

CITY OF BELLEVUE

ORDINANCE 2011 - 04 - 03

AN ORDINANCE PROHIBITING THE SALE AND USE OF CERTAIN FIREWORKS WITHIN THE CITY OF BELLEVUE.

WHEREAS, Kentucky Revised Statute 227.750(4) authorizes and delegates city legislative bodies the authority to regulate the sale and use of fireworks; and

WHEREAS, the Bellevue City Council has determined that the sale and use of certain fireworks can pose a danger to the citizens of the City of Bellevue and be an unsafe activity because of the density of population, structure density, confined spaces and general geographic character of the city.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLEVUE, CAMPBELL COUNTY, KENTUCKY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1 -- DEFINITIONS

"Fireworks" shall mean any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of consumer fireworks as defined in KRS 22.702 or display fireworks as defined in KRS 227.706 or otherwise so defined by the Consumer Product Safety Commission in CPSC, 16 C.F.R. pts. 1500 and 1507. "Fireworks" shall not include:

- (1) Exception number 1: Toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with DOT regulations, and packed and shipped according to said regulations, are not considered to be fireworks and shall be allowed to be used and sold at all times.
- (2) Exception number 2: Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models are not considered to be fireworks.
- (3) Exception number 3: Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as being designed for producing audible effects.

SECTION 2 --PROHIBITIIONS

No person, firm, co-partnership or corporation shall offer for sale, expose for sale, sell, keep with intent to sell, use, or explode any fireworks, including but not limited to those listed in Exhibit A attached hereto and incorporated by reference, within the boundaries of the City of Bellevue, except as follows:

- 1) A public fire works display using display fire works if permission is obtained from the Chief of the Bellevue Dayton Fire Department LLC and after providing notice to the mayor and then only if all requirements of KRS 227.710 and other applicable law or regulations are otherwise satisfied.
- 2) Those consumer fireworks classified as ground and hand-held sparkling devices as listed in Exhibit B attached hereto and incorporated by reference.
- 3) Novelties and trick noise makers not otherwise classified as fireworks as listed on Exhibit C attached hereto and incorporated by reference.

SECTION 3 -- CRIMINAL PENALTIES

Each violation of this ordinance shall be a misdemeanor for which everybody convicted thereof in a court of competent jurisdiction shall be sentenced to pay a criminal fine not to exceed the maximum amount of \$500.00 or a term of imprisonment not to exceed the maximum period of twelve (12) months as set forth in K.R.S. 532.090 (1), or both.

SECTION 4 – PROVISIONS SEVERABLE

The provisions of this ordinance are severable; and the invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

SECTION 5 – CONFLICTING ORDINANCES REPEALED

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 6 – EFFECTIVE DATE

This ordinance shall be effective as soon as possible according to law.

SECTION 7 - PUBLICATION

This ordinance shall be published in summary pursuant to K.R.S.

83A.060

EDWARD RIEHL, Mayor

Mary H. Scott, City Clerk

First Reading: _____

Second Reading: _____

Publication: _____

EXHIBIT B

Ground and hand-held sparkling devices.

(a) Dipped stick-sparkler. Stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed one hundred (100) grams per item. Those devices containing any perchlorate or chlorate salts may not exceed five (5) grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item are not included in this category, in accordance with DOT regulations;

(b) Cylindrical fountain. Cylindrical tube not more than three-fourths (3/4) in. (19 mm) inside diameter, containing up to seventy-five (75) grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect, 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, if intended to be hand-held (handle fountain);

(c) Cone fountain. Cardboard or heavy paper cone containing up to fifty (50) grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain;

(d) Illuminating torch. Cylindrical tube containing up to one hundred (100) grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base or hand-held;

(e) Wheel. Pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain up to six (6) "driver" units: tubes not exceeding one-half (1/2) in. (12.5 mm) inside diameter and containing up to sixty (60) grams of pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect;

(f) Ground spinner. Small device similar to a wheel in design and effect and placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device; and

(g) Flitter sparkler. Narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. This device does not have a fuse for ignition. The paper at one (1) end of the tube is ignited to make the device function;

EXHIBIT C

Items listed in this section are classified as novelties and trick noisemakers and are not classified as common fireworks by the United States Department of Transportation.

(1) Snake, glow worm. Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

(2) Smoke device. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(3) Wire sparkler. Wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. These items may not contain magnesium and must not exceed one hundred (100) grams of pyrotechnic composition per item. Devices containing any chlorate or perchlorate salts may not exceed five (5) grams of pyrotechnic composition per item.

(4) Trick noisemaker. Item that produces a small report intended to surprise the user. These devices include:

(a) Party popper. Small plastic or paper item containing not more than sixteen (16) mg. of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

(b) Booby trap. Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

(c) Snapper. Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes producing a small report.

(d) Trick match. Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match a small report or a shower of sparks is produced.

(e) Cigarette load. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one (1) of the pegs, a small report is produced.

(f) Auto burglar alarm. Tube which contains pyrotechnic composition that produces a loud whistle or smoke, or both, when ignited. A small quantity of explosive, not exceeding fifty (50) mg. may also be used to produce a small report. A squib is used to ignite the device.

EXHIBITA

Aerial devices.

(a) Sky rocket. Tube not exceeding one-half (1/2) in. (12.5 mm) inside diameter that may contain up to twenty (20) grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight;

(b) Missile-type rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability;

(c) Helicopter, aerial spinner. A tube not more than one-half (1/2) in. (12.5 mm) inside diameter and containing up to twenty (20) grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight;

(d) Roman candles. Heavy paper or cardboard tube not exceeding three-eighths (3/8) in. (9.5 mm) inside diameter and containing up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals; and

(e) Mine, shell. Heavy cardboard or paper tube up to two and one-half (2-1/2) in. (63.5 mm) inside diameter attached to a wood or plastic base and containing up to forty (40) grams of pyrotechnic composition. Upon ignition, "stars," firecrackers, or other devices are propelled into the air. The tube remains on the ground;

Audible ground devices.

(a) Firecrackers, salutes. Small paper-wrapped or cardboard tube containing not more than fifty (50) mg. of pyrotechnic composition. Upon ignition, noise and a flash of light is produced; and

(b) Chaser. Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed fifty (50) mg; and

(c) Combination items. Firework devices containing combinations of two (2) or more of the effects described in paragraphs (a), (b), and (c) of subsection (2) of this section.