

Corrected
February 19, 2009
Committee Substitute
January 26, 2009

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE enacting sections 5626., 5627., 5628., and 5629., Jackson County Code, 1984, relating to the issuance of permits for the seasonal retail sale by non-profit organizations and the licensure of wholesale and retail sales by wholesale fireworks distributors of consumer fireworks.

ORDINANCE #4082, January 20, 2009

INTRODUCED BY Henry `Rizzo, Theresa Garza Ruiz, Fred Arbanas, Scott Burnett, James D. Tindall, Dennis Waits, Dan Tarwater, Greg Grounds, and Bob Spence, County Legislators

WHEREAS, pursuant to Section 320.121, RSMo, the County has the authority to regulate or prohibit fireworks within the County; and,

WHEREAS, the sale, storage, and use of fireworks within the County's unincorporated area is presently prohibited; and,

WHEREAS, permitting the seasonal retail sale of consumer fireworks by local non-profit, religious, or community service organizations at sites within the unincorporated area to the public for private use in celebration of the Fourth of July would provide a significant opportunity for fundraising for the activities of those organizations; and,

WHEREAS, the adoption of provisions for the seasonal retail sale of consumer fireworks by such organizations is in the best interests of the health, welfare, and safety, of the citizens of the County; and,

WHEREAS, adopting provisions for the licensing of wholesale fireworks distributors for wholesale and retail sales of consumer fireworks located in the unincorporated areas of the County will increase opportunities for revenue sources for the County and other taxing authorities as well as promoting the safety of the citizens of the County, now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, as follows:

Section A. Enacting Clause. Sections 5626., 5627., 5628., and 5629., Jackson County Code, 1984, are hereby enacted, to read as follows:

5626. Exception, Organizations Eligible for Permits and Licenses.

5626.1. "Non-Profit Organization" shall mean any religious or community service entity with tax-exempt status from the Federal government and which is in compliance with Chapter 320, Revised Statutes of Missouri, and regulations of the Missouri Department of Public Safety as a permitted seasonal retailer regarding seasonal sales of permissible consumer fireworks. Said organization must also be in compliance with Section 144.083, Revised Statutes of Missouri.

5626.2. "Wholesale fireworks distributor" shall mean any organization which is in compliance as a licensed distributor, jobber, or wholesaler as set forth in Chapter 320, Revised Statutes of Missouri, and regulations of the Missouri Department of Public Safety for the storage and wholesale and retail sale of permissible consumer fireworks. Said organization must also be in compliance with Section 144.083, Revised Statutes of Missouri.

5627. Exception, Seasonal Fourth of July Sales.

The retail sale of fireworks at temporary sites may be conducted by non-profit organizations within the unincorporated areas of the County for a period of forty-five (45) days prior to the Fourth day of July of each year, said days beginning on the 21st day of May and including the first (1st), second (2nd), third (3rd) and fourth (4th) days of July and ending at 3:00 P.M. on the fifth (5th) day of July of each year upon issuance of a permit, renewable annually, from the County.

5627.1. Limitation on Number of Seasonal Sales Permits.

There will be a maximum of nine (9) permits issued as the initial number of permits for local non-profit organizations for seasonal retail sales at temporary sites in 2009. Preference will be given to non-profit organizations located in Jackson County. After July 5, 2009, the County Legislature may set by resolution, approved on or before 5:00 p.m. on February 28th of each year, an annual limit on the number of permits that may be issued which limit

shall continue in effect until further resolution of the County Legislature.

5627.2. Permit, Application and Issuance.

Any non-profit organization desiring to sell or offer for sale permitted fireworks within the County shall make a timely, written application to the County for the issuance of a permit on a form to be provided by the Clerk of the Legislature.

5627.3. Procedures for Initial Permits for 2009.

Commencing with the 2009 permit year, any qualified non-profit organization will make application through the Clerk of the Legislature on or before March 1st of each year. The Clerk shall notify the Legislature of the permits proposed to be issued. The Legislature may reject the issuance of any initial permit within 15 days of the notice from the Clerk. Any such person, firm or corporation making application for a permit in 2009 or subsequent years shall accompany the application with current proof of insurance which shall remain on file with the Clerk of the Legislature.

5627.3.1. Maintain Insurance.

The applicant shall maintain adequate insurance coverage for any liability that might arise from the sale and storage of the fireworks.

5627.3.2. Denial by Clerk; Zoning Requirements.

The denial of a fireworks permit shall be at the sole discretion of the Clerk based upon the foregoing requirements; and all applications must contain the name of the applicant and a detailed description of the proposed location and the provisions to be taken for fire protection under the Jackson County Code. Any site location is limited to property which is zoned for an appropriate commercial or industrial use and any required special use permits or zoning variances; and the actual stand, tent or facility shall be at least one hundred (100) feet from any temporary or permanent building. The applicant must provide the Clerk with documentation of these facts.

5627.4. Information Required for Approval.

In support of the application to the Clerk, the applicants are required to set forth the intended use of the funds produced from the fireworks sale, together with a proposal projecting the financial benefits from the operation of the fireworks stand, including the profit percentage expected by the applicant for the sale of the fireworks; and applicants shall satisfy the Clerk that all monies collected from the sale of fireworks will be the funds of the non-profit organization subject to payment of expenses.

5627.5. Permit Renewals and New Applications.

In the event fireworks permits are available for succeeding years, the Clerk shall give

preference to applicants for a fireworks permit who were permit holders in the year 2009 or in the year prior to the application. Applicants must complete and submit the application on or before March 1st of each year. The Clerk shall notify the Legislature of the available permits proposed to be issued on or before March 16th. The Legislature shall have fifteen (15) days in which to reject any proposed permit. The Clerk shall issue the permits within thirty (30) days following the fifteen day period. The Legislature is the sole judge of the basis for rejection of a proposed permit.

5627.6. Permits Non-Transferable.

All permits issued and approved by the Legislature are personal to the applicant and non-transferable. The sale of fireworks or operation of a facility for the sale of fireworks by someone other than the license holder shall void the permit and cause forfeiture of the permit fee and constitute grounds for denial of any future permit.

5627.7. Distribution of Fees.

All fees collected from fireworks permits shall go to the General Fund.

5627.8. Application Fee.

Any such person, firm or corporation making application for a permit to the Clerk of the Legislature shall accompany said application with a fee of five hundred dollars (\$500.00)

for each location that a permit is sought. If the issuance of the permit is denied by the Clerk or rejected by the Legislature, four hundred (\$400.00) of the five hundred dollars (\$500.00) fee shall be returned to the applicant with one hundred dollars (\$100.00) retained by the Clerk as an administrative fee. If such application is approved, then the total fee shall be five hundred dollars (\$500.00) which shall be retained by the County.

5627.9. Sales by Volunteers Required.

No non-profit organization shall allow anyone other than unpaid volunteers of said organization to participate in any respect in the sale of fireworks or operation of the place of sale.

5628. Exception, Licensed Wholesale Distributor, Storage and Sale of Fireworks.

There will be a total of four (4) wholesale fireworks sales distributorship licenses issued from year-to-year for wholesale fireworks distributors for the purpose of storage and Sale of consumer fireworks.

5628.1. Must be Licensed by State of Missouri.

Any wholesale fireworks distributor must be licensed by the State of Missouri to engage in the wholesale distribution and sale of fireworks and in good standing with the State of Missouri and the County regarding taxes and insurance.

5628.2. Located within County.

Any such wholesale fireworks distributor must make application to the Clerk of the Legislature on a form provided by the Clerk. Such distributor and its proposed sites for operation must be physically located within the unincorporated areas of the County and owned by the applicant within one (1) year of the adoption of this section.

5628.3. Application Fee.

The initial application fee will be \$1000.00 for any proposed wholesale storage and sales location and an additional five hundred dollars (\$500.00) for each proposed retail sales location, including the retail sales at the wholesale location for a total possible annual license fee of three thousand dollars (\$3,000.00). The fee must accompany the application to the Clerk in a form required by the Clerk. The Clerk shall review the application and notify the Legislature of the proposed issuance of a license. The Legislature shall have fifteen (15) days in which to reject any proposed issuance. If denied by the Clerk or rejected by the Legislature, the sum of two hundred dollars (\$200.00) shall be retained by the Clerk as an administrative fee and the balance of eight hundred dollars (\$800.00) shall be refunded to the applicant. If such application is approved, then the total fee shall be one thousand dollars (\$1,000.00) which shall be retained by the County. If any proposed retail sales location is denied or rejected, the sum of one hundred dollars (\$100.00) shall be retained by the Clerk as an administrative fee and the balance of four hundred dollars (\$400.00) shall be refunded to the applicant.

5628.4. Zoning Requirements.

The grant or denial of a distributorship or retail license shall be at the sole discretion of the Clerk based upon the foregoing requirements; and all applications must contain the name of the applicant and a detailed description of the proposed location and the provisions to be taken for fire protection under the Jackson County Code and State statutes or regulations. Any site location is limited to property which is zoned for an appropriate commercial or industrial use and any required special use permits or zoning variances. The applicant must provide the Clerk with documentation of these facts.

5628.5. Scope of Wholesale Distributor and Distributor Retail Licenses.

The distributorship license shall authorize the operation of one site for year-round wholesale storage, sale and distribution of fireworks. If eligible for the issuance of a distributorship license, the applicant may also apply for distributor retail licenses that authorizes on-site year-round distributor retail sales at the wholesale location as well as three distributor retail sales sites at permanent sites located within the unincorporated areas of the County for a total of four (4) year-round distributor retail sales locations for which a separate application or renewal fee must be paid.

5628.6. Distributorship License and Distributor Retail License Issuance.

Commencing with the 2009 license year, any qualified distributor will make application through the Clerk of the Legislature on or before March 1st of each year. The Clerk shall notify the Legislature of the licenses proposed to be issued. The Legislature may reject the issuance of any initial license within 15 days of the notice from the Clerk. Any qualified distributor making application for a license in 2009 or subsequent years shall accompany the application with current proof of insurance which shall remain on file with the Clerk of the Legislature. In the event distributorship licenses for wholesale and retail sales are available for succeeding years, the Clerk shall give preference to applicants for a license who were license holders in the year 2009 or in the year prior to the application. Applicants must complete and submit the application on or before March 1st of each year. The Clerk shall notify the Legislature of the available permits proposed to be issued on or before March 16th. The Legislature shall have fifteen (15) days in which to reject any proposed permit. The Clerk shall issue the permits within thirty (30) days following the fifteen day period. The Legislature is the sole judge of the basis for rejection of a proposed wholesale or retail license.

5628.7. Wholesale and Retail License Renewable Annually.

Wholesale fireworks distributor and distributor retail licenses shall be renewable annually by payment of the annual fee of one thousand dollars (\$1,000.00) for each wholesale location and five hundred dollars (\$500.00) for each retail location for a total possible

license renewal fee of three thousand dollars (\$3,000.00) subject to denial by the Clerk or rejection by the Legislature.

5629. Forfeiture or Termination, Penalty.

The discovery of non-compliance with any requirement of this Chapter after the issuance of a permit may result in the forfeiture or termination of a permit and serve as grounds for either denial of a future permit and prosecution under Section 5630, Jackson County Code, or both.

Effective Date: This Ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:


Deputy County Counselor


County Counselor

I hereby certify that the attached Ordinance, Ordinance # 4082 of January 20, 2009 was duly passed on January 26, 2009 by the Jackson County Legislature. In the votes thereon were as follows:

Yeas 8

Nays 0

Abstaining 0

Absent 1

This Ordinance is hereby transmitted to the County Executive for his signature.

1/27/09
Date


Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance #4082.

1/28/2009
Date


Michael D. Sanders, County Executive