

**CITY OF WINCHESTER, KENTUCKY
ORDINANCE NO. 4-2013**

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**

The entire ordinance is available for public review at the City Clerk's Office at City Hall, 32 Wall Street, Winchester, Kentucky.

I hereby certify that the foregoing is a true and accurate summary of the contents of the above-entitled ordinance.

/s/ William A. Dykeman

William A. Dykeman, City Attorney

CITY OF WINCHESTER, KENTUCKY
ORDINANCE NO. 4-2013

AN ORDINANCE AMENDING SECTION S 9-57 AND 11-4 OF THE CODE OF
ORDINANCES OF THE CITY OF WINCHESTER, KENTUCKY, TO REGULATE THE
SALE AND DISCHARGE OF FIREWORKS

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) Mercantile, auto and furniture sales, no place of business in city, sales of a transient nature:

Auto sales, per day . . . 120.00

Auto sales, per seven (7) consecutive days . . . 600.00

Furniture sales, per day . . . 20.00

Furniture sales, per seven (7) consecutive days . . . 100.00

(6)(a) Mercantile, retail, no place of business in city, sales of a transient nature:

Fireworks, per day . . . 175.00

(Of which sum one hundred forty-five dollars (\$145.00) of the fee will be designated to fire prevention.)

Fireworks, per ten (10) consecutive days . . . 800.00

(Of which sum six hundred fifty dollars (\$650.00) of the fee will be designated to fire prevention.)

Clothing, T-shirts, hats, etc., per day . . . 10.00

Clothing, T-shirts, hats, etc. per seven (7) consecutive days . . . 50.00

Fireworks Business License....Per day Seasonal, as defined in Sec. 11-4(c)(1) (Sale of Class C Consumer 1.4G, Type 2 & 3 as described in KRS 227.702) - \$175.00. \$145.00 of the fee will be designated to Fire Prevention.

Fireworks Business License....Season Retailer (Both Seasons), as defined in Sec. 11-4(c)(1) (Sale of Class C Consumer 1.4G, Type 2 & 3 as described in KRS 227.702) - \$800.00. \$650.00 of the fee will be designated to Fire Prevention

Clothing, T-shirts, hats, etc., per day . . . 10.00

Clothing, T-shirts, hats, etc. per seven (7) consecutive days . . . 50.00

State law references Fireworks, KRS 227.700 et seq. and KRS 227.702

Cross references: Transient merchants, Article VI.

SECTION II. That Section 9-57(F)

(5) Fireworks-Permanent (Sale of Class C Consumer 1.4G, Type 2 & 3 as described in KRS 227.702) with year round sales of fireworks, account for more than 10% of total sales - \$800.00, \$650.00 of the fee will be designated to Fire Prevention.

(5)(6) Florist shops, selling or delivering . . . 180.00

SECTION III. 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:

- (c) It shall be unlawful for any person to keep for sale or sell or to explode in the corporate limits of this 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~~ June 27 thru July 6 and December 30 thru Jan 1 from the hours of 10:00 am to ~~1030 pm~~ 11:00 pm.
 - (2) All transient merchants and existing businesses purchasing a fireworks business license under subsections 9-57(M)(6)(a) and 9-57(F)(5) shall display the Kentucky State Fire Marshal registration placard and the City of Winchester fireworks business license.
 - (3) All transient merchants and existing businesses purchasing a fireworks business license under subsections 9-57(M)(6)(a) and 9-57(F)(5) shall display the City of Winchester temporary tent permit.
 - (4) All transient merchants and existing businesses shall post at least one sign that reads as follows in letters at least 2 inches (51mm) high on a contrasting background, shall be conspicuously posted at the point of sale within 10 ft. (3.05m), 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 FT. OF ANY STRUCTURE, VEHICLE, OR ANY OTHER PERSON WITHIN THE CITY LIMITS.
 - (5) All transient merchants or existing businesses purchasing a fireworks business license under subsections 9-57(M)(6)(a) and 9-57(F)(5) shall provide the local Fire Marshal the Kentucky State Storage Notification Report and a copy of all fireworks inventory.
 - (6) All applicable codes and requirements must be met by the seller and approved by the Fire Marshal before sales can begin.
 - (6) (7) If any transient merchant or existing business purchasing a fireworks business license under subsections 9-57(M)(6)(a) and 9-57(F)(5) is found in any violation of this ordinance, KAR 815 10:070E, KRS 227, or NFPA 1124, a fine of \$500.00 per occurrence/per day can be assessed and/or the immediate removal of the 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.
 - (8) Sale of Class C Consumer 1.4G, Type 2 & 3 fireworks, are not permitted to be sold in multi-tenant buildings (i.e., strip malls, multiple storied buildings).
 - (9) Sale of Class C Consumer 1.4G, Type 2 & 3 fireworks, shall have 50 feet separation from adjacent buildings and structures.

- (d) The discharge of fireworks from the hours of 10:00 am to ~~10:30 pm~~ 11:00 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 or human health.
- (f) Any person violating this section shall, upon conviction, be subject to the penalty provided in section 1-7 of this code. (General penalty: continuing violations)

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

SECTION V. 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 March 19, 2013 and finally adopted, after second reading at a meeting of the said Board held on April 2, 2013.

/s/ Edallen York Burtner

Edallen York Burtner, Mayor

/s/ Marilyn Rowe

Marilyn Rowe, City Clerk

Prepared by the City Attorney on: March 13, 2013