

Local Law Filing

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, New York 12231-0001
www.dos.state.ny.us/corps

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County of Rensselaer ¹

Local Law No. _____ of the year 2015

A local law of the County of Rensselaer, New York Allowing for Sparkler Devices to Be Sold in
(Insert Title)
Rensselaer County

By: Reid, Brownell, Herrington, Breselor, Shannon, Tesman

Be it enacted by the County Legislature _____ of the
(Name of Legislative Body)

County of Rensselaer _____ as follows:

Be it enacted by the Legislature of the County of Rensselaer, New York, as follows:

Section 1. Purpose: The County Legislature of the County of Rensselaer, recognizing that on November 21, 2014 Governor Cuomo signed into law Chapter 477 of the Laws of 2014 (S.7888/A10141), amending the State Penal Law, the Executive Law and the 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 and by labeling them dangerous only restricts business and personal enjoyment.

- A. Whereas the Governor signed this version of the bill into 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.
- B. In keeping with Chapter 477 of the Laws of 2014, and Penal Code Section 405 this Board further finds and determines that "sparkler devices" may be sold and enjoyed, only in the manner described below, within Rensselaer County.
- C. This Board finds that allowing our residents the use of safe "sparkler devices" will benefit them and our local businesses.
- D. The National Fire Protection Association adopted a recommended safety code (NFPA 1124) for the manufacture, transportation, storage and retail sales of fireworks.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1)

E. Whereas this local law and State Chapter 477 of the Laws of 2014 are compliant with the safety standards established in NFPA 1124.

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.

- (5) The sale and use of "sparkler devices" is permitted with the following restrictions:
- 1) Sales will only be permitted on or between June 1st through July 5th and December 26th and January 2nd of each calendar year.
 - 2) All businesses in the County need to register in a manner prescribed by State Law and/or Regulations.
 - 3) Only those 18 years of age or older may purchase said products.

Section 3. Separability: If any part of or provisions of this law, or the application thereof to any person or circumstance, shall be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of, or application directly involved in the controversy in which such the remainder of this law, or the application thereof to other persons or circumstances.

Section 4. Effective Date: This law shall take effect immediately upon filing with the Secretary of State.

Local Law ADOPTED by the following vote:

Ayes: 18

Nays: 0

Abstain: 0

April 14, 2015

Approved by the County Executive:

Dated: 4/30/15



Kathleen M. Jimino
County Executive

Local Law Filing

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, New York 12231-0001
www.dos.state.ny.us/corps

County of Rensselaer

Local Law No. 2 of the year 2015

A Local Law of the County of Rensselaer, New York Drinking Water Protection Law

By: Brownell, Goodermote, Reid, Breselor, Shannon

Be it enacted by the County Legislature of the
(Name of Legislative Body)

County of Rensselaer

as follows:
RECEIVED
STATE RECORDS

Section 1. Title

DEC 03 2015

This Local Law shall be known as the "Drinking Water Protection Law."

Section 2. Legislative Findings

The Rensselaer County Legislature hereby finds and determines that it is in the best interests of the residents of the County of Rensselaer to protect surface and groundwater within the borders of the County of Rensselaer, particularly surface and groundwater used for drinking water.

The purpose of this Local Law is to protect public health and safety by requiring the completion of well-water sampling and analysis prior, and subsequent, to any blasting within Rensselaer County that may adversely affect the quality or the volume or yield of surface water and groundwater drinking water sources within a one (1) mile radius of any proposed or actual blasting locations.

Section 3. Definitions

As used in this Local Law, the following terms shall have the following meanings:

- (A) "Blaster" is a person licensed as such by the New York State Department of Labor.
- (B) "Blast" is the rapid release of heat and large quantities of high-pressure gases that expand rapidly with sufficient force to overcome confining forces resulting from the very rapid decomposition of a chemical compound or mixture initiated by heat, shock, impact, friction, or a combination of these conditions.
- (C) "Blasting entity" is a person, a corporation or other legal business entity that blasts or engages a blaster to blast either on its own behalf or on behalf of another person, corporation or other entity within Rensselaer County.
- (D) "Blast effect area" consists of all properties within one (1) mile of a blast; provided, however, that in the case of a blast within two (2) miles of a site listed on the United States National

Priorities List under the Comprehensive Environmental Response, Compensation and Liability Act (42 USC 9601 *et seq.*), the term, "blast effect area" consists of all properties within two (2) miles of that blast.

(E) "Blast notification" is a notification of a blast satisfying the requirements for notification of the public, residents within a blast's blast effect area, and the Rensselaer County Department of Health that are set out in Subdivision 4(A) of this Local Law.

(F) "Hazardous substance," is as defined in rules and regulations promulgated, adopted, and approved pursuant to Section 6 of this Local Law; however, until action has been completed, that term shall be as defined in the rules and regulations of the New York State Department of Environmental Conservation.

(g) "Independent provider" is any person, corporation, or other legal business entity certified by the New York State Department of Health and approved and designated by the Rensselaer County Department of Health to conduct pre-blast and post-blast water quality sampling, analysis, and reporting on same for residents in Rensselaer County.

(H) "Quality" is a measure of the chemical, physical, biological, and radiological characteristics of water as identified in Part 5 of Title 10 of the Official Compilation Of Codes, Rules and Regulations of the State of New York (10 NYCRR Part 5).

(I) "Recharge rate" of a well is the quantity of water per unit of time that replenishes or refills that well.

(J) "Private drinking water supply sampling and analysis" is the sampling and analysis of the drinking water from a private drinking water well to determine the presence of hazardous substances and of turbidity and to determine the recharge rate of that well, with such sampling and analysis meeting the following requirements, which requirements may be expanded upon by duly promulgated and adopted rules and regulations of the Rensselaer County Department of Health under Section 6 of this Local Law:

(i) sampling performed only by an individual approved by New York State or by the Rensselaer County Department of Health to undertake and perform such sampling; and

(ii) analysis performed only by an environmental laboratory approved in accordance with Subpart 55-2 of Title 10 of the official compilation of the Codes, Rules and Regulations of the State of New York (10 NYCRR Subpart 55-2). However, measurements for pH, temperature, conductivity, turbidity, disinfectant residual, alkalinity, calcium, orthophosphate, bromide, chlorite, total organic carbon (TOC) concentration, dissolved organic carbon concentration, ultraviolet (UV) absorption, and silica may be performed by any person with a demonstrated ability to perform these analyses.

(K) "Resident" is any person residing within Rensselaer County.

(L) "Third Party Monitor" is an independent seismic testing company duly approved and retained by the Rensselaer County Department of Health to monitor and report on a blast, including pre-blast notification, pre-blast preparation, the blast itself, and post-blast aftermath and effects.

Section 4. Notification

(A) Responsibilities of Blaster and Blasting Entity:

(i) **Blasting Schedule** – Any blaster or blasting entity who intends to blast within Rensselaer County shall publish a blast notification in newspapers that have general circulation within Rensselaer County at least forty-five (45) days in advance of the start of a schedule for blasting, or, if an individual blast, a blast; and shall send a copy of the blast notification by United States certified mail and by e-mail to the Rensselaer County Department of Health and by United States certified mail to all residents within the blast effect area at least forty-five (45) days in advance of a blast. The Rensselaer County Department of Health is hereby authorized to implement a dedicated e-mail address for this purpose. The blast notification shall include the following information: 1) the specific location of the blast; 2) the date and time when each blast will occur; 3) a description detailing how access to the blast effect area will be controlled to prevent property damage and personal injury; and 4) the types and patterns of blast warnings and of signals that blasting has been completed and passage through the blast effect area is safe. The Rensselaer County Department of Health is authorized to promulgate and adopt rules and regulations under Section 6 of this Local Law that require such additional information as it may determine appropriate to be included in the blast notification.

(ii) **Pre-Blast Private Drinking Water Supply Sampling and Analysis** – The blast notification mailed to residents within the blast effect area under paragraph 4(A)(i) of this Local Law must contain the following information in addition to the information identified in that paragraph: 1) an offer to provide free of charge to any resident and at the blaster's or blasting entity's expense pre-blast private drinking water supply sampling and analysis conducted and reported by an independent provider; 2) contact information in order to schedule the pre-blast private drinking water supply sampling and analysis; and 3) that a report detailing the results of the pre-blast private drinking water supply sampling and analysis shall be provided to the Rensselaer County Department of Health and to the resident within thirty (30) days of completion of the sampling and analysis. The Rensselaer County Department of Health is authorized to promulgate and adopt rules and regulations under Section 6 of this Local Law that require such additional information as it may determine appropriate to be included in the blast notification mailed to residents.

(B) Residents within the blast effect area who require guidance regarding the pre-blast private drinking water supply sampling and analysis may contact the Rensselaer County Health Department at the following address, telephone number, and facsimile number:

Rensselaer County Department of Health
1600 Seventh Avenue
Troy, New York 12180
Telephone: (518) 270-2626
Fax: (518) 270-2638

(C) The blaster and blasting entity shall undertake a blast in strict accordance with the information contained in the blast notification pertaining to such blast, as may be revised by direction of the Rensselaer County Department of Health.

Section 5. Blast Records

Records of all blasts must be maintained by the blasters or blasting entities for a period of at least five (5) years from the date of a blast, or the date of the last blast, if more than one blast occurs in a blasting program. These records shall be made available for inspection upon written request by, and at no cost to, the public.

Section 6. Rensselaer County Department of Health's Authority

The Rensselaer County Public Health Director is authorized to promulgate and adopt rules and regulations, including restrictions on the days of the week and hours in the day that blasting can take place, as well as under what weather conditions blasting can be conducted, in addition to such other and further site-specific conditions, restrictions, or limitations, as are reasonable and necessary to assure the safety of the public, and to take any and all other reasonable actions necessary to implement and enforce this Local Law. In addition, the Rensselaer County Public Health Director is expressly delegated the authority to promulgate and adopt rules and regulations that make Sections 4, 7, 8, and 9 of this Local Law applicable to public drinking water supplies and when, and under such circumstances, deemed appropriate by the Public Health Director, to retain third party monitors and require the costs of the services of such third party monitors to be borne by the blasting entity. Before being adopted, any rules and regulations so promulgated shall be subject the approval of the Rensselaer County Board of Health, and shall be made available on the County of Rensselaer website.

Section 7. Pre-Blast Private Drinking Water Supply Sampling and Analysis

Blasters and blasting entities shall be responsible for the reasonable costs of the pre-blast private drinking water supply sampling and analysis requested by residents and conducted, and for the reasonable costs of the report concerning same, prepared by the independent provider pursuant to Section 4 of this Local Law.

Section 8. Post-blast Private Drinking Water Supply Sampling and Analysis

(A) Formal Complaints – A resident within the blast effect area who requested a pre-blast private drinking water supply sampling and analysis and suspects post-blast private drinking water supply contamination or a reduction in recharge rate may file a formal complaint with the Rensselaer County Department of Health within six (6) months of the date of a blast or of the date of the last blast if more than one blast occurs in a blasting program.

(B) Investigation – The Rensselaer County Department of Health is authorized to initiate an investigation upon receipt of a formal complaint from a resident within the blast effect area and to take any and all reasonable suppression, abatement, and remediation actions that the Rensselaer County Department of Health deems necessary and appropriate to protect an individual or public health and safety. Blasters or blasting entities shall make their blast records available to the Rensselaer County Department of Health for any resident who has filed a formal complaint.

(C) Responsibilities of Blaster or Blasting Entity – Upon receipt of a formal complaint from a resident within the blast effect area, the Rensselaer County Department of Health will retain the services of an independent provider to perform and complete a post-blast private drinking water supply sampling and analysis within thirty (30) days of the request date and then to submit to the Rensselaer County Department of Health, to the resident, to the blaster, and to the blasting entity a report detailing the

results of such post-blast private drinking water supply sampling and analysis within thirty (30) days of completion of such post-blast private drinking water sampling and analysis. The blaster and blasting entity shall bear all costs associated with such post-blast private drinking water sampling and analysis and reporting on same.

Section 9. Penalties

(A) Civil Penalty for Lack of Notice – If the Rensselaer County Department of Health finds and determines that any blaster or blasting entity failed to meet the blast notification requirements in Section 4 of this Local Law and as may be further described in the Rensselaer County Department of Health rules and regulations promulgated and adopted under Section 6 of this Local Law, such violation shall be punishable by a civil penalty not to exceed \$15,000 per violation.

(B) Civil Penalty for Not Conducting or Paying for Pre-Blast Private Drinking Water Supply Sampling and Analysis, for Not Paying for Post-Blast Private Drinking Water Supply Sampling and Analysis Water Contamination, and for Recharge Rate Reduction in the Blast Effect Area -

(i) No blaster or blasting entity shall fail to conduct or to pay for any pre-blast private drinking water supply sampling and analysis and reporting or to pay for any post-blast private drinking water supply sampling and analysis and reporting. Each such failure constitutes a separate and distinct violation.

(ii) No blaster or blasting entity shall conduct a blast that reduces the quality of a drinking water supply, that results in the presence in a drinking water supply of any hazardous substance, or that shall increase the turbidity of such drinking water supply.

(iii) No blaster or blasting entity shall conduct a blast that results in the recharge rate in any well used for drinking water by a resident to decrease.

(iv) Unless proven otherwise by clear and convincing evidence, a blast shall be considered the cause of the presence in a drinking water supply of any hazardous substance and, in the case of a well providing drinking water, the cause of any reduction in the recharge rate of any such well, or an increase in the turbidity of such drinking water supply.

(v) After an investigation, and upon a finding by the Rensselaer County Department of Health that any blaster or blasting entity, failed to conduct or to pay for any pre-blast private drinking water supply sampling and analysis or reporting or to pay for any post-blast private drinking water supply sampling and analysis or reporting; or caused, by its blasting, contamination of a resident's drinking water, a functional reduction in the recharge rate of a groundwater well supplying drinking water to a resident, or an increase in the turbidity of such drinking water supply, each such violation shall be punishable by a civil penalty not to exceed \$15,000 for each such failure and for each such contamination, functional reduction, or increase in turbidity. In addition, the blaster and blasting entity shall be required to abate each violation and provide alternate water supplies to an affected resident at the blaster's and blasting entity's expense until the contamination or turbidity is fully abated and, if applicable, the recharge rate is restored to pre-blast conditions.

(C) Civil penalties collected by the Rensselaer County Department of Health under this Local Law may be used for abatement purposes for any wells used to provide drinking water to residents within Rensselaer County that have been adversely affected as a result of blasting.

(D) Nothing contained in this Section 9 of this Local Law shall be construed to prevent or prohibit the commencement of any civil or administrative action or proceeding to enjoin any conduct constituting a violation of this Local Law or to recover any penalty for such violation or any damages occasioned by such violation.

Section 10. Mines, Water Well Drillers and Other Exempt Activities

(A) This Local Law shall not apply to:

(i) mines subject to local municipal regulation or state regulation under Title 27 of Article 23 of the Environmental Conservation Law; or

(ii) water well drillers subject to state regulation under Title 15 of Article 15 of the Environmental Conservation Law;

(iii) a blast undertaken by, or under contract with and specifically regulated by, the State or Federal government; the United States military; a city, town or village within Rensselaer County, including all of its particular departments, agencies and divisions, acting within the proper performance of its duties and functions; the Rensselaer County Sheriff acting within the proper performance of his or her duties; or any school district, police, or fire-fighting force acting within the proper performance of its duties; or

(iv) a municipality whose governing body, by adoption of local law, elects not to be covered under this Local Law; provided, however, that such municipality, by equivalent process, may elect to return to becoming subject to this Local Law.

(B) The Rensselaer County Department of Health may suspend or modify any requirement of this Local Law for a blast upon a determination of good cause, which determination shall be based on, among other matters, findings that the blast is necessary to protect the health, safety and welfare of the public and that adequate safeguards will be implemented to prevent, for all drinking water wells within the blast effect area, reduction in the quality of a drinking water supply, introduction into a drinking water supply of any hazardous substance, and any increase in the turbidity of such drinking water supply. In evaluating any application for suspension or modification of any requirement of this Local Law, the Rensselaer County Department of Health is hereby authorized to retain the services of such experts as it may deem appropriate to properly evaluate such application and to charge in advance a fee sufficient to cover the full reasonable costs the Rensselaer County Department of Health will incur in retaining such experts.

Section 11. State Environmental Quality Review Act compliance

The Rensselaer County Legislature determines that the adoption of this Local Law constitutes a "Type II action" as that term is defined in the State Environmental Quality Review Act ("SEQRA"), and that no further action with respect to same is required under SEQRA.

Section 12. Preemption

If any part or provision of this Local Law is inconsistent with any federal or state statute, law, rule, or regulation, then such statute, law, rule, or regulation shall prevail. If any part or provision of this Local Law or the application of this Local Law to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of this Local Law, or the application of this Local Law, directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law, or the application of this Local Law to other persons or circumstances.

Section 13. Reverse Preemption

This Local Law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Local Law, or in the event that a pertinent state or federal administrative agency duly promulgates and adopts regulations preempting such action by the County of Rensselaer. The Rensselaer County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this Section.

Section 14. Severability

If any section, subdivision, paragraph, clause, sentence, or other part of this Local Law or its application 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 15. Effective Date

This Local Law shall be effective immediately upon filing with the Office of the Secretary of State.

Local Law ADOPTED by the following vote:

Ayes: 17
Nays: 1 (Herrington)
Abstain: .0
November 23, 2015

Approved by the County Executive:

Dated: 12/2/2015

Kathleen M. Jimino
Kathleen M. Jimino
County Executive

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231-0001

(Use this form to file a local law with the Secretary of State.)

County of Rensselaer

Local Law No. 3 of the year 2015

A local law to Repeal the Mortgage Recording Tax Imposed by Local Law No. 2 of the Year 2013 and Imposing a New Local Mortgage Tax on Obligations Secured by a Mortgage on Real Property

By: Brownell

Be it enacted by the County Legislature of the
(Name of Legislative Body)

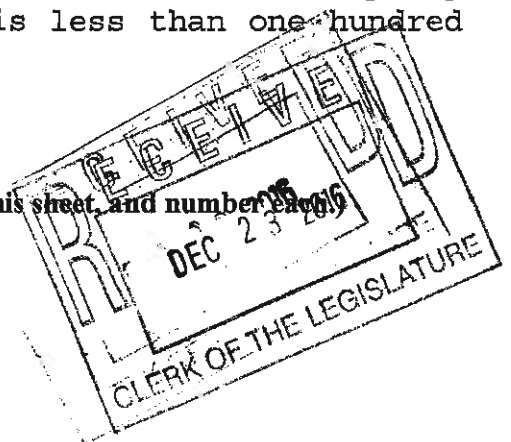
County of Rensselaer as follows:

Section 1. Local Law No. 1 of the year 2013, which imposed a county recording tax on obligations secured by a mortgage on real property situated in Rensselaer County, is hereby repealed effective December 31, 2015 at 12:59 and 59 seconds o'clock in the evening. Such repeal shall not be retroactive in effect. The purpose of such repeal is to insure that the enactment of this local law pursuant to Section 253-1 of the Tax Law shall supersede Local Law No. 1 of the year 2013 and that there shall be an uninterrupted and continuous imposition of such mortgage tax.

Section 2. For the period commencing January 1, 2016, there is hereby imposed in the County of Rensselaer a tax of twenty-five cents (\$0.25) for each one hundred dollars (\$100.00) and each remaining major fraction thereof of principal debt or obligation which is or under any contingency may be secured at the date of execution thereof, or at any time thereafter, by a mortgage on real property situated within such county and recorded on or after the date upon which such tax takes effect and a tax of twenty-five cents (\$0.25) on such mortgage if the principal debt or obligation which is or by any contingency may be secured by such mortgage is less than one hundred dollars (\$100.00).

(If additional space is needed, attach pages the same size as this sheet, and number pages)

(1)



Section 3. The tax imposed by this local law shall be administered, collected and paid as provided in Section 253-1 of the Tax Law and shall be in addition to the taxes imposed by Section 253 of the Tax Law, except that all references contained in Section 253-1 of the Tax Law to the "commissioner of finance of Rensselaer County" shall be deemed references to the Chief Fiscal Officer of Rensselaer County.

Section 4. This local law shall expire three years from the effective date hereof, provided further, however, that such expiration shall not preclude the adoption and enactment of additional local laws by the County of Rensselaer pursuant to the provisions of Section 253-1 of the Tax Law upon the expiration of this local law or any subsequent local law adopted and enacted pursuant to the provisions thereof.

Section 5. This local law shall take effect only on the first day of a calendar month, provided a certified copy hereof is mailed by registered or certified mail to the New York State Commissioner of Taxation and Finance at the Commissioner's Office in Albany, New York at least thirty days prior to the date this local law shall take effect. Certified copies of this local law shall also be filed with the Rensselaer County Clerk, the Secretary of State of the State of New York and the New York State Comptroller within five days after the enactment of this local law. This local law shall take effect January 1, 2016.

Local Law ADOPTED by the following vote:

Ayes: 19

Nays: 0

Abstain: 0

December 8, 2015

Approved by the County Executive:

Dated: 12/22/15

Kathleen M. Jimino
Kathleen M. Jimino
County Executive

(2)

