

Proposed Local Law Number 8 Of 2016

County Of Ulster

A Local Law Prohibiting The Sale And Use Of Sky Lanterns In Ulster County

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. TITLE.

This Local Law shall be known by and may be cited as “The Sky Lantern Prohibition Act.”

SECTION 2. LEGISLATIVE INTENT AND FINDINGS.

Among the powers granted to counties by the New York State legislature, a county may adopt a local law that protects the safety, health, and well-being of persons and property within the boundaries of the county. NYS Municipal Home Rule Law §10 (a) (12).

The Ulster County Legislature finds that certain devices, including but not limited to those devices commonly known as, “sky lanterns,” “candle kites,” “Chinese lanterns,” “wish lanterns,” and “sky candles” have become very popular in recent years. These devices are released in mass launches to commemorate events such as holidays, funerals, birthdays, and weddings.

The Ulster County Legislature determines that these devices are intended to float in the air whereby the device is akin to a miniature hot air balloon comprised of oiled rice paper, fire retardant paper, fabric, or similar materials pulled over a frame with a small candle fuel cell or similar heat source within the frame. The small candle or fuel cell heats the air inside the lantern causing the lantern to rise into the air.

The Ulster County Legislature finds that the release of these devices creates a serious fire and safety hazard because of the potential to start an unintended fire on or off the property from where they are released and these devices can travel significant distances from the point of release. Upon the release or dispatch of the device, it becomes an unattended fire, which is contrary to New York State laws and regulations, without any guarantee the flame or other heat source will be extinguished at the time the device lands on a house, a car, a field, or other undesirable location.

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The Ulster County Legislature further determines that these devices are hazardous to domestic animals, wildlife, and small children. These devices have landed in agricultural areas and the farm animals, not knowing any better, have eaten parts of the devices which has caused their death. These devices have also been the cause of death for wildlife which have either eaten parts of the device or have gotten trapped in it. The frames of these devices are made either from bamboo or wire, or similar materials, and can be large. Small children can either get caught in these frames or snap the frames and hurt themselves.

Accordingly, the Ulster County Legislature deems these devices to be a serious threat to the safety of Ulster County residents and their property and, therefore, the sale and use of these devices in Ulster County should be prohibited.

SECTION 3. PROHIBITION OF SALE.

No natural person, company, corporation, limited liability company, firm, partnership, business organization, or other legal entity in Ulster County shall sell, offer for sale, or permit the sale of a device constructed from oiled rice paper, fire retardant paper or fabric on a bamboo or wire frame or other such similar materials, and which contains a small candle or fuel cell composed of a waxy flammable material or other similar materials which heat, directly or indirectly, the air inside the device, thus lowering its density causing the device to rise into the air, or any similar devices. This prohibition includes devices commonly known as a “sky lantern,” “candle kite,” “Chinese candle kite,” “Kongming lantern,” “wish lantern,” “lantern kite,” “fire balloon,” “sky candle,” “candle balloon,” “mini hot air balloon,” “flying lantern,” or “candle balloon.”

SECTION 4. PROHIBITION OF USE.

Any unmanned airborne device including, but not limited to, those constructed from oiled rice paper, fire retardant paper or fabric on a bamboo or wire frame or other such similar materials, and which contain a small candle or fuel cell composed of a waxy flammable material or other similar materials which heat, directly or indirectly, the air inside the device, thus lowering its density causing

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the device to rise into the air shall not be used, released, or dispatched into the air in Ulster County. This prohibition includes devices commonly known as a “sky lantern,” “candle kite,” “Chinese candle kite,” “sky lantern,” “Kongming lantern,” “wish lantern,” “lantern kite,” “fire balloon,” “sky candle,” “candle balloon,” “mini hot air balloon,” “flying lantern,” “candle balloon,” or similar devices.

SECTION 5. PENALTIES.

The first violation of Section 3 or Section 4 of this Article shall constitute an offense punishable by a fine not to exceed \$250 or by imprisonment not to exceed 15 days, or by both such fine and imprisonment.

Any subsequent violation of Section 3 or Section 4 of this Article shall constitute an unclassified misdemeanor, punishable by a prison term not to exceed one year and/or a fine not to exceed \$1,000, or both.

SECTION 6. ENFORCEMENT.

This article shall be enforced by the Ulster County Sheriff's Department, and shall be enforced by any other law enforcement agency having jurisdiction to act in the County of Ulster, which shall enforce the provisions of this Article by the issuance of a summons to a party violating the provisions of this Article.

SECTION 7. APPLICABILITY.

This law shall apply to all actions occurring on or after the effective date of this law.

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SECTION 8. SEVERABILITY.

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

or circumstance 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 application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 9. REVERSE PREEMPTION.

This article shall be null and void on the day that statewide legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this Article or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Ulster. The Ulster County Legislature may determine by resolution whether or not identical or substantially similar statewide legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

SECTION 10. EFFECTIVE DATE.

This local law shall take effect ninety days after its filing in the Office of the Secretary of State.