

## **FIREWORKS REGULATIONS**

### **§ 94.40 PURCHASE, POSSESSION AND RETAIL SALE OF FIREWORKS.**

#### **(A) Definition of terms.**

**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 50 milligrams or less of explosive composition, and if an aerial device, contains 130 milligrams 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:

##### **(a) Ground and hand-held sparkling devices.**

1. *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 100 grams of pyrotechnic composition per item. Those devices containing any perchlorate or chlorate salts may not exceed five grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item are not included in this category, in accordance with Department of Transportation regulations;
2. *Cylindrical fountain:* Cylindrical tube containing not more than 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 tube is mounted on a common base, total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch;
3. *Cone fountain:* Cardboard or heavy paper cone containing up to 50 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, the total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch;
4. *Illuminating torch:* Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base or hand-held. When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch;
5. *Wheel:* A pyrotechnic device attached to a post or tree by means of a nail or string. A wheel may have one or more drivers, each of which may contain not more than 60 grams of pyrotechnic composition. No wheel may contain more than 200 grams total pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect;
6. *Ground spinner:* Small device containing not more than 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;
7. *Flitter sparkler:* Narrow paper tube attached to a stick or wire and filled with not more than 100 grams of pyrotechnic composition that produces color and sparks upon ignition. The paper at one end of the tube is ignited to make the device function; and
8. *Toy smoke device:* Small plastic or paper item containing not more than 100 grams of pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

##### **(b) Aerial devices.**

1. *Sky rockets and bottle rockets:* Cylindrical tube containing not more than 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;
2. *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;
3. *Helicopter/aerial spinner:* A tube containing up to 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;
4. *Roman candles:* Heavy paper or cardboard containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals;
5. *Mine shell:* Heavy cardboard or paper tube usually attached to a wood or plastic base and containing up to 60 grams of total chemical composition (lift charge, burst charge, and visible or audible effect). Upon ignition, "stars", components producing reports containing up to 130 milligrams 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 the

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 tube provided the tubes fire in sequence upon ignition of one 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 200 grams. The maximum quantity of lift charge in any one tube of a mine or shell device shall not exceed 20 grams, and the maximum quantity of break or bursting charge in any component shall not exceed 25% of the total weight of chemical composition in the component. The tube remains on the ground; and

6. *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 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 1-3/4 inches. In addition, the maximum quantity of lift charge in any shell shall not exceed 20 grams, and the maximum quantity of break or bursting charge in any shell shall not exceed 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 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.

(c) *Audible ground devices*.

1. *Firecrackers/salutes*: Small paper-wrapped or cardboard tube containing not more than 50 milligrams of pyrotechnic composition. Those used in aerial devices may contain not more than 130 milligrams of explosive composition per report. Upon ignition, noise and a flash of light is produced; and

2. *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 50 milligrams.

**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 grains (130 milligrams) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as "Consumer Fireworks". Such definition meets the United States Department of Transportation classification for display fireworks in UN0333, UN0334, UN033516 at 49 C.F.R. 172.101. This term also includes fused set pieces containing components which together exceed 50 milligrams of salute power.

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

**SMOKE DEVICES.** Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

**SNAKES/GLOW WORMS.** Pressed pellet of pyrotechnic composition 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.

**TRICK NOISEMAKERS.** 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 16 milligrams 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 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 50 milligrams, may also be used to produce a small report. A squib is used to ignite the device.

**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 100 grams of pyrotechnic composition per item. Devices containing any chlorate or perchlorate salts may not exceed five grams of pyrotechnic composition per item.

(B) *General provisions*.

(1) It shall be unlawful for any person, firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC"), corporation, retail facility or seasonal retailer to offer for sale, expose for sale, sell at retail, keep with the intent to sell, possess with the intent to sell, any fireworks or display fireworks within the jurisdiction of

Louisville Metro.

(2) It shall also be unlawful for any person, firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC"), corporation, retail facility or seasonal retailer to use, explode or ignite any fireworks or display fireworks, within the consolidated city limits of Louisville Metro, unless such devices falls within one of the exceptions listed in § 94.40. Exceptions:

- (a) Pyrotechnic devices and distress signals for marine, aviation and highway use in emergency situations.
- (b) Blank cartridges used in a show or theatre or for use as a signal or ceremonial purpose in athletics or sports.
- (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 purposed under the direct supervision of the United States Department of the Interior or any equivalent or local agency.

(3) No person, firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC"), corporation, retail facility or seasonal retailer shall offer for sale, expose for sale, sell at retail, keep with the intent to sell, possess with the intent to sell, any consumer fireworks, unless such devices falls within one of the exceptions listed in § 94.40. Exceptions:

- (a) Novelties and trick noisemakers which are not classified as consumer fireworks under §94.40 or by the United States Department of Transportation.
- (b) Snakes/glow worms.
- (c) Smoke devices.
- (d) Wire sparklers.
- (e) Cylindrical fountain.
- (f) Cone fountain.
- (g) Wheel.
- (h) Ground spinner.

(4) Consumer fireworks may not be offered for sale, exposed for sale, sold at retail, kept with the intent to sell, nor possessed with the intent to sell, if it has as part of its device any wings, fins, or other mechanisms designed to cause the device to fly, or is an aerial device. Consumer fireworks also may not be offered for sale, exposed for sale, sold at retail, kept with the intent to sell, nor possessed with the intent to sell, if it carries a cautionary label which includes in its description any of the following terms: "explosive", "emits flaming pellets", "flaming balls", "firecracker", "report" or "rocket".

(5) Consumer fireworks may be used or ignited by persons, as long as such devices falls within one of the permitted consumer fireworks exceptions as provided for in subsections (B)(2)(a) through (B)(2)(e) and (B)(3)(a) through (B)(3)(h) and such device does not have as part of its device any wings, fins, or other mechanisms designed to cause the device to fly, is not an aerial device, nor does it carry a cautionary label which includes in its description any of the following terms: "explosive", "emits flaming pellets", "flaming balls", "firecracker", "report" or "rocket". In addition, the use or ignition of consumer fireworks must not present a hazard to property, other persons, vehicles or animals.

(6) A person may not use or ignite consumer fireworks, within the consolidated city limits of Louisville Metro, unless he or she is at least 18 years of age, and such devices falls within one of the permitted consumer fireworks exceptions as provided for in subsections (B)(2)(a) through (B)(2)(e) and (B)(3)(a) through (B)(3)(h) and such consumer fireworks does not have as part of its device any wings, fins, or other mechanisms designed to cause the device to fly, is not an aerial device, nor does it carry a cautionary label which includes in its description any of the following terms: "explosive", "emits flaming pellets", "flaming balls", "firecracker", "report" or "rocket".

(7) Persons under the age of 18 may not sell or possess with the intent to sell, fireworks, consumer fireworks or display fireworks.

(8) No person under the age of 18 shall be employed by any person, firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC"), corporation, retail facility or seasonal retailer that offers for sell fireworks, consumer fireworks or display fireworks, within the consolidated city limits of Louisville Metro.

(9) No person, firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC"), corporation, retail facility or seasonal retailer shall give, offer for sale, or sell any fireworks, consumer fireworks or display fireworks to any person who is under 18 years of age, within the consolidated city limits of Louisville Metro.

(10) If a person, firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC"), corporation, retail facility or seasonal retailer is accused of using, igniting, exploding, offering for sale, exposing for sale, selling at retail, keeping with the intent to sell, or possessing with the intent to sell any fireworks, display fireworks or consumer fireworks in violation of any provision of § 94.40, the appropriate enforcement authority shall immediately confiscate any such devices that are believed to be in violation of § 94.40.

(11) It shall not be a violation of §94.40 for any person, firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC") or corporation to transport fireworks, display fireworks or consumer fireworks that are not legally permitted within the boundaries of Louisville Metro, as long as such banned items are being transported through Louisville Metro to an otherwise legal location where such items can be sold, stored or used. Commercial transportation of firework, display fireworks or consumer fireworks must be done in accordance with state and Federal regulations regarding explosive materials.

(12) Nothing in § 94.40 shall prevent public fireworks displays or the use of pyrotechnics before an audience as long as such events or performances are conducted pursuant to the permit requirements under §§ 94.31 et seq.

(C) *Penalties and fines.*

(1) Any person found to be in violation of subsection (B)(1) or (B)(2) shall receive a fine not to exceed \$250.

(2) Any person found to be in violation of subsection (B)(3) shall receive a fine not to exceed \$250.

(3) Any person found to be in violation of subsection (B)(4) shall receive a fine not to exceed \$250.

(4) Any firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC"), corporation, retail facility or seasonal retailer found to be in violation of subsection (B)(1) or (B)(2) shall receive a fine not to exceed \$500.

(5) Any firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC") or corporation, retail facility or seasonal retailer found to be in violation of subsection (B)(3) shall receive a fine not to exceed \$500.

(6) Any firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC"), corporation, retail facility or seasonal retailer found to be in violation of subsection (B)(4) shall receive a fine not to exceed \$500.

(7) Any person, firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC"), corporation, business, retail facility or seasonal retailer that gives, offers for sale, or sells any fireworks, consumer fireworks or display fireworks to any person who is under 18 years of age, within the consolidated city limits of Louisville Metro, shall receive a fine not to exceed \$500.

(8) After any person, firm, co-partnership, sole proprietor, business entity, not-for-profit organization, limited liability company ("LLC") or corporation is found to be in violation of any part of § 94.40 after a proper hearing, any fireworks, display fireworks or consumer fireworks that have been confiscated under § 94.40, shall be destroyed by the appropriate enforcement authority.

(Lou. Metro Ord. No. 139-2011, approved 6-24-2011; Lou. Metro Am. Ord. No. 255-2011, approved 11-17-2011)