

**CITY OF WINCHESTER, KENTUCKY
ORDINANCE NO. 2-2012**

SUMMARY

**AN ORDINANCE AMENDING SECTIONS 9-57 and 11-4 OF THE CODE OF
ORDINANCES OF THE CITY OF WINCHESTER, KENTUCKY, TO REGULATE THE
SALE AND DISCHARGE OF FIREWORKS AND IMPOSING FINES FOR
VIOLATION OF THIS ORDINANCE**

If any transient merchant or existing businesses purchasing a license under as set forth in this ordinance is found in any violation of this ordinance, KAR 815 10:070E, KRS 227, or NFPA 1124 a fine of \$500 per occurrence/per day can be assessed and/or the immediate removal of this sale of fireworks from within the City of Winchester. If a fine is assessed, these funds will be designated to Fire Prevention. Appeal of the fine may be made to the Administrative Hearing Board.

/s/ William A. Dykeman

William A. Dykeman, City Attorney

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NOW, THEREFORE, BE IT ORDAINED by the City of Winchester, Kentucky as follows:

SECTION I. That Section 9-57(M)(6)(a) of the Code of Ordinances of the City of Winchester, Kentucky (hereinafter "Code"), be and it is hereby amended to read in full as follows:

(6)(a) Mercantile, retail, no place of business in city, sales of a transient nature:
Fireworks, per day . . . 30.00 175.00 of which sum \$145.00 of the fee will be designated to Fire Prevention
Fireworks, per seven (7) ten (10) consecutive days . . . 150.00 800.00, of which sum \$650.00 of the fee will be designated to Fire Prevention

SECTION II. That Section 11-4 Hunting of game, discharge of firearms and the use and sale of fireworks prohibited of the Code be and it is hereby amended to read in full as follows:

(a) It shall be unlawful for any person to engage in the act of hunting game in the corporate limits of the city.

(b) (1) It shall be unlawful for any person to discharge any firearm or airgun, BB gun or pellet gun projecting lead or any missiles except in a regularly established shooting gallery within the corporate limits of the city for any reason whatsoever, provided that this subsection shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty nor to prohibit any citizen from discharging a firearm when lawfully defending person or property.

(2) It shall be unlawful for any person to engage in bow hunting or bow practice or to discharge or propel an arrow of any length with any type of head from any type recurved or compound bow or crossbow, or any other type of bow, within the corporate limits of the city, except a toy bow with a pull of one (1) pound or less, using arrows with rubber or soft heads, provided however, that this subparagraph shall not be construed to prohibit bow practice or to prohibit discharging or propelling an arrow within the corporate limits of the city if conducted at an archery range within the confines of an enclosed structure so long as the archery range is properly licensed and is located in a proper commercial zone or as part of an educational program conducted by a duly recognized public, private or parochial school or as part of a bona fide youth organization.

(c) It shall be unlawful for any person to keep for sale or sell or to explode in the corporate limits of the city any kind of fireworks which make a report when fired or create a fire hazard except:

- (1) The sale of fireworks from June 26 thru July 5 and December 30 thru January 1 from the hours of 10:00 am to 10:30 pm.
- (2) All merchants purchasing a license under 9-57(M)(6)(a) shall display the Kentucky State Fire Marshal registration placard and the City of Winchester business license.
- (3) All transient merchants purchasing a license under (6) (a) shall display the City of Winchester temporary tent permit
- (4) All existing businesses shall post at least one sign that reads as follows in letters at least 2 inches (51 mm) high on a contrasting background and shall be conspicuously posted at the point of sale within 10 feet (3.05 m) as per KRS 227.715(11)(a)(b):
 - (a) YOU MUST BE 18 YEARS OF AGE TO PURCHASE AND/OR DISCHARGE FIREWORKS
 - (b) FIREWORKS CANNOT BE DISCHARGED WITHIN 200 FEET OF ANY STRUCTURE, VEHICLE, OR ANY OTHER PERSON WITHIN THE CITY LIMITS
- (5) All transient merchants or existing businesses purchasing a license under (6) (a) shall provide the local Fire Marshal the Kentucky State Storage Notification Report and a copy of all fireworks inventory
- (6) If any transient merchant or existing businesses purchasing a license under (6) (a) is found in any violation of this ordinance, KAR 815 10:070E, KRS 227 or NFPA 1124 a fine of \$500 per occurrence/per day can be assessed and/or the immediate removal of this sale of fireworks from within the City of Winchester. If a fine is assessed, these funds will be designated to Fire Prevention. Appeal of the fine may be made to the Administrative Hearing Board.
- (d) The discharge of fireworks from the hours of 10:00 am to 10:30 pm on the previous dates listed.
- (e) The activities prohibited by subsections (a), (b), (c) and (d) hereof are hereby declared to constitute a public nuisance and a hazard to the public safety.
- (f) Any person violating this section shall, upon conviction, be subject to the penalty provided in section 1-7 of this code.

SECTION III. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

SECTION IV. All portions of this Ordinance amending the Code designate words and figures, which are deleted by including such words and figures stricken with dashed lines through the center. Words and figures added by the amendment are underlined with solid lines. The codifier is instructed to omit the words and figures deleted and the solid underlining when codifying this Ordinance.

Introduced and given first reading at a meeting of the Board of Commissioners of the City of Winchester, Kentucky held on December 13, 2011 and finally adopted, after second reading at a meeting of the said Board held on January 3, 2012.

/s/ Edallen York Burtner

Edallen York Burtner, Mayor

/s/ Marilyn Rowe

Marilyn Rowe, City Clerk

Reviewed by the City Attorney on: December 2, 2011