ORDINANCE NO. 13-011

AN ORDINANCE CREATING AND ENACTING ARTICLE 7-IV OF THE CODE OF ORDINANCES OF THE CITY OF GEORGETOWN PERTAINING TO THE SALE AND USE OF FIREWORKS; PROVIDING FOR RETAIL FIREWORKS PERMIT AND APPLICATION PROCESS; PROVIDING FOR RESTRICTIONS ON PERMITEES AND/OR RETAILERS; PROVIDING FOR PENALTIES FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE OF JUNE 1, 2013.

Sponsor: Councilman Brad Penn

NOW THEREFORE, Be it ordained by the City of Georgetown:

Section 1 – That Section 7-71 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-71. Title.

The provisions of this Article shall be known and may be cited as the "fireworks enforcement code".

Section 2 – That Section 7-72 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-72. Definitions.

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

(a) "Ancillary fireworks retailer" shall mean any person, business entity, association, or corporation of any kind as those terms are defined in section 1-2 of the code, and which offers for sale, exposes for sale, sells at retail or wholesale, or keeps with intent to sell only those types of fireworks described in KRS 227.702(1) and which such sales are ancillary to its primary course of business.

(b) "Consumer fireworks" shall have the same meaning as in KRS 227.702.

(c) "Fireworks" shall have the same meaning as in KRS 227.700 except it shall not include those types of fireworks described in KRS 227.702(1).

(d) "Display fireworks" shall have the same meaning as in KRS 227.706.

(e) "Seasonal fireworks retailer" shall mean any person, business entity, association, or corporation of any kind as those terms are defined in section 1-2 of the code, which offers for sale, exposes for sale, sells at

retail or wholesale, or keeps with intent to sell, only those types of fireworks described in KRS 227.702(1) and only between June 10 and July 7.

Section 3 – That Section 7-73 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-73 Use and sale of fireworks.

(a) The use or sale of fireworks in the City of Georgetown, including consumer fireworks and display fireworks, is prohibited at all times in the City of Georgetown except as set forth herein. The term "use" includes igniting, firing, or exploding or possessing with the intent of use. The term "sale" includes the sale, offering or exposing for sale, or keeping or possessing with the intent to sell.

(b) The prohibition on the use or sale of fireworks shall not apply to consumer 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.

(c) 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 City of Georgetown Fire Marshal or his designee and all other necessary permits. The government may require the applicant for a display fireworks permit to reimburse the government for all reasonable costs incurred which are associated with the display, including but not limited to the incurrence of overtime by government personnel.

Section 4 –That Section 7-74 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-74 Restrictions.

Fireworks and consumer fireworks shall not be used, ignited, fired, or exploded in the City of Georgetown, except as follows:

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

(b) Fireworks and consumer fireworks may only be used, ignited, fired, or exploded between the hours of 10:00 a.m. and 10:00 p.m., except on the following dates when the applicable ending hour shall be 12 a.m. (midnight):
(1) December 31st (New Year's Eve);
(2) July 3rd;
(3) July 4th; and

(4) The date specifically named or designated by the City of Georgetown as the date to celebrate Independence Day, if other than the actual date of July 4th.

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

(d) No person may use, ignite, fire, or explode any fireworks, or consumer fireworks as defined in KRS 227.702(2) and (3), within two hundred (200) feet of any structure, motor vehicle (whether operational or non-operational), or any other person, or in any other place where the person is in violation of any other law, regulation or ordinance.

(e) No person may use, ignite, fire, or explode any fireworks, or consumer fireworks as defined in KRS 227.702, if otherwise prohibited as part of any ban on burning issued by the State or County.

(f) Any person subject to the provisions of KRS 227.752 pertaining to storage notification must fully comply with its provisions.

(g) Any person using, igniting, or exploding fireworks or consumer fireworks as defined in KRS 227.702 shall be responsible for disposing of any resultant trash or debris.

Section 5 – That Section 7-75 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-75 Permits.

In order to lawfully operate in the City of Georgetown all seasonal fireworks retailers within the City of Georgetown shall first obtain a "retail fireworks permit" from the Mayor or his designee. The application for a permit, the form of which shall also be approved by the City of Georgetown fire marshal, shall be submitted at least fifteen (15) business days prior to the applicant's desired effective date for the permit, and shall, at a minimum, require the following:

(a) The applicant's name, phone number, and permanent address. 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;

(b) A detailed site plan for the proposed location(s), the address(es) of the proposed location(s), and contact information for the owner(s) of the proposed location(s) if other than the applicant;

(c) Proof of current registration with the State Fire Marshal in accordance with the applicable provisions of KRS Chapter 227;

(d) Proof that the applicant has submitted to the Kentucky Department of Revenue, at least fifteen (15) days prior to transacting business the City of Georgetown, a completed permit application pursuant to KRS 365.665 and has complied with all necessary requirements related to the statute, if applicable;

(e) Proof that the applicant has obtained any necessary certificate(s) of occupancy from the Georgetown, Scott County Department of Building Inspection, and if deemed necessary the applicant must also obtain verification from the Georgetown-Scott County Department of Planning and Zoning that the proposed location on the application is zoned appropriately for the conduct of said business.

(f) Proof that the applicant has obtained the necessary approval of the City of Georgetown Fire Department;

(g) Proof that the applicant has obtained the appropriate occupational business license(s) from the Revenue Commission and paid the registration fee in accordance with section 17 of the code;

(h) 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

(i) Payment of a permit fee in the amount of five hundred dollars ($500.00) per location.

Section 6 – That Section 7-76 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-76. Seasonal fireworks retailers.

In order to lawfully operate in the City of Georgetown all seasonal fireworks retailers shall:

(a) Obtain the necessary retail fireworks permit;

(b) Only operate between June 10th and July 7th and between December 26th and January 2nd for each year permitted. For purposes of this section, January 1st and 2nd shall be considered part of the previous permit year;

(c) Prominently display a valid retail fireworks permit at each location and at all times during the hours of operation;

(d) Comply with the applicable provisions of KRS Chapter 227, the International Building Code with Kentucky Amendments (adopted

edition), NFPA 1124 (National Fire Protection Association) and the Code of Ordinances, City of Georgetown;

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

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

(g) Not offer for sale, expose for sale, or sell consumer fireworks except between the hours of 8:00 a.m. and 10:00 p.m.

Section 7 – That Section 7-77 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-77 Revocation; suspension.

The Fire Marshal or his designee may revoke or suspend the retail fireworks permit for any site which is in violation of the fireworks enforcement code, KRS Chapter 227, or section 17 of the Code.

Section 8 – That Section 7-78 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-78 Ancillary fireworks retailers.

In order to lawfully operate in the City of Georgetown, all ancillary fireworks retailers shall:

(a) Comply with all aspects of the applicable provisions of KRS Chapter 227, the Internationai Building Code with Kentucky Amendments (adopted edition), NFPA 1124 (National Fire Protection Association) and the Code of Ordinances, City of Georgetown;

(b) Obtain any necessary certificate(s) of occupancy from the Georgetown-Scott County Department of Building Inspection;

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

(d) Not offer for sale, expose 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); and

(e) Possess the appropriate occupational business license(s) from the Revenue Commission pursuant to section 17 of the Code; and

(f) Maintain general liability insurance (or the equivalent) and be able to provide proof thereof, in an amount of not less than one million dollars ($1,000,000.00) per occurrence.

Section 9 – That Section 7-79 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-79 Penalties.

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 ($1,000.00) or imprisonment for a period of time not to exceed six (6) months, or both. Each day a violation occurs shall constitute a separate offense.

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

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

(1) one hundred dollars ($100.00) for the first offense within any twelve (12) month period of time;

(2) two hundred fifty dollars ($250.00) for the second offense within any twelve (12) month period of time; and

(3) five hundred dollars ($500.00) for the third or greater offense within any twelve (12) month period of time.

Section 10 – That Section 7-80 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-80 Enforcement of Ordinance.

(a) Pursuant to KRS 83A.087, the Fire Marshal, Fire Inspector, or any law enforcement officer is, from the effective date of this Article, authorized to issue citations for the violation of this Article.

(b) The Fire Marshal and Fire Inspector, as citation officers, shall have all qualifications prescribed by the ordinance creating those positions and the job classifications.

(c) The Fire Marshal and Fire Inspector, as citation officers, shall not have the power of arrest or the authority to carry deadly weapons. The

citation officers may issue citations as authorized by the state law and this section upon observation of apparent violations.

(d) The procedure for the issuance of citations by a citation officer shall be as provided in KRS 431.015.

(e) This section shall not be a limitation on the power of a citation officer to make an arrest as a private person as provided in KRS 431.005.

(f) Whenever the citation officer or law enforcement officer finds that a person has violated or failed to meet a requirement of this Article, the citation officer or law enforcement officer may, in addition to the penalties authorized in this Article, order by written notice that the violating uses, practices, or operations shall cease and desist immediately.

Section 11 – That Section 10-4 of the Code of Ordinances is hereby amended to read as follows:

Sec. 10-4. Discharge of weapons.

It shall be unlawful for any person to discharge a gun, pistol or other firearm, or airgun within the limits of the city, except in cases of necessity, the performance of a duty, or by express consent of the chief of police given in writing, or a license to do so ~~or to throw a fire-ball, shoot a roman candle, skyrocket, fire cracker, or discharge or set off any other fireworks within the limits of the city~~.

Section 12 – If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 13 – That this Ordinance shall become effective on June 1, 2013.

INTRODUCED AND PUBLICLY READ FIRST TIME: May 20, 2013

PUBLICLY READ SECOND TIME AND PASSED: May 28, 2013

APPROVED: Everette Varney
Everette Varney, Mayor

ATTEST: Tracie Hoffman
Tracie Hoffman, City Clerk

CITY OF GEORGETOWN
ORDINANCE NO. 13-011

AN ORDINANCE CREATING AND ENACTING ARTICLE 7-IV OF THE CODE OF ORDINANCES OF THE CITY OF GEORGETOWN PERTAINING TO THE SALE AND USE OF FIREWORKS; PROVIDING FOR RETAIL FIREWORKS PERMIT AND APPLICATION PROCESS; PROVIDING FOR RESTRICTIONS ON PERMITEES AND/OR RETAILERS; ESTABLISHING PENALTIES FOR VIOLATIONS; PROVIDING FOR ENFORCEMENT; AND PROVIDING FOR AN EFFECTIVE DATE OF JUNE 1, 2013.

SPONSOR: Councilman Brad Penn

SUMMARY

SECTION 1

Provides for the title "fireworks enforcement code."

SECTION 2

Defines "ancillary fireworks retailer," "consumer fireworks," "fireworks," "display fireworks," and "seasonal fireworks retailer."

SECTION 3

Prohibits use or sale of fireworks and consumer fireworks except as provided in this ordinance; and provides additional restrictions for use or sale of non-consumer and display fireworks.

SECTION 4

- Requires compliance with applicable federal, state and local laws

- Provides for use between 10 A.M and 10 P.M only except on December 31st, July 3rd and July 4th or officially recognized Independence Day, when allowed until 12 A.M.

- Prohibits possession or use by persons under the age of eighteen years.

- Prohibits use within 200 feet of any structure, motor vehicle or any other person or during a ban on burning.

- Provides for compliance with KRS 227.752 storage notification.

- Provides for responsibility for resultant trash and debris.

SECTION 5

(Set forth in full)

That Section 7-75 of the Code of Ordinances is hereby created and enacted to read as follows:

Sec. 7-75 Permits.

In order to lawfully operate in the City of Georgetown all seasonal fireworks retailers within the City of Georgetown shall first obtain a "retail fireworks permit" from the Mayor or his designee. The application for a permit, the form of which shall also be approved by the City of Georgetown fire marshal, shall be submitted at least fifteen (15) business days prior to the applicant's desired effective date for the permit, and shall, at a minimum, require the following:

(a) The applicant's name, phone number, and permanent address. 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;

(b) A detailed site plan for the proposed location(s), the address(es) of the proposed location(s), and contact information for the owner(s) of the proposed location(s) if other than the applicant;

(c) Proof of current registration with the State Fire Marshal in accordance with the applicable provisions of KRS Chapter 227;

(d) Proof that the applicant has submitted to the Kentucky Department of Revenue, at least fifteen (15) days prior to transacting business the City of Georgetown, a completed permit application pursuant to KRS 365.665 and has complied with all necessary requirements related to the statute, if applicable;

(e) Proof that the applicant has obtained any necessary certificate(s) of occupancy from the Georgetown, Scott County Department of Building Inspection, and if deemed necessary the applicant must also obtain verification from the Georgetown-Scott County Department of Planning and Zoning that the proposed location on the application is zoned appropriately for the conduct of said business.

(f) Proof that the applicant has obtained the necessary approval of the City of Georgetown Fire Department;

(g) Proof that the applicant has obtained the appropriate occupational business license(s) from the Revenue Commission and paid the registration fee in accordance with section 17 of the code;

(h) 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

(i) Payment of a permit fee in the amount of five hundred dollars ($500.00) per location.

SECTION 6

Provides for restrictions on permitees and/or retailers, including operation only between June 10th and July 7th and between December 26th and January 2nd, display of permit, restriction of sales to or by those under the age of eighteen years and sales between 8 A.M and 10 P.M only.

SECTION 7

Provides for suspension or revocation of permits.

SECTION 8

Provides for operating requirements for Ancillary Fireworks Retailers, including compliance with state fireworks laws, certificates of occupancy, restrictions on sale to persons under age 18, restrictions on sale of fireworks other than consumer fireworks, requiring a business license, and maintenance of liability insurance.

SECTION 9

Establishes penalties for violations in an amount not to exceed $1,000, maximum of 6 months imprisonment, or both with a minimum fine of $500 for violations involving sale of prohibited fireworks, and a minimum fine for violations involving use of prohibited

fireworks of $100 for first offense, $250 for second offense within twelve months and $500 for a third or greater offense within twelve months.

SECTION 10

Provides for enforcement by the Fire Marshal and Fire Inspector, as citation officers, or any law enforcement officer; and provides authorization to issue citations for violations and to issue a written order to immediately cease all violating uses, practices or operations.

SECTION 11

Amends Section 10-4 of the Code of Ordinances regarding discharge of weapons to remove language regarding fireworks.

SECTION 12

Provides that if any portion of this Ordinance is for any reason held invalid or unlawful such portion shall be deemed a separate provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 13

Provides that this Ordinance shall become effective on June 1, 2013.

The full text of Ordinance 13-011 is available for examination in the City Clerk's Office, 100 North Court Street, Georgetown, Kentucky 40324 or at www.georgetownky.gov.

INTRODUCED AND PUBLICLY READ FIRST TIME: May 20, 2013

PUBLICLY READ SECOND TIME AND PASSED: May 28, 2013

APPROVED: Everette Varney
Everette Varney, Mayor

ATTEST: Tracie Hoffman
Tracie Hoffman, City Clerk

I, Andrew S. Hartley, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 100 North Court Street, Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 13-011 of the City of Georgetown, Kentucky, was prepared in accordance with the requirements of KRS 83A.060(9), and is a true and accurate summary of the contents of said Ordinance.

Andrew S. Hartley