



DeKalb County
G E O R G I A


MEMORANDUM

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November 6, 2018

By pdf and hand-delivery

To: Jeff Rader, Presiding Officer, Board of Commissioners

From: Viviane H. Ernstes, County Attorney 

Subject: Fireworks Ordinance;
(Our File No. 02-0961)

Attached please find a proposed amendment to the Noise Ordinance regarding the use of fireworks, which limits the use of consumer fireworks to the hours of 10:00 a.m. and 9:00 p.m. daily, except as expressly permitted by State law. Specifically, State law expands the time permitted to use consumer fireworks beyond those times set forth in the Ordinance on certain days of the year.¹ For your reference, State law allows use of consumer fireworks (a) on January 1, the last Saturday and Sunday in May, July 3, July 4, the first Monday in September, and December 31 of each year after the time of 10:00 A.M. and up to and including the time of 11:59 P.M.; and (b) on January 1 of each year beginning at the time of 12:00 Midnight and up to and including the ending time of 1:00 A.M.

The Ordinance has been reviewed by my staff and is approved as to form. It is my recommendation that an official from Public Safety approve this Ordinance as to substance. The Ordinance is legally required to be considered at a meeting, and notice of the meeting must be published one time at least 15 days in advance of such meeting in the legal organ of DeKalb County and must be posted for at least 72 hours at least 15 days in advance of the meeting on the homepage on DeKalb County's website.² As is our normal custom, we have taken no action to place this Ordinance on the agenda for Board of Commissioners' review. We will be glad to work with your staff to draft the appropriate notice if you decide to proceed with enactment of this ordinance.

If you have any further questions, please do not hesitate to contact me.

VHE/elf
Attachment

cc: Terry G. Phillips, Deputy County Attorney
Matt C. Welch, Deputy County Attorney
Elizabeth L. Fite, Senior Assistant County Attorney

¹ O.C.G.A. § 25-10-2(b)(3)(B).

² O.C.G.A. § 25-10-2(c)(2).

AN ORDINANCE

**AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, AS REVISED 1988,
CHAPTER 16 PERTAINING TO NOISE,
AND FOR OTHER PURPOSES.**

WHEREAS, the Governing Authority of DeKalb County is authorized to adopt such ordinances or regulations for the governing and policing of the county for the purpose of protecting and preserving the health, safety, and welfare of the citizens of the county; and

WHEREAS, the Governing Authority has determined that these regulations will address the disturbance created by the use or ignition of consumer fireworks in DeKalb County.

NOW THEREFORE, be it ordained by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 16, Article VII of the Code of DeKalb County, as Revised 1988, is hereby amended as follows:

PART I. ENACTMENT

Chapter 16, Article VII of the Code of DeKalb County, as Revised 1988, is hereby amended by amending Section 16-302 to add the following new definition in alphabetical order as follows:

Consumer fireworks shall be defined in O.C.G.A. § 25-10-1(a), now and as such laws shall be amended hereafter.¹

¹ *Not for codification.* The term “consumer fireworks” for reference is defined as any small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion, that comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission as provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the United States Department of Transportation as provided for in Part 172 of Title 49 of the Code of Federal Regulations, and the American Pyrotechnics Association as provided for in the 2001 American Pyrotechnics Association Standard 87-1, and additionally shall mean Roman candles.

Chapter 16, Article VII of the Code of DeKalb County, as Revised 1988, is hereby amended by adding Division 4 as follows:

DIVISION 4: FIREWORKS

Sec. 16-311. Regulation of the Use of Consumer Fireworks.

It shall be unlawful for a person to ignite or discharge, or cause to be ignited or discharged, any consumer fireworks on any day before 10:00 a.m. and after 9:00 p.m.; provided, however, it shall be lawful:

- (1) On January 1, the last Saturday and Sunday in May, July 3, July 4, the first Monday in September, and December 31 of each year after the time of 10:00 A.M. and up to and including the time of 11:59 P.M.; and
- (2) On January 1 of each year beginning at the time of 12:00 Midnight and up to and including the ending time of 1:00 A.M.

PART II. REENACTMENT

Pursuant to O.C.G.A. § 25-10-2(c), Chapter 16, Article VII of the Code of DeKalb County, as Revised 1988, is reenacted in its entirety subject to the amendments set forth above.

PART III. EFFECTIVE DATE

This ordinance shall become effective upon adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART IV. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ADOPTED by the DeKalb County Board of Commissioners, this ____ day of _____, 2018.

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2018.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:

VIVIANE H. ERNSTES
County Attorney

APPROVED AS TO SUBSTANCE:

JOSEPH H. "JACK" LUMPKIN
Director of Public Safety