the air, do not explode or produce a report. See NYS Penal Law Section 270 for further information.

Q. Are metal sparklers legal?

A. No, only wooden dowels are allowed.

Q. Where are sparkling devices legal and where can they be used or sold?

A. Sparkling devices are legal to be used and sold in the counties that have passed a local law that exempts Sparkling Devices from the definition of fireworks in the New York State Penal Law Section 270. See attached map.

Q. Where are sparkling devices being sold in my jurisdiction?

A. The Office of Fire Prevention and Control maintains a database of registrations and will post it on the DHSES website with updates during the sales season.

Q. Can the public transport through or use sparkling devices in my county if they haven't adopted the law?

A. The public can transport sparkling devices through counties that haven't opted in. Use of the sparkling devices is only allowed in those counties that have adopted the law.

Q. Can the county opt in or out at any time?

A. Yes, at any point the county can adopt or reverse the adoption of the local law. All municipalities within the county must comply with the local law. Cities may adopt a local law to allow sparkling devices; however, cities cannot opt out if the county has adopted a local law legalizing sales and use of sparkling devices.

Q. What are the rules for storage when sparkling devices are not displayed for sale?

A. When sparkling devices are not being sold they can be stored year round. Local code enforcement officials are allowed to regulate the quantity stored in R occupancies per the *NY State 2016 Uniform Code Supplement* Chapter 7 Section 17 (Explosives and Fireworks).

Q. Can zoning laws restrict sparkling devices?

A. Consult your local municipality for information regarding the regulation of businesses within your jurisdiction. http://www.dos.ny.gov/lq/publications/Guide_to_planning_and_zoning_laws.pdf

Q. Can a special permit be required by a local municipality to regulate sparkling devices?

A. No, special permits specifically for the regulation of sparkling devices are not allowed.

Q. If stores are selling but not registered what do I do?

A. If stores are selling devices outside of the sales seasons, without a permit, or in a county that has not adopted a local law, please contact our office. Information included on back of sheet.

Q. Who regulates the sale of sparkling devices?

A. Division of Homeland Security and Emergency Services, Office of Fire Prevention and Control.

Q. What role does the local fire inspector / marshal have in the regulation of sparkling devices?

A. CEO's may enforce the *NY State 2016 Uniform Code Supplement* Chapter 7 Section 17 (Explosives and Fireworks). This section covers hazardous conditions and storage in R occupancies. Local codes enforcement officials (CEOs) are able to enforce any routine permits that would apply universally to businesses such as tent or local peddlers permits.

Q. Where can I get more information or help if needed?

A. Please look at www.dhSES.ny.gov/ofpc/news/sparklingdevices.cfm, www.troopers.ny.gov, www.dos.ny.gov/DCEA

