

CITY OF BELLEVILLE

Ordinance No. 13-004

FIREWORKS SAFETY STANDARDS

Adopted: October 21, 2013

AN ORDINANCE TO PROTECT THE HEALTH AND WELFARE OF THE PEOPLE OF THE CITY OF BELLEVILLE THROUGH THE ADOPTION OF LOCAL FIREWORKS SAFETY STANDARDS.

THE CITY OF BELLEVILLE HEREBY ORDAINS:

Section I – Preamble.

The Michigan Fireworks Safety Act, Act 256 of 2011, effective January 1, 2012, as amended legalized the sale of consumer fireworks in Michigan, and delegated to local communities limited control over the use and discharge of the fireworks. The City recognizes that fireworks endanger property, can cause physical injury, and disrupt the peace and quality of neighborhoods and commercial districts. The City endeavors to reconcile the rights that this Act confers upon sellers and consumers, with the rights of the citizens, and families to reside in a safe, harmonious community. The following ordinance is adopted to impose conditions on the time, place and manner of use, discharge and ignition of fireworks deemed to be within the purview of local regulation, in consideration of health, safety and welfare of the public.

Section II – Definitions. As used in this article.

Act means the Michigan Fireworks Safety Act, Act 256 of 2011, and any amendments to the Act which may be from time to time be adopted.

APA standard 87-1 means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American pyrotechnics association of Bethesda, Maryland.

Articles pyrotechnic means the pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks, but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 C.F.R. 172.101.

Consumer Fireworks means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in the APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low impact fireworks.

Display Fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low impact fireworks, articles pyrotechnic, display fireworks and special effects.

Firework or Fireworks means any composition or device, except for a starting pistol, a flare gun, or a flare, *of non-toxic or non-explosive emissions*, of designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

Low Impact Fireworks means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.18, and 3.5.

Minor means an individual who is less than 18 years of age.

National Holiday as used in this article shall mean:

New Year's Day, January 1;
Birthday of Martin Luther King, Jr., the third Monday in January;
George Washington's Birthday, the third Monday in February;
Memorial Day, the last Monday in May;
Independence Day, July 4;
Labor Day, the first Monday in September;
Columbus Day, the second Monday in October;
Veteran's Day, November 11; and
Thanksgiving Day, the fourth Thursday in November;

Christmas Day, December 25,

and any holidays as may be from time to time added, removed or changed under 5 USC Section 6103, or any replacement or amended legislation.

Novelties means the term defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

- (i) Toy plastic or paper cups for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
- (ii) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps are described in subparagraph (i) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
- (iii) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- (iv) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and quantity contained in each box are printed on the box; and toy smoke devices.

Person means any individual, agent, legal representative, association, charitable organization, church, non-profit organization, unincorporated organization, labor organization, partnership, limited liability company, corporation, or any legal entity or commercial organization. An individual shall include a Minor as defined in this article.

The City means the City of Belleville.

Section III – Prohibited Fireworks.

A. Consumer Fireworks.

A Person shall not use, ignite, or discharge Consumer Fireworks within the geographical boundaries of the City, except on National Holidays, and the day before and the day after a National Holiday, provided that Consumer Fireworks shall not be used, ignited or discharged between the hours of midnight and 8:00 a.m., or in the case of New Year's Day between 1:00 a.m. and 8:00 a.m., and shall not discharge in violation of the Act and this ordinance.

B. Low Impact and Novelty Fireworks.

The use, ignition or discharge of low impact and novelty fireworks may not be discharged during the hours of 10:30 p.m. to 11:00 a.m., except on the day before, the day after and the day of a National Holiday when the time periods for Consumer Fireworks set forth in paragraphs A will apply.

C. Illegal Fireworks.

Any use, possession or discharge of fireworks that are illegal and not approved by the State of Michigan or the State Fire Marshall is prohibited, regardless of how it is labeled.

Section IV – Minors.

- A. A Minor shall not use, discharge or ignite any Consumer Fireworks, at any time, nor on any day, including National Holidays, and the day before and day after a National Holiday.
- B. A Minor shall not use, discharge, or ignite any low impact fireworks or novelty fireworks, unless under supervision of a parent or guardian, and the use, discharge and ignition is within permitted hours, and does not violate the provisions of this ordinance and the Act.

Section V – Public Property.

- A. On any day, the use, discharge or ignition of any fireworks, including Consumer Fireworks, is prohibited on public property, school property, church property, or property of another person without that organization's or person's express written permission, and a person that violates this section is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.
- B. On any day, the use, discharge, or ignition of Consumer Fireworks, Low Impact Fireworks or Novelty Fireworks is prohibited on any other public property, including streets, sidewalks, easements and rights-of-way without the express written permission of the City.

Section VI – General Restrictions Including Holidays.

On any day, including the day of, the day preceding and the day after a National Holiday.

- A. Fireworks, including Consumer Fireworks, shall not be ignited within 20 feet of an open flame, a burner, gasoline, ignited gas or electric grill, or in any enclosed structure, garage, tent, or shed, or under any canopy or overhanging cover, of any nature.
- B. Excessive use of Consumer Fireworks that results in the disruption to residents is prohibited, notwithstanding anything to the contrary in the Act. Excessive use is defined as conduct that includes the continuous or intermittent ignition of fireworks continuing for more than 20 minutes during the hours of 10:30 p.m. and 11:00 a.m.
- C. No Person shall either individually or in concert with another Person, cause damage to any private or public property by the use, discharge or ignition of any Fireworks. Any violation of this provision is a misdemeanor, in addition to any penalty imposed under the Act.
- D. No Consumer Fireworks may be ignited, launched, discharged within 30 feet of a residential building, vehicle.

Section VII – Applicability of General Ordinances.

Nothing in this article or in the Act shall preclude the enforcement of ordinances prohibiting offensive conduct that is secondary or incidental or to the use, discharge or ignition of fireworks, regardless of the day.

Section VIII – Any person selling, distributing or transporting Fireworks shall otherwise comply with the Act, and is required to obtain the approvals that are necessary under the applicable provisions of the Zoning Ordinance of the City. Failure to secure applicable zoning approvals is subject to penalty as provided in the Zoning Ordinance of the City.

Section IX – Any Fireworks that are sold, distributed or displayed in violation of the Act or the Zoning Ordinances of the City are subject to seizure by the police department or the Fire Marshall, and the costs of such seizure or storage shall be reimbursed by the responsible person.

Section X – Notwithstanding the Act, any use, discharge or ignition of Fireworks that is presenting an imminent danger or threat to the public health, safety or welfare, as deemed by the Fire Marshall, shall be prohibited, and the Fireworks may be immediately seized, and violations of this act may be subject to penalties provided by law.

Section XI – Penalties.

- A. Except as provided a violation of this article is a misdemeanor, and a Person responsible may be ordered to pay a fine up to \$500, and/or subject to up to 90 days in jail.

- B. For violation of this article that is a civil infraction, a Person responsible may be ordered to pay a civil fine of up to \$500 for each violation.
- C. Any penalty for a violation of the Act shall be subject to the penalty imposed under the Act.

Section XII – Seizure and Cost Recovery.

- (a) All Fireworks used, discharged and ignited and possessed in violation of the Act and this article are subject to seizure. Any costs incurred by the City to seize, destroy and store the Fireworks shall be paid by the Responsible Party.
- (b) Any costs the City incurs to respond and remediate any damage to private or public property or injury to another Person shall be paid by the Responsible Party. The City may pursue any legal remedies to collect such costs.

Section XIII – Display Fireworks.

No Display Fireworks shall be ignited, used or displayed unless approved by the City Council, upon application is made to the City Clerk on a form provided by the Michigan Department of Licensing and Regulation, and proof is provided to the City that the display and applicant are adequately insured and bonded, the applicant has submitted a security plan, safety compliance plans, insurance and bond that meet with the satisfaction of the City Attorney, and an application fee is submitted in the minimum amount or \$750, plus any additional costs incurred by the City to administer the permit. A permit for display fireworks is supplemental to any other requirement for such display under the ordinances, including zoning approval under the Zoning Ordinance of the City, but the City Council may waive any of the requirements of this Ordinance as part of its issuance of a permit under this section. In addition to other penalties for zoning violations, a violation of this act is a misdemeanor punishable by up to 90 days in jail and/or a fine up to \$500.

I HEREBY CERTIFY that the foregoing Ordinance No.13-004 was adopted by the City of Belleville Council at its meeting held on October 21, 2013.



Lisa Long, City Clerk/Treasurer

Published: October 31, 2013.

Introduced: 09/16/13
Enacted: 10/21/13
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City of Belleville

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APPLICATION TO SELL CONSUMER FIREWORKS



Name of Applicant: _____

Address of Applicant: _____

Phone Number: _____

Location of Sales: _____

Inside Sales _____ Outside Sales _____

Dates of Sale: _____ Hours of Operation: _____

Applicant must provide:

- Copy of Low Impact Fireworks Registry
- Consumer Fireworks Certificate
- Sales Tax Certificate
- Certificate of Insurance Coverage not less than \$1,000,000 per occurrence.

Applicant Signature: _____

Property Owner Signature: _____

Date of Application: _____

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City Verification

- _____ Registered with Low Impact Fireworks Registry
- _____ Received Consumer Fireworks Certificate
- _____ Copy of Sales Tax
- _____ Retail Location – Fully Suppressed NFPA 101 NFPA 1124
- _____ Certificate of Insurance Coverage

Approved: _____ Denied: _____

Signature of City Official: _____

Date: _____