

**Council**

Anne Gerwig, Mayor  
Tanya Siskind, Vice Mayor  
John T. McGovern, Councilman  
Michael Drahos, Councilman  
Michael J. Napoleone, Councilman

**Manager**  
Paul Schofield

September 9, 2020

Mr. Casey Cook  
Florida League of Cities  
301 S Bronough Street, Suite 301  
Tallahassee, FL 32301

RE: Amended Fireworks Statute, SB 140

Dear Mr. Cook,

Well intentioned as Senator Hutson's bill allowing for the legal use of fireworks on Independence Day and New Year's was it, like many universal approaches can have unintended consequences. One of those unintended consequences is the real probability of harm to Wellington's equestrian community.

Wellington's Equestrian Preserve Area encompasses a third of our Village. We are among a handful of municipalities that have active farms within our boundaries. The Equestrian preserve in large measure supports five world-class competitive venues with farms that support the competitions. Our farms are not what one normally imagines when thinking of a family farm. Rather they relatively small highly concentrated properties. During the peak of our equestrian season there can be as many as 15,000 horses stabled on the nearly 700 farms within Equestrian Preserve. Some of the farms are as small as 2 acres and the smaller farms are concentrated along our urban boundary.

Unlike most farms where the livestock density is relatively low and well distributed, our smaller farms may stable as many as eight horses on two acres that in addition to the barn contains a large house, practice rings and paddocks. Event facilities stable as many as 50 horses per acre in the days surrounding major competitions. In Wellington horses compete at international and Olympic levels.

Horses are extraordinarily noise sensitive. Part of what makes a horse a great competitor is an enhanced flight response. That enhanced flight response makes them different from the horses we are most accustomed to, working farm and ranch horses. A horse's natural instinct is to run from loud concussive noises. Horses are herd animals when one panics they all panic. The combination of close proximity to the urban core, small farms, large numbers of animals stabled together, and highly sensitive animals make fireworks extremely dangerous to Wellington's horses and equestrian community.

We are not asking for the complete ban of fireworks in our Village, we are asking for the ability to control their use within a mile of our equestrian community. Wellington's equestrian community is unique and is an asset to Wellington and the State. It draws competitors from around the world who bring world-class competitive horses to our state and community. Our horses deserve protection. Please consider allowing Wellington to reasonably regulate fireworks in, near and around our Equestrian Preserve.

Respectfully,



Anne Gerwig  
Mayor

**MEMORANDUM  
NO. 2020-023**

TO: ANNE GERWIG, MAYOR  
TANYA SISKIND, VICE MAYOR  
JOHN MCGOVERN, COUNCILMAN  
MICHAEL DRAHOS, COUNCILMAN  
MICHAEL NAPOLEONE, COUNCILMAN

CC: Paul Schofield  
Senior Staff  
Chevelle Addie

FROM: Laurie S. Cohen *L.S.C.*

DATE: September 1, 2020

RE: Regulation of Fireworks

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At the last Council meeting, the Mayor requested information on whether and how Wellington might regulate the sale and use of fireworks. Chapter 791 of the Florida Statutes is intended to create a uniform scheme of regulation with respect to the sale and use of fireworks throughout the state. Section 791.02 makes it unlawful to sell, expose for sale, sell at retail or use or explode any fireworks except for supervised public displays by fair associations, amusement parks, and other organizations or groups of individuals. Such displays must be handled by a competent operator and must be approved by the chiefs of the police and fire departments of the municipality in which the display is to be held. The fire chief must determine that they are not hazardous to property or people.

The prohibition found in section 791.02 does not apply to the purchase, sale or use of fireworks where such fireworks are used exclusively in frightening birds from agricultural works and fish hatcheries. The Department of Agriculture and Consumer Services is responsible for adopting rules relating to such agricultural uses. Fla. Stat. § 791.07.

In 2007, the Florida Legislature created a Consumer Fireworks Task Force pursuant to Chapter 2007-67, Laws of Florida. One of the legislative findings underpinning the creation of the Task Force was to ensure that local government regulation of agricultural uses was not inconsistent with legitimate agricultural purposes. As part of the 2007 law, the legislature directed that local governments may not adopt any ordinance, rule or regulation after March 8, 2007 that directly prohibits or directly interferes with the safety standards established by state law or the right to purchase, sell, use or possess consumer fireworks unless the Legislature enacted legislation to provide for the comprehensive regulation of fire prevention and safety standards for the use of

consumer fireworks. To date, the Legislature has not adopted any such comprehensive regulation and Wellington had no existing ordinance regulating fireworks, other than use within Village parks, in existence on March 8, 2007.

During the 2020 legislative session, the Legislature adopted SB 140, now codified as Chapter 2020-11, Laws of Florida and to be numbered as section 791.08, Florida Statutes. The new law provides that, notwithstanding the prohibition of section 791.02, the use of fireworks is not prohibited on the designated holidays of New Year's Day, July 4<sup>th</sup> and New Year's Eve.

Given the above, it is clear that, absent some kind of exemption from the application of general law, such as a local bill, Wellington cannot override the Florida Legislature in this area and cannot prohibit the sale or use of fireworks within the Village on the specified holidays that the Legislature has approved.

The 2021 legislative session begins in March, 2021 and the Local Delegation office has not yet published its timeline for submission of local bills. However, if the Council were inclined to submit something to the Local Delegation, it would likely need to address only the permissible use of fireworks on the designated holidays and otherwise preserve the agricultural exemption from regulation. I have prepared a draft version as an example of what the legislation may look like.

Please let me know whether Council wishes to proceed with such an endeavor.

## FLORIDA HOUSE OF REPRESENTATIVES

BILL

ORIGINAL

YEAR

1  
2 A bill to be entitled

3 An act relating to the Village of Wellington, Palm Beach  
4 County; providing for local regulation of fireworks  
5 located within its jurisdictional boundaries; providing  
6 an exception to general law; providing an effective  
7 date.  
8

9 Be It Enacted by the Legislature of the State of Florida:

10 \_\_\_\_\_  
11 Section 1. Notwithstanding ss. 791.001 and 791.08, Florida  
12 Statutes, the sale and use of fireworks within the jurisdictional  
13 boundaries of the Village of Wellington are prohibited on all days  
14 of the year except for the following:

15 (a) supervised public displays within the jurisdictional  
16 boundaries of Wellington where such displays are handled by a  
17 competent operator to be approved by the chiefs of the police and  
18 fire departments of Wellington, and shall be of such a character,  
19 and so located, discharged, or fired as in the opinion of the chief  
20 of the fire department, after proper inspection, shall not be  
21 hazardous to property or endanger any person. Application for  
22 permits shall be made in writing at least 15 days in advance of  
23 the date of the display. After such privilege shall have been  
24 granted, sales, possession, use, and distribution of fireworks for  
25 such display shall be lawful for that purpose only. No permit  
26 granted hereunder shall be transferable.

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Fireworks

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

## F L O R I D A   H O U S E   O F   R E P R E S E N T A T I V E S

BILL

ORIGINAL

YEAR

27 |        (b)    Nothing herein is intended or shall prevent the  
28 | importation, purchase, sale or use of fireworks for agricultural  
29 | purposes as set forth in s. 791.07, Florida Statutes.

30 |        Section 2.   This act shall take effect upon becoming a law.