



Code Outreach Program – *Sparkling Devices*

With the summer season approaching, residents of New York are likely to begin seeing the sale and use of *sparkling devices*. This edition of the Code Outreach Program provides information on not only what these devices are, but also information on the display, storage, sale, and use, including a recent change in legislation regarding a county's ability to regulate the sale and use.

What are they?

Sparkling devices are [defined](#) in Penal Law 270(1)(a)(vi). In summary, they are ground-based or hand-held devices that produce a shower of colored sparks and/or a colored flame, audible crackling or whistling noise, and/or smoke. They are limited in type, size, and construction. They do not rise into the air, do not fire inserts or projectiles into the air, and do not explode. Size limits range from 1 to 500 grams of pyrotechnic composition. Types include cylindrical fountain, cone fountains, wooden sparkler/dipped sticks, party poppers, and snappers.

When can they be sold?

Sales of *sparkling devices* by certified permanent and specialty retailers can only occur from June 1 to July 5 and December 26 to January 1.

Sales of *sparkling devices* by certified temporary stands or tents can only occur from June 20 to July 5 and December 26 to January 1.

Are permits needed to sell them?

All sellers, wholesalers, manufacturers, and distributors of *sparkling devices* who wish to do business in New York State or otherwise sell, ship, or assign for sale its products into New York State are required to apply for a certification with the Office of Fire Prevention and Control and pay an annual fee. These entities must also comply with other rules and conditions, including but not limited to the Uniform Fire Prevention and Building Code as it relates to the storage and display of such devices.

How does the Uniform Code come into play?

Chapter 56 of the [2015 International Fire Code](#), as amended by the [2017 Uniform Code Supplement](#), added a new Section 5610, *Sparkling Devices*. The scope of Section 5610 provides that any building or structure where *sparkling devices* are manufactured, stored, handled, sold, or used shall be subject to the provisions of Section 5610 and to all other provisions of the Uniform Code applicable to such building or structure. However, nothing in Section 5610 shall be construed as permitting the possession, manufacture, handling, sale, and/or use of *sparkling devices* in any jurisdiction where the possession, manufacture, handling, sale, and/or use of *sparkling devices* has not been made legal in accordance with the provisions of [Section 405.00 of the Penal Law](#).

Can a county or municipality opt out of allowing the sale and/or use of *sparkling devices*?

As of January 21, 2018, *sparkling devices* are legal in all parts of the State except New York City and any county that affirmatively elects to prohibit sparking devices within such county. Sale and use of *sparkling devices* is legal in counties that have **NOT** enacted a local law pursuant to [section 405.00 of the Penal Law](#). In general, municipalities within each county are not given the option of electing to prohibit *sparkling devices*; however, each city in Orange County can prohibit *sparkling devices* within such city even if Orange County chooses not to prohibit *sparkling devices* within the county.

As of May 8, 2018, the Office of Fire Prevention and Control has been notified that the following counties have prohibited the sale and use of *sparkling devices*: Bronx, Kings, New York, Queens, Richmond, and Schenectady.

What about other classes of fireworks?

All other types of consumer fireworks, including firecrackers, bottle rockets, roman candles, spinners and aerial devices, remain illegal statewide.

Additionally, all consumer fireworks, including *sparkling devices*, remain fully prohibited in the City of New York.

For more information, please visit the following link: <http://www.dhSES.ny.gov/ofpc/news/sparklingdevices.cfm>

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If you have questions pertaining to the Code Outreach Program, email us at COP.codes@dos.ny.gov

If you have questions pertaining to the Uniform Code or Energy Code, email our technical support group at: codes@dos.ny.gov

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