

**CITY OF JEFFERSONTOWN, KENTUCKY  
JEFFERSON COUNTY, KENTUCKY**

**ORDINANCE NO. 1269, SERIES 2011**

**AN ORDINANCE REGULATING AND PROHIBITING THE PURCHASE,  
POSSESSION, RETAIL SALE AND USE OF FIREWORKS WITHIN THE  
CITY OF JEFFERSONTOWN, KENTUCKY**

**WHEREAS**, the use of fireworks constitutes an inherent danger and a hazard because of the strong possibility of fire and injuries to users and bystanders; and,

**WHEREAS**, the City Council of the City of Jeffersontown has determined that the best interest of the City requires the enactment of a comprehensive ordinance regulating and prohibiting the possession, sale and use of fireworks in the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF JEFFERSONTOWN, KENTUCKY:**

Section 1. Definitions.

A) **Fireworks**: Any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, detonation or ignition.

B) **Consumer Fireworks**: Fireworks that are suitable for use by the public which are designed primarily to produce visible and audible effects by combustion, deflagration, detonation or ignition, and contain fifty (50) milligrams ("mg."), or less of explosive composition, and if an aerial device, contains one hundred thirty (130) mg. or less of explosive composition which comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission. Such fireworks include, but are not limited to the following:

1. **Ground and Hand-Held Sparkling Devices**:

a) **Dipped Stick-Sparkler or Wire Sparkler**: Consists of a metal wire or wood dowel that has been coated with pyrotechnic composition, which upon ignition, produces a shower of sparks. Sparklers may contain up to one hundred (100) grams of pyrotechnic composition 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 Department of Transportation regulations;

b) Cylindrical Fountain: Cylindrical tube containing not more than seventy-five (75) grams of pyrotechnic composition, where upon ignition, a shower of and sometimes a whistling or smoking 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). When more than one (1) tube is mounted on a common base, total pyrotechnic composition may not exceed two hundred (200) grams, or five hundred (500) grams if the tubes are separated from each other on the base by a distance of at least one-half (1/2) inch;

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. When more than one (1) cone is mounted on a common base, the total pyrotechnic composition may not exceed two hundred (200) grams, or five hundred (500) grams if the tubes are separated from each other on the base by a distance of at least one-half (1/2) inch;

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. When more than one (1) tube is mounted on a common base, total pyrotechnic composition may not exceed two hundred (200) grams, or five hundred (500) grams if the tubes are separated from each other on the base by distance or at least one-half (1/2) inch;

e) Wheel: A pyrotechnic device attached to a post or tree by means of a nail or string. A wheel may have one (1) or more drivers, each of which may contain not more than sixty (60) grams of pyrotechnic composition. No wheel may contain more than two hundred (200) grams, total pyrotechnic composition upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect;

f) Ground Spinner: Small device containing not more than twenty (20) grams of pyrotechnic composition, similar in operation to a wheel but intended to be placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device;

g) Flitter Sparkler: Narrow paper tube attached to a stick or wire and filled with not more than one hundred (100) grams of pyrotechnic composition that produces color and sparks upon ignition. The paper at one (1) end of the tube is ignited to make the device function;

h) Toy Smoke Device: Small plastic or paper item containing not more than one hundred (100) grams of pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

## 2. Aerial Devices:

a) Sky Rockets and Bottle Rockets: Cylindrical tube containing not more than twenty (20) grams of pyrotechnic composition. Sky rockets contain a wood 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 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 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;

e) Mine Shell: Heavy cardboard or paper tube usually attached to a wood or plastic base and containing up to sixty (60) grams of total chemical composition (lift charge, burst charge, and visible or audible effect). Upon ignition, "stars," components producing reports containing up to one hundred thirty (13) mg. of explosive composition per report, or other devices are propelled into the air. The term "mine" refers to a device with no internal components containing a bursting charge, and term "shell" refers to a device that propels a component that subsequently bursts open in the air. A mine or shell device may contain more than one (1) tube provided the tubes fire in sequence upon ignition of one (1) external fuse. The term "cake" refers to a dense-packed collection of mine or shell tubes. Total chemical composition including lift charges of any multiple tube devices may not exceed two hundred (200) grams. The maximum quantity of lift charge in any one (1) tube of a mine or shell device shall not exceed twenty (20) grams, and the maximum quantity of break or bursting charge in any component shall not exceed twenty-five percent (25%) of the total weight of chemical composition in the component. The tube remains on the ground;

f) Aerial Shell Kit/Reloadable Tube: A package kit containing a cardboard, high-density polyethylene (HDPE), or equivalent launching tube with multiple-shot aerial shells. Each aerial shell is limited to a maximum of sixty (60) grams of total chemical composition (lift charge, burst charge, and visible or audible effect composition), and the maximum diameter of each shell shall not exceed one and three-fourths (1-3/4) inches. In addition, the maximum quantity of lift charge in any shall not exceed twenty (20) grams, and the maximum quantity of break or bursting charge in any shell shall not exceed twenty-five percent (25%) of the total weight of chemical composition in the shell. The total chemical composition of all the shells in a kit, including lift charge, shall not exceed four hundred (400) grams. The user lowers a shell into the launching tube, at the time of firing, with the fuse extending out of the top of the tube. After the firing, the tube is then reloaded with another shell for the next firing. All launching tubes shall be capable of firing twice the number of shells in the kit without failure of the tube. Each package of multiple-shot aerial shells must comply with all warning label requirements of the Consumer Product Safety Commission.

3. Audible Ground Devices:

a) Firecrackers/Salutes: Small paper-wrapped or cardboard tube containing not more than fifty (50) mg. of pyrotechnic composition. Those used in aerial devices may contain not more than one hundred thirty (130) mg. of explosive composition per report. Upon ignition, noise and a flash of light is produced;

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;

C. Display Fireworks: Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, detonation or ignition. This term includes, but is not limited to, firecrackers containing more than two (2) grains (130 mg.) of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as "Consumer Fireworks." Such definition meets the Consumer Product Safety Commission definition for display fireworks in 16C.F.R. Pts. 1500 and 1507 and are classified as Class B explosives by the United States Department of Transportation.

D. Smoke Devices: Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

E. Snakes/Glow Worms: Pressed pellet of pyrotechnic compositions that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. Such devices may NOT contain mercuric thiocyanate.

F. Trick Noisemakers: Item that produces a small report intended to surprise the user. These devices include:

1) 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.

2) 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.

3) 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.

4) 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.

5) 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.

6) 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.

G. 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 percholate salts may not exceed five (5) grams of pyrotechnic composition per item.

## Section 2. Sale of Display Fireworks.

It shall be unlawful for any person, firm, corporation or other entity to offer for sale, expose for sale, sell at retail, keep or possess with the intent to sell any display fireworks within the City of Jeffersontown.

## Section 3. Use of Display Fireworks.

It shall be unlawful for any person, firm, corporation or other entity to use or detonate any display fireworks within the City of Jeffersontown except as follows:

a) Pyrotechnic devices and distress signals for marine, aviation and highway use in emergency situations.

b) Blank cartridges used in a show or theater or for use as a signal or ceremonial purpose in athletics, sports, or for military commemoration or ceremony.

c) Pyrotechnic devices authorized for use under the supervision of a military organization.

d) Pyrotechnic devices for use in training by fire service, law enforcement, or similar governmental agencies.

e) Fireworks for agricultural purposes under the direct supervision of the United States Department of the Interior or any equivalent agency.

f) Supervised public displays of fireworks by municipalities or other organizations conducted by a competent display operator to be approved by the Jeffersontown Fire Protection Chief and who shall have the qualifications and meet the requirements set out in Chapter 227 of the Kentucky Revised Statutes and further provided that organizations other than the City of Jeffersontown shall be required to pay a permit fee of \$250 which may be waived in the sole

discretion of the City of Jeffersontown and apply for the permit not less than fifteen (15) days prior to the event.

#### Section 4. Sale of Consumer Fireworks.

(1) The sale of consumer fireworks shall be permitted with the following exceptions, the sale of which exceptions in the following sub-sections, to-wit, (2), (3), (4) and (5) are prohibited.

(2) Notwithstanding the foregoing, consumer fireworks may not be offered for sale, exposed for sale, sold at retail, kept or possessed with intent to sell if said fireworks have as part of their devices any wings, fins or other mechanisms designed to cause the devices to fly or are designed to operate as aerial devices or if said consumer fireworks carry a cautionary label which includes in their description any of the following terms: "explosive," "emits flaming pellets," "flaming balls," "firecrackers," "report" or "rocket."

(3) It shall be unlawful for any person under the age of eighteen (18) to sell or possess with intent to sell or display consumer fireworks.

(4) It shall be unlawful for any person, firm, corporation or other entity to employ any person under the age of eighteen (18) for the sale of fireworks within the City of Jeffersontown.

(5) It shall be unlawful for any person, firm, corporation or other entity to give, offer for sale or sell any consumer or display fireworks to any person who is eighteen (18) years of age within the City of Jeffersontown.

(6) It shall not be a violation of this ordinance for any person, firm, corporation or other entity to transport within the City of Jeffersontown consumer or display fireworks, so long as such products are being transported through the City of Jeffersontown to a location where such products can be sold, stored or used in compliance with law. Commercial transportation of all fireworks are required to be in accordance with city, state and federal regulations regarding explosive materials.

(7) In addition to a business license (if required), any person, firm, co-partnership, or corporation desiring to sell fireworks within the City of Jeffersontown shall obtain a permit to sell fireworks from the City Clerk of Jeffersontown at least fifteen (15) days prior to offering fireworks for sale at the site for which the permit is intended. A permit fee of \$250.00 shall be paid to the City of Jeffersontown for each permit required. A copy of the permit shall be posted on site. No permit shall be issued unless the applicant shall give bond or evidence of liability insurance deemed adequate by the City of Jeffersontown in the sum of not less than ten thousand dollars (\$10, 000.00). If any person, firm, co-partnership, or corporation has more than one site, a permit shall be required for each additional site complying with said provisions required above. Any failure to comply with

the provisions of this ordinance shall result in the revocation of this permit and such permit will be held to be void or forfeited by that business. Exempt from the aforesaid permitting requirements are those business establishments that are open year round and for which the sale of Novelty and Trick Noisemakers are described in Section 1, (3) (D), (E), (F) and (G).

- (8) The location of any temporary structure, or retail display for the purpose of displaying for sale and FIREWORKS by definition, such as a booth, make shift stand, or retail shelf shall not be within one hundred (100) feet of any combustible or flammable dispenser, or within fifty (50) feet of any combustible structure, or within (50) feet of any combustible or flammable liquid container, or within twenty five (25) feet of any non combustible structure.

(A) Fire Safety Requirements

- (1) Fire Extinguishers will be required in accordance with NFPA # 10 Standards as referenced by the current adopted Kentucky Standards of Safety.
- (2) No Smoking signs will be posted, and there will be no open flame devices permitted within one hundred (100) feet of said temporary structure. No DEMONSTRATION of Fireworks will be permitted near or around the display of fireworks for sale.
- (3) All temporary electrical wiring will be required to meet NFPA # 70 Standards as referenced by the current adopted Kentucky Standards of Safety.
- (4) All retail sales and storage of pyrotechnic material must follow NFPA # 1123, 1124, 1125, 1126 and 1127 which is the current adopted National Fire Protection Association Code Book by the State of Kentucky.

Section 5. Use of Consumer Fireworks.

(1) It shall be unlawful in the City of Jeffersontown for any person, firm, corporation or other entity to use or detonate fireworks on private property in such manner as to create a circumstance of wanton endangerment or disorderly conduct.

(2) It shall be unlawful in the City of Jeffersontown for any person, firm, corporation or other entity to use or detonate any fireworks on City of Jeffersontown property except for products defined herein under Section 1, (3) (D), (E), (F) and (G).

Section 6. Inspection and Enforcement.

(1) The Jeffersontown Building Inspector or his designated representative and in cooperation with the Jeffersontown Police Chief or his designated representative are hereby determined to be the enforcement authority and are authorized and directed to enforce all

sections of this ordinance. Final determination concerning compliance shall be in the sole discretion of the Jeffersontown Building Inspector.

(2) The enforcement authority may enter any premises covered by this ordinance in the performance of duties imposed herein.

**Section 7. Penalties.**

(1) Violations of this ordinance may be prosecuted in proceedings by the Jeffersontown Code Enforcement Board or by the Jefferson District Court.

(2) Any person, firm, corporation or other entity found to be in violation of this ordinance by the Jeffersontown Code Enforcement Board may be assessed a civil penalty payable to the City of Jeffersontown in an amount not less than fifty (\$50.00) dollars per day for each violation, nor more than five hundred (\$500.00) dollars.

(3) Any person, firm, corporation or other entity found to be in violation of this ordinance by the Jefferson District Court shall receive a fine not to exceed five hundred (\$500.00) dollars.

(4) Enforcement authorities or police officers shall immediately confiscate any fireworks believed to be in violation of this ordinance. Following an appropriate hearing, if no violation is found to have occurred, said confiscated fireworks shall be returned by the enforcement authorities or police officers to the person, firm, corporation or other entity from whom they were obtained. Following an appropriate hearing, if a violation is found to have occurred, the confiscated fireworks shall be destroyed by the appropriate enforcement authority.

**Section 8. Repeal of Prior Ordinance.**

All City of Jeffersontown ordinances in conflict with this ordinance are hereby repealed.

Section 9. This Ordinance shall take effect and be in force immediately upon its passage and publication.

**INTRODUCED AND FIRST READING WAS HEARD BY THE CITY COUNCIL OF THE CITY OF JEFFERSONTOWN, KENTUCKY THIS 6<sup>TH</sup> DAY OF JUNE 2011.**

**INTRODUCED, READ, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JEFFERSONTOWN, KENTUCKY THIS 8<sup>TH</sup> DAY OF JUNE 2011.**



VETOED:

APPROVED:

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BILL DIERUF, MAYOR

  
\_\_\_\_\_  
BILL DIERUF, MAYOR

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

6/8/11  
\_\_\_\_\_  
DATE:

ATTEST:

  
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BILL FOX, CITY CLERK