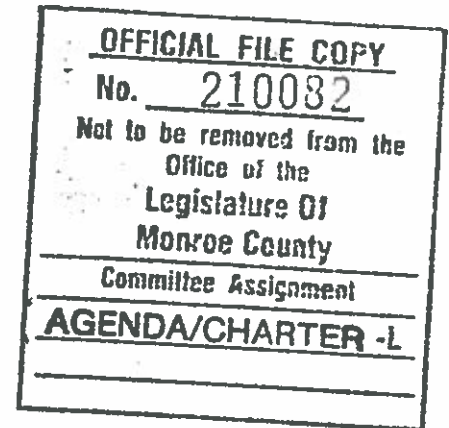


# *Monroe County Legislature*

**RACHEL BARNHART**  
LEGISLATOR - DISTRICT 21

**RACHEL BARNHART**  
LEGISLATURE - DISTRICT 21  
26 NETHERTON ROAD  
ROCHESTER, NEW YORK 14609  
OFFICE: (585) 753-1940  
FAX: (585) 753-1946  
E-MAIL: [RACHEL@RACHIBARNHART.COM](mailto:RACHEL@RACHIBARNHART.COM)

February 10, 2021



To The Honorable  
Monroe County Legislature  
39 West Main Street  
Rochester, NY 14614

Subject: Enact a Local Law Prohibiting the Sale of Sparkling Devices in Monroe County

Honorable Legislators:

In 2017, the New York State Legislature legalized the sale and use of sparkling devices throughout the state, outside of New York City. This amendment did not require counties to opt-in, instead it allowed them to opt-out. Monroe County did not take any action, thereby allowing sparkling devices to be sold.

Since then, both legal and illegal fireworks have significantly diminished the quality of life for many residents of Monroe County. There have been numerous structure fires, as well as the abuse of a household cat using a firework device. There have been reports of injuries to people, including police officers. Veterans and individuals suffering from Post-Traumatic Stress Disorder face particular harm from the incessant sounds of explosions.

Calls to 911 skyrocketed this past summer, with residents complaining of constant fireworks noise at night. The fireworks activity is especially high in densely-populated areas of the city, where a misfired device can easily cause a serious fire. Police have not been successful in reducing fireworks activity.

There is confusion among members of the public about which fireworks are legal to use. Sparkling devices are defined as ground based, spiked, or handheld devices that produce showers of sparks and/or colored flame, audible crackling, whistling and smoke. While illegal fireworks are surely to blame for a lot of nuisance activity, the use and sale of sparkling devices has contributed to the "anything goes" fireworks culture and noise experienced by residents.

This local law would define sparkling devices as fireworks and prohibit them from being sold in Monroe County. While this Legislature cannot stop people from using sparkling devices in an irresponsible manner, it can do its part to limit their ability to obtain these tools of nuisance. This law would also provide much-needed clarity to the public and law enforcement about

fireworks activity. This legislation only deals with sales, as municipalities already regulate the use of fireworks.

**The specific legislative actions required are:**

1. Schedule and hold a public hearing on the proposed Local Law.
2. Enact a Local Law Prohibiting the Sale of Sparkling Devices in Monroe County.

This action is a Type II Action pursuant to 6 NYCRR § 617.5(c)(21) (“minor temporary uses of land having negligible or no permanent impact on the environment”) and (33) (“adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list”) and is not subject to further review under the State Environmental Quality Review Act.

This proposal will have no impact on the revenue and/or expenditures of the current Monroe County Budget.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read 'Rachel Barnhart', written in black ink.

Rachel Barnhart  
Legislator – District 21

By Legislator Barnhart

Intro. No. \_\_\_\_\_

LOCAL LAW NO. \_\_\_\_\_ OF 2020

**ENACTING LOCAL LAW ENTITLED "PROHIBITING THE SALE OF SPARKLING DEVICES IN MONROE COUNTY"**

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

**Section 1. Title**

This local law shall be known as the law "Prohibiting the Sale of Sparkling Devices in Monroe County."

**Section 2. Legislative Intent**

This Honorable Body finds that New York State's decision to legalize the sale of sparkling devices throughout the state, outside of New York City, while well intentioned, has had unfortunate consequences for residents and law enforcement officers. Fireworks of all kinds become fire hazards as evidenced by various structure fires over the past year. The noise nuisance of using fireworks in dense areas at all hours of day and night has diminished the quality of life for residents. The confusion of what fireworks are legal and which aren't frustrates residents and law enforcement officers alike. This confusion has stymied enforcement strategies.

**Section 3. Sale of Sparkling Devices is Prohibited**

The sale of Sparkling Devices, as such term is defined in Section 270.00 of the New York State Penal Law, is prohibited in Monroe County.

**Section 4. Penalties for Offense**

**A. Any person who:**

- a. Offers a sparkling device for sale or sells a Sparkling Device, as such term is defined in Section 270.00 of the New York State Penal Law, to another person eighteen years of age or older, shall be guilty of a Class B misdemeanor, punishable by a fine not to exceed \$500 or a sentence of imprisonment not to exceed fifteen (15) days.
- b. Offers for sale or sells a Sparkling Device, as such term is defined in Section 270.00 of the New York State Penal Law, to another person who is under the age of eighteen, shall be guilty of a Class A misdemeanor under Section 270.00 of New York Penal Law and subject to the penalties authorized for that class of offense under the Penal Law.

B. This local law shall be enforced by any law enforcement agency having jurisdiction.

**Section 5. Severability**

If any clause, sentence, paragraph, section, subdivision or other part of this Local Law or the application thereof shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Local Law which shall remain in full force and effect except as limited by such order or judgment.

**Section 6. Effective Date**

This local law shall take effect in accordance with the provisions of the Municipal Home Rule Law and the Monroe County Charter.

File No. 20-0\_\_\_\_\_

ADOPTION: Date: \_\_\_\_\_ Vote: \_\_\_\_\_

**ACTION BY THE COUNTY EXECUTIVE**

APPROVED: \_\_\_\_\_ VETOED: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

EFFECTIVE DATE OF LOCAL LAW: \_\_\_\_\_