

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing section 5627., Jackson County Code, 1984, relating to the sale of fireworks and enacting, in lieu thereof, one new section relating to the same subject.

ORDINANCE #4304, April 11, 2011

INTRODUCED BY Dan Tarwater, County Legislator

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

WHEREAS, the Legislature did, by Ordinance 4082, dated January 20, 2009, establish procedures for the issuance of certain permits for the retail and wholesale distribution of fireworks within the County which sets an annual deadline of March 1 for permit applications; and,

WHEREAS, after two years of experience with the issuance of said permits, the Legislature has determined that it is appropriate to extend the time for the filing of applications for such permits from the present deadline of March 1 to April 29 of each year; and,

WHEREAS, the adoption of a new timeline for issuance of these permits in the best interests of the health, welfare, and safety, of the citizens of the County; and,

WHEREAS, adopting the new deadline for permit applications may 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. Section 5627., Jackson County Code, 1984, is hereby repealed and one new section is hereby enacted, to read as follows: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 28 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 1 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 April 29 of each year. The Clerk shall notify the Legislature of the available permits proposed to be issued on or before May 6. The Legislature shall have seven (7) days in which to reject any proposed permit. The Clerk shall issue the permits within seven (7) days following the seven 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.

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

APPROVED AS TO FORM:

[Signature]
Deputy County Counselor

[Signature]
County Counselor

I hereby certify that the attached Ordinance, Ordinance #4304 of April 11, 2011 was duly passed on April 11, 2011 by the Jackson County Legislature. In the votes thereon were as follows:

Yeas 6 Nays 0
Abstaining 0 Absent 3

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

4-11-11
Date

[Signature]
Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance #4304.

4/12/2011
Date

[Signature]
Michael D. Sanders, County Executive