**COMMONWEALTH OF KENTUCKY**
**OLDHAM COUNTY**
**ORDINANCE NO. KOC 16-820-207**

# AN ORDINANCE ESTABLISHING REGULATION OF FIREWORKS WITHIN THE COUNTY, PROVIDING FOR ENFORCEMENT AND PENALTIES.

WHEREAS, Oldham County Fiscal Court has the authority pursuant to statute, House Bill 33 which amended KRS Chapter 227 expanding the type of fireworks that are permitted to be sold and used in the Commonwealth of Kentucky; and

WHEREAS, KRS 227.750 (4) authorizes local government entities to enact ordinances relating to the sales and use of fireworks within their jurisdiction; and

WHEREAS, Oldham County Fiscal Court has determined it is desirable that the conditions, terms, dates, and times concerning the use and sale of fireworks within the County be regulated; and

WHEREAS, Oldham County Fiscal Court, by the enactment of this ordinance, shall require persons or entities engaged in the sale of Consumer Fireworks as defined in the KRS 227.702, which are generally described as aerial devices and audible ground devices, to have a business license, meet certain safety standards as established by applicable federal, state, and local law, maintain minimal levels of liability insurance, and be, at all times, in possession of a valid permit issued by the state Fire Marshal and a valid permit issued by the Oldham County Fiscal Court where required under this ordinance, and be located in designated zoning districts; and

Therefore, be it enacted and ordained by the Fiscal Court of Oldham County, Kentucky, that the following is now adopted as the law within Oldham County, Kentucky.

## SECTION 1 – PURPOSE

This ordinance shall be known and may be cited as the "Fireworks Enforcement Code."

## SECTION 2 – DEFINITIONS

The following words, terms, and/or phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Aerial or audible ground devices** shall mean those consumer fireworks described in KRS 227.702 (2) and (3) only.

**Consumer fireworks** shall have the same meaning as in KRS 227.702, defined as:

1. Ground and Hand Held sparkling devises, more particularly described as:
    a. Dipped stick-sparkler or wire sparkler,
    b. Cylindrical fountain,
    c. Cone fountain,
    d. Illuminating torch,
    e. Wheel devices,
    f. Ground spinners,
    g. Flitter sparkler, and
    h. Toy smoke devices.

2. Aerial devices, more particularly described as:
    a. Sky rockets and bottle rockets,
    b. Missile type rockets,
    c. Helicopter, aerial spinner,
    d. Roman candles,
    e. Mine, shell, and
    f. Aerial shell kit, reloadable tube.
3. Audible ground devises, more particularly described as:
    a. Firecrackers, salutes, and
    b. Chaser.

**Fireworks** shall have the same meaning as in KRS 227.700 except it shall not include those described in KRS 227.702 (1), ground and hand-held sparklers.

**Fireworks retailer** shall mean any person, business entity, association, or corporation of any kind which offers for sale, sells at retail or wholesale, or keeps with intent to sell any Consumer Fireworks as described in KRS 227.702 (2) and/or (3).

## SECTION 3 – USE AND SALE OF FIREWORKS

The use or sale of consumer fireworks, as defined in KRS 227.702, is prohibited except as set forth herein. The use or sale of any fireworks other than consumer fireworks, including display fireworks as defined in KRS 227.706, are subject to the applicable restrictions of state and federal law and are further prohibited at all times within the county without written approval of the Judge-Executive or their designee.

## SECTION 4 – FIREWORKS IN COUNTY LIMITS

Fireworks and consumer fireworks shall not be used, ignited, fired, or exploded in Oldham County, except as follows:

(a) All Consumer Fireworks must be handled, stored, used, possessed, and sold in accordance with all applicable federal, state, and local law.

(b) Notwithstanding any provision herein to the contrary, and regardless of the day of the week which July 4th falls, persons may use, ignite, fire, or explode fireworks or consumer fireworks on any date specifically named or designated by fiscal court as the date to celebrate Independence Day for the county, if other than the actual date of July 4th between the hours of 10:00 a.m. and midnight.

(c) No person may use, ignite, fire, or explode any fireworks or consumer fireworks as defined in KRS 227.702, (2) and (3) if they are under the age of eighteen (18) years of age, and;

(d) No person may use, ignite, fire, or explode any listed consumer fireworks in KRS 207.702 (1) when under the age of 8 years of age and not accompanied by a parent or adult guardian, and

(e) No person may use, ignite, fire, or explode any listed consumer fireworks within two hundred (200) feet of any structure, motor vehicle (whether operational or non-operational), as defined in KRS 227.715 (11).

(f) Consumer fireworks defined in KRS 227.702 (1) are not restricted by date but are prohibited after 11:00 pm.

## SECTION 5 – FIREWORKS RETAILERS

Fireworks retailers within the county shall:

a) Submit an application for a "Retail Fireworks Permit" to the Oldham County Police Department, at least fifteen (15) days prior to the applicant's desired effective date for the retail fireworks permit, on a form approved by the county Judge-Executive or their designee, which shall at a minimum require the submission of the name, phone number, and permanent address of the applicant. In the event that the applicant desires to operate multiple locations, a separate application does not have to be submitted for each location, however, each location must have a separate firework sales permit. Additionally, all applications must include a detailed site plan for the proposed location, the address of the proposed location, and contact information for the owner of the proposed location if other than the applicant; and

b) Provide proof of registration with the state fire marshal in accordance with the applicable provisions of Chapter 227 of the Kentucky Revised Statutes; and

c) Obtain a signature on the application form from the Oldham County Planning & Development Services indicating that the proposed location on the application is zoned appropriately for the conduct of said business; and

d) Provide a certificate of insurance or other valid proof of general liability insurance in an amount of not less than one million dollars ($1,000,000.00) per occurrence which shall remain in effect at all times while engaged in the permitted activity; and

e) Pay a permit fee established by resolution by Oldham County Fiscal Court. In the event that an applicant wishes to operate more than one (1) geographical location within the county, each location must have a separate permit and each permit is subject to the applicable permit fee; and

f) The permit periods will be no less than 30 days and no more than 60 days. In either event the permit will list a starting date and an expiration date; and

g) Comply with all aspects of applicable provisions of Chapter 227 of the Kentucky Revised Statutes, the International Building Code with Kentucky Amendments (adopted edition), NFPA 1124 (National Fire Protection Association); and

h) Not offer for sale, sell at retail or wholesale, or keep with intent to sell any consumer fireworks other than those described in KRS 227.702 (1), (2) and (3); and

i) Not allow any person under eighteen (18) years of age to sell consumer fireworks; and

j) Not give, offer for sale, or sell any consumer fireworks to any person under eighteen (18) years of age; and

k) Not offer for sale, or sell consumer fireworks except between the hours of 10:00 a.m. and 10:00 p.m.; and

l) Any fireworks found in any firework retail location or in possession of any individual(s), that violate this ordinance may be confiscated by any authorized personnel.

**SECTION 6 – FIREWORKS PERMIT**

A valid retail fireworks permit must be prominently displayed at each location at all times during the hours of operation. The Judge-Executive or their designee may revoke or suspend any retail fireworks permit of any site which is in violation of this ordinance or Chapter 227 of the Kentucky Revised Statutes or any other part of Oldham County Ordinances.

**SECTION 7 – PENALTIES**

A. Any person or entity convicted of violating paragraph 4(A) of this ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) or imprisonment for a period not to exceed thirty (30) days or both. Each day a violation occurs shall constitute a separate offense.
B. Any person or entity convicted of violating any provision of this ordinance other than paragraph 4 (A) shall be guilty of a violation and shall be subject to a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00).
C. In the event of any violation of federal, state, local law, or ordinance, any and all fireworks may be confiscated.
D. The provisions of this Ordinance are severable, and if any section, phrase or provision hereof shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder hereof. Where any provision of this ordinance is in conflict with any other provision of applicable federal, state, or local law or regulation or any permit issued pursuant to this ordinance or the Kentucky Revised Statutes, the more restrictive provision(s) shall prevail. All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This Ordinance shall become effective upon its passage and advertisement according to law.

Dated this 7th day of June, 2016.

David Voegele

DAVID VOEGELE
Oldham County Judge-Executive

ATTEST:

Sheila Farb

Oldham County Fiscal Court Clerk

COMMONWEALTH OF KENTUCKY
OLDHAM COUNTY FISCAL COURT
RESOLUTION NO. 01-06-07-16

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**WHEREAS**, Oldham County Fiscal Court adopted ORDINANCE NO. KOC 16-820-207 relating to the sale of fireworks in Oldham County.

**WHEREAS,** SECTION 5, subsection (e) of such Ordinance regarding a REGULATORY LICENSE FEE.

**NOW, THEREFORE, BE IT RESOLVED** that Oldham County Fiscal Court hereby sets a license fee for the sale of fireworks as follows:

The fee is to be $1000.00 per site payable to Oldham County Fiscal Court. Both the check and a completed application is to be submitted to the Oldham County Police Department.

Approved and adopted at a regular meeting of the Oldham County Fiscal Court on the 7th day of June, 2016.

David Voegele
Oldham County Judge-Executive

ATTEST:

Sheila Faehr
Oldham County Fiscal Court Clerk