

**ORDINANCE # 885-2013**

**AN ORDINANCE AMENDING ORDINANCE 858-2013 OF THE CITY OF NICHOLASVILLE CODE OF ORDINANCES**

**WHEREAS**, the Kentucky Legislature enacted House Bill 333 which amended KRS Chapter 227 thereby expanding the type of fireworks that are permitted to be sold and used within the Commonwealth of Kentucky; and

**WHEREAS**, KRS 227.750 (4) specifically authorizes local government entities to enact ordinances that affect the sale or use of fireworks within their jurisdiction; and

**WHEREAS**, the Board of Commissioners of the City of Nicholasville believes it to be in the best interest of the community to amend Ordinance 843-2012 which established permitting procedures to document both the location upon which fireworks will be sold and the entity or person engaging in the sale of fireworks within our community; and

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF NICHOLASVILLE,**

**KENTUCKY**, that Ordinance 843-2012 shall be amended as follows,;

(information added is underlined and information deleted is identified with a strike through)

**Section I.** That the City of Nicholasville, Kentucky, by and through its Board of Commissioners, hereby establishes a Fireworks Ordinance as set forth herein below:

1. Title. This ordinance shall be known and may be cited as the “Fireworks Enforcement Code.”
2. Definitions. The following words, terms and/or phrases, when used in this division, shall have the meaning ascribed to them in this

section, except where the context clearly indicates a different meaning:

*Aerial or Audible Consumer Fireworks* shall mean those Consumer Fireworks described in KRS 227.702 (2) and (3) only.

*Ancillary Fireworks Retailer* shall mean any person, business entity, association, or corporation of any kind as those terms are defined in Ordinance # 709-2008 of the Nicholasville Code of Ordinances and which is open to the public year round and at least 20 calendar days per month, and which offers for sale, exposes for sale, sells at retail or wholesale, or keeps with intent to sell only those fireworks described in KRS 227.702 (1) and which such sales are ancillary to its primary course of business.

*Consumer Fireworks* shall have the same meaning as set out in KRS 227.702

*Display Fireworks* shall have the same meaning as set out in KRS 227.706

*Fireworks* shall have the same meaning as set out in KRS 227.700 except that it shall not include those types of fireworks described in KRS227.702(1)

*Permanent Fireworks Retailer* shall mean any person, business entity, association, or corporation of any kind as those terms are defined in Ordinance # 709-2008 of the Nicholasville Code of Ordinances which is open to the public year round and at least 20 calendar days per month, and, which offers for sale, exposes for sale, sells at retail or wholesale, or keeps with intent to sell only ~~any~~ Consumer Fireworks described in 227.702(1) as its primary course of business.

*Seasonal Fireworks Retailer* shall mean any person, business entity, association, or corporation of any kind as those terms are defined in Ordinance # 709-2008 of the Nicholasville Code of Ordinances which is not considered a Permanent Fireworks Retailer, and, which offers for sale, exposes for sale, sells at retail

or wholesale, or keeps with intent to sell only Consumer Fireworks described in KRS 227.702(1) between June 10 and July 7, and December 26 and December 31 only of each year.

3. The use or sale of Fireworks, including Consumer Fireworks, is prohibited except as set forth herein. The use, storage, 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 city without approval from the City of Nicholasville.
4. The prohibition on use or sale of fireworks shall not apply to fireworks as defined in KRS 227.702(1). However, the sale of these types of consumer fireworks shall be regulated pursuant to the Fireworks Enforcement Code.
5. No person may use, ignite, fire, or explode any Fireworks or Consumer Fireworks as defined in KRS 227.702 (2) and (3). Only those consumer fireworks as defined in KRS 227.702(1) shall be permitted.
6. The use or sale of display fireworks as defined in KRS 227.706 are only permitted subject to the applicable restrictions of state and federal law and with the written approval of the fire chief or his designee and all other necessary permits. The applicant may be required to reimburse the city for all reasonable costs incurred as a result of or associated with the display, including but not limited to overtime incurred by government personnel.
7. Seasonal Fireworks retailers and Permanent Fireworks retailers within the City of Nicholasville shall:
  - (A) Submit an application for a "Retail Fireworks Permit" from the Nicholasville Fire Department, at least ten (10) days prior to the applicant's desired effective date for the Retail Fireworks Permit, on a form approved by the Chief of the Nicholasville Fire Department which shall, in addition to any requirements established by the Chief or his designee, 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 has to be submitted for each location, and each location must have a separate Firework Sale Permit, 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 from the Nicholasville Planning and Zoning office indicating that the proposed location on the application is zoned appropriately for the conduct of said business. Additionally, all applications submitted to the Nicholasville Planning and Zoning office for its review must also be accompanied by a detailed site sketch, drawing or plan for the proposed location showing, as a minimum, distances between buildings, dimensions of the structure from which sales will be made and emergency exit locations, and

(D) Obtain a signature on the application from the Jessamine County Tax Administrator's office indicating that the requesting business is registered to conduct business in accordance with Ordinance # 709-2008 of the Nicholasville Code of Ordinances, and

(E) 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

(F) Pay a permit fee according to the following table:

Type of Applicant	Permit Fee	Permit Period
Seasonal Fireworks Retailer- per location	\$300.00 up to 144 sq ft \$500.00 145-400 sq ft \$750.00 401-1000 sq ft	June 10 - July 7, and December 26- December 31 only of

	\$1000.00 >1000 sq ft	each year.
Permanent Fireworks Retailer	\$1200.00 Per Location	Automatically expires 365 calendar days after the effective date or upon a date in which the location no longer qualifies as a Permanent Fireworks Retailer as defined herein
Permanent Fireworks Retailer (Renewal)	\$600.00 Per Location	Automatically expires 365 calendar days after the effective date or upon a date in which the location no longer qualifies as a Permanent Fireworks Retailer as defined herein

In the event that an applicant wishes to operate more than one geographical location with the City, each location must have a separate permit application and permit. Each permit and its application is subject to applicable permit fee, and

- (G) Comply with all aspects of applicable provisions of Chapter 227 of the Kentucky Revised Statutes, the Kentucky Building Code, current edition of NFPA 1124 (National Fire Protection Association) and the Nicholasville Code of Ordinances, and
- (H) Not allow any person under eighteen (18) years of age to sell Fireworks, and
- (I) Not offer for sale, or sell any Fireworks to any person under eighteen (18) years of age, and

- (J) Not offer for sale, expose for sale, or sell any Fireworks except between the hours of 8:00 a.m. and 10:00 p.m.
  - (K) Not offer for sale, expose for sale, sell at retail or wholesale, or keep with intent to sell any Fireworks other than those described in KRS 227.702 (1).
8. A valid Retail Fire Works Permit obtained from the Chief of the City of Nicholasville Fire Department or his designee and registration certificate obtained from the State Fire Marshall must be prominently displayed at each location and at all times during the hours of operation. The Chief of the Nicholasville Fire Department or his designee may revoke or suspend any Retail Fireworks Permit of any site which is in violation of this ordinance, Chapter 227 of the Kentucky Revised Statutes, NFPA 1124 or any other applicable Ordinance of the Nicholasville Code of Ordinances.
9. Ancillary Fireworks Retailers shall:
- (A) Comply with all aspects of the applicable provisions of Chapter 227 of the Kentucky Revised Statutes, the Kentucky Building Code (adopted edition), NFPA 1124 (National Fire Protection Association) and the Nicholasville Code of Ordinances, and
  - (B) Not give, offer for sale, or sell any Fireworks to any person under eighteen (18) years of age, and
  - (C) Not offer for sale, expose for sale, sell at retail or wholesale, or keep with intent to sell any Fireworks other than those described in KRS 227.702 (1), and
  - (D) Be registered through the Jessamine County Tax Administrator's office to do business in accordance with Ordinance # 709-2008 of the Nicholasville Code of Ordinances, and

(E) Maintain 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.

10. Criminal Penalties:

(A) Any person convicted of violating the Fireworks Enforcement Code shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars (\$1000.00) if a person and not more than two thousand dollars (\$2000.00) or double the amount of the violator's gain from the commission of the offense, if a corporation; or imprisonment for a period not to exceed six (6) months, or both. Each day a violation occurs shall constitute a separate offense.

(B) The minimum fine for conviction involving the sale of prohibited fireworks or consumer fireworks shall be subject to a fine of five hundred dollars (\$500.00) per offense.

(C) The minimum fine for conviction involving the use of prohibited fireworks or consumer fireworks shall as follows:

- i. two hundred fifty dollars (\$250.00) for the first offense within a twelve (12) month period of time;
- ii. five hundred (\$500.00) for the second offence within a twelve (12) month period of time;
- iii. one thousand dollars (\$1000.00) for a third or greater offense within a twelve (12) month period of time.

**Section II.** The provision 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 of the Kentucky Revised Statutes, the more restrictive provision(s) shall prevail.

**Section III.** This ordinance shall become effective immediately upon adoption, execution and publication.

FIRST READING

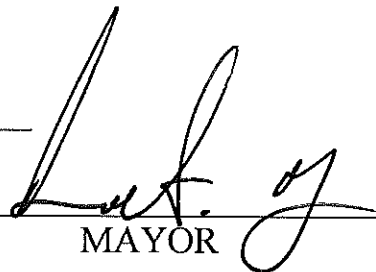
DATED: JUNE 10, 2013

  
MAYOR

ATTEST:  
  
CITY CLERK

SECOND READING

DATED: JUNE 13, 2013

  
MAYOR

ATTEST:  
  
CITY CLERK



**NOTICE OF ENACTMENT  
OF ORDINANCE**

Notice is hereby given that the Nicholasville City Commission on June 13 enacted an ordinance, the full text of which is available for inspection in the office of the City Clerk, 517 N. Main Street, Nicholasville, KY.

**The ordinance by  
title and summary:**

**ORDINANCE 885-2013: AN ORDINANCE AMENDING ORDINANCE 858-2013 ESTABLISHING REASONABLE HOURS BETWEEN WHICH FIREWORKS MAY BE USED WITHIN THE CITY OF NICHOLASVILLE AND FORMULATING A PERMITTING PROCESS FOR THE SALE OF FIREWORKS WITHIN THE CITY OF NICHOLASVILLE WHICH SHALL REQUIRE THOSE PERSONS OR ENTITIES ENGAGED IN THE SALE OF FIREWORKS TO BE REGISTERED THROUGH THE CITY TAX OFFICE, APPLY FOR AND BE ISSUED A PERMIT BY THE STATE AND LOCAL FIRE AUTHORITIES, MEET FEDERAL, STATE AND LOCAL SAFETY STANDARDS, AND MAINTAIN, AT THEIR OWN EXPENSE, MINIMAL LEVELS OF LIABILITY INSURANCE. (This ordinance amends Ordinance 858-2013 of the City of Nicholasville Code of Ordinances by placing restrictions on use, storage or sale of fireworks other than consumer fireworks as defined in KRS 227.702(1) and prohibits the sale or use of fireworks as defined in KRS 227.702(2) and (3))**

**Roberta Warren, City Clerk  
Published 06/20/13**

SUMMARY OF ORDINANCE

AN ORDINANCE AMENDING ORDINANCE ~~858~~<sup>858-2013</sup>-2012 OF THE CITY  
OF NICHOLASVILLE CODE OF ORDINANCES

This Ordinance amends Ordinance ~~858~~<sup>858-2013</sup>-2012 of the City of Nicholasville Code of Ordinances by placing restrictions on use, storage or sale of fireworks other than consumer fireworks and prohibits the sale or use of non consumer fireworks.

S/ \_\_\_\_\_  
William Miles Arvin, Attorney  
City of Nicholasville