

CITY FIREWORKS POLICY GUIDELINES **AS INCORPORATED FOR THE DURBAN** **POINT PRECINCT INCLUDING USHAKA**

Following discussions with officials from the Fire Unit and Metro Police, there was agreement that a fireworks policy was not in place in any part of the Municipality. However, in terms of General Bylaws MN 204, 1994 –

Chapter 3
NUISANCES
PART 1 : GENERAL

Offences

3.1.1 (1) A person commits an offence if in a street or public place or on premises he by act or omission causes or creates a nuisance or allows a nuisance to arise or exist in circumstances which are under his control; provided that the foregoing shall not apply to the extent that a person acts lawfully in the exercise of a right or in the performance of a duty.

(2) Without limiting the generality of the provisions of subsection (1) the following shall constitute nuisances thereunder:

(e) the production of noise produced by the discharge of any gun, firework or other explosive device;

is the only section that deals with firework control

NATIONAL CONTROL OF EXPLOSIVES/ FIREWORKS

The Explosives Act. No. 26 of 1956 relates to the manufacture, storage, sale, transport, importation, exportation and the use of explosives. Chapter 9 of the Explosives Regulations - Storage and Sale of Blasting Materials and Fireworks by licenced dealers - Section 9.1 to 9.11.1 relates largely to the storage, sale and licensing of dealers in fireworks, the more pertinent sections are 9.18 (d) which reads:

“a dealer in fireworks shall not sell or allow or permit to be sold any fireworks to a child under the apparent age of 16 years” and section 9.19 reads:

“no person shall allow or permit any children under the age of 16 years to handle or use of fireworks except under the supervision of an adult person”

The aforesaid Act and Regulations are administered by the Chief Inspector of Explosives and the Explosives Unit of the South African Police Services.

It is understood that this Act and Regulation are to be amended / altered during which time it may be appropriate to ensure that the Municipality's concerns are adequately taken into consideration.

ISSUES THAT REQUIRE CONTROL IN THE USE OF FIREWORKS

Fireworks are generally classified into 2 broad groups viz :-

(a) Display Fireworks - Used during special functions, Diwali celebration at the beachfront, Hare Krishna festival at Chatsworth and Beachfront, sporting functions and other such like activities. Applications for permission are made to the Chief Inspector of Explosives - Pretoria and the Explosives Unit of SAPS. The latter seeks the Municipality's recommendations.

The Fire Unit reports to the Municipal Manager with its recommendations who thereafter approves/denies the application.

In almost all instances, applications are approved as the activity is managed by a competent pyrotechnician and the community is sensitised of the fireworks display.

Display fireworks have seldom proved to be a nuisance.

(b) Consumer or Recreational Fireworks - is a separate grade of fireworks used during cultural, religious and other special days of the year viz :- Diwali (festival of lights), New Year, Chinese New Year and other special occasions. It is this type of fireworks use that requires control from the City's point of view. The issues that need control are use/abuse and misuse of fireworks preservation of life and prevention of injury to animals, noise and cultural or other days when fireworks may be used.

RECOMMENDATIONS

Three possible routes are available for the control of fireworks - a bylaw for the control of fireworks, preservation of life, prevention of injuries, protection of property and noise, amendment to the General Bylaws or the development of a policy for the municipality.

The latter may be more expedient especially in view of the fact that section 31 (1) of the Bill of Rights declares that 'Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community:

(a) to enjoy their culture, practise their religion and use their language.....
The following guidelines should be incorporated into a policy for the control of consumer or recreational fireworks and firecrackers.

DEFINITIONS

"Fireworks" - that is goods that intended to be of pyrotechnic effect that are classified low hazard fireworks such as firework showers, fountains, golden rain, lawn lights, pin wheels, sparkles and volcanoes etc.

"Fire Cracker" means small fireworks with entwined fuses used solely as noise makers and not for pyrotechnic effect.

"Nuisance Fireworks" means a fireworks product that produces an effect involving a screech or noise, or is being altered or misused that has the effect of creating fear or disturbance to residents. These include fireworks such as air bombs, supersonic bang, sound shells, fountain whistle, screeches etc.

"Family Package"- means outdoor low hazard recreational fireworks.

RECOMMENDED POLICY GUIDELINES

- I. An approved retail dealer in fireworks shall not sell or allow or permit to be sold any fireworks to a child under the apparent age of 16 years whether for his / her own use or not.
- II. No person shall allow or permit any children under the age of 16 years to handle or use fireworks except under the supervision of an adult person.
- III. It shall be unlawful for any person under the age of 16 years to possess any fireworks for any reason.
- IV. Sale, distribution or storage of fireworks in or from vehicles, trailers or temporary structures on the streets is prohibited.
- V. It shall be unlawful for any person to set off, discharge or explode any fireworks on any street, on private place other than on a lot of a private dwelling or property and only with the knowledge and consent of the occupant or owner and subject to other conditions hereunder.
- VI. It shall be unlawful for any person to point or direct a firework at any person, animal, building or motor vehicle where such firework is in the process of exploding or detonating and where it is capable of projecting or discharging a charge or pyrotechnical effect from a distance of one meter.
- VII. All fireworks which fire a projectile shall be so set up that the projectile will go up into the air as nearly as possible in a vertical direction.
- VIII. No fireworks shall be discharged during a wind storm in which the wind reaches a velocity of more than 50 km/hour.
- IX. The municipality shall give permission in writing to a person or organisation to detonate or explode fireworks for religious, cultural or ceremonial purposes with details of the conditions of usage and time.
- X. The municipality shall approve cultural and other days and times during which fireworks may be detonated or exploded.
- XI. The municipality shall approve the period preceding any festival, cultural, religious or ceremonial day or other days when fireworks may be sold to the public.
- XII. Fireworks may be detonated or exploded from 23h45 on December 31 of each year until 00:15 of the New Year.
- XIII. No fireworks shall be detonated on any day or time except for those days and times declared by the Council as religious, cultural or ceremonial in respect of that particular person or organization for which prior written approval had been obtained.
- XIV. No fireworks shall be sold by a person or a dealer other than the prescribed days and no person shall explode or detonate fireworks on any other day without the approval of the municipality.
- XV. When fireworks are to be detonated or exploded in a communal property, the permission of the owner of such premises is obtained in the first instance.
- XVI. No approved dealer shall sell fireworks other than in a family pack which contains an assortment of "family fireworks" in which "nuisance fireworks or firecrackers" when totalled shall not comprise more than 20% of the entire items in the package.
- XVII. Fireworks shall be detonated or exploded as far as possible from hospitals, clinics, petrol service stations, old age and nursing homes, animal welfare organisation and institutions.
- XVIII. An authorised or peace officer of the Municipality may seize fireworks being held in violation of this policy and shall dispose them without compensation.