

CHAPTER 56

FIREWORKS

SCOPE

5600. Scope.

This chapter applies to that part of Jackson County outside incorporated cities, towns, and villages. (Ord. 128, Sec. 7.68, Eff. 1-2-74)

C/R: 24090.10 District E use.

5601. - 5609. RESERVED

DEFINITIONS

5610. Definitions.

The following words and phrases are defined as follows:

5611. Director.

Director means the Sheriff or his duly authorized agent. (Ord. 128, Sec. 7.67a., Eff. 1-2-74)

5612. Fireworks.

Fireworks means and includes any combustible or explosive composition, or any substance or combination of substances or articles prepared for the purposes of producing a visible or audible effect by combustion, explosion, deflagration or detonation. (Ord. 128, Sec. 7.67b., Eff. 1-2-74)

5612.1. Examples.

The term "fireworks" includes but is not limited to: Blank cartridges, toy pistols, toy cannons, or toy guns in which explosives are used; balloons which require fire underneath to propel them, fire crackers, torpedoes, sky rockets, roman candles, colored flares, colored cone fire, fire and torches, wheels, colored mines and shells, aerial bombs, missiles, and other devices, articles, or tablets containing any explosives or flammable compound. (Ord. 5091, Eff. 4-30-18)

5612.2. Exclusions.

The term "fireworks" shall not include toy pistols, toy canes, toy guns or other devices in which paper caps are used, containing not in excess of an average of twenty-five hundredths of a grain of explosive compound per cap. (Ord. 128, Sec. 7.67b., Eff. 1-2-74)

5613. Person.

The term “person” includes individuals, partnerships, and corporations, both for-profit and not-for-profit. (Ord. 5091, Eff. 4-30-18)

5614. Wholesale Fireworks Distributor.

The term “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. (Ord. 5091, Eff. 4-30-18)

PROHIBITED ACTIVITIES

5620. Fireworks Sale Prohibited.

It shall be unlawful for any person, firm, corporation to sell, offer for sale, expose for sale or give fireworks within that part of Jackson County outside of incorporated cities, towns and villages except as provided in section 5623.00 through 5629.00 of this chapter. (Ord. 128, Sec. 7.67 a., Eff. 1-2-74)

5621. Storage or Possession Prohibited.

The storage or possession of any fireworks in or on any building, structure, or premise in that portion of Jackson County to which this chapter applies is prohibited except for those items that are to be used for a pyrotechnical display with approval and permission of the Director. (Ord. 128, Sec. 7.67a., Eff. 1-2-74)

5622. Retail or Wholesale Fireworks Business Prohibited.

It shall be unlawful for any person to operate a retail wholesale fireworks business to sell, handle, use, or dispense fireworks except as provided in sections 5623.00 through 5629.00 of this chapter. (Ord. 128, Sec. 7.67a., Eff. 1-2-74)

5623. Exception, Theatrical, or Signal Purposes.

This chapter shall not prohibit the sale or possession of blank cartridges for theatrical purposes or for signal purposes in athletic contests or sporting events, items for the use of police or military organizations, or flares used by railroads or other public or private transportation agencies for signaling purposes. (Ord. 128, Sec. 7.68b., Eff. 1-2-74)

5624. Exception, Directly Delivered or Shipped Elsewhere.

This chapter shall not prohibit any resident wholesaler, dealer, or jobber from possessing I.C.C. Class C fireworks for the purpose of selling at wholesale provided those fireworks

are in the process of being delivered or shipped directly outside that portion of Jackson County to which this chapter applies. (Ord. 128, Sec. 7.68b., Eff. 1-2-74)

5625. Exception, Approved Fireworks Displays.

This chapter shall not prohibit the sale or possession of fireworks for pyrotechnic displays given by any organization, amusement park, officials in charge of public parks, or groups of individuals provided that they have first obtained a permit from the Director. (Ord. 128, Sec. 7.67b., Eff. 1-2-74)

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. (Ord. 4082, Eff. 1-26-09)

5627. Exception, Seasonal Fourth of July Sales.

The retail sale of fireworks at temporary sites may be conducted by Persons 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. (Ord. 5091, Eff. 4-30-18)

5627.1. Limitation on Number of Seasonal Sales Permits.

There will be a maximum of nine (9) permits issued for seasonal retail sales at temporary sites. Annually, 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. (Ord. 5091, Eff. 4-30-18)

5627.2. Permit, Application and Issuance.

Any Person 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. (Ord. 5091, Eff. 4-30-18)

5627.3. Procedures.

Any Person may make application through the Clerk of the Legislature on or before April 29 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 making application for a permit

shall provide with the application current proof of insurance which shall remain on file with the Clerk of the Legislature. (Ord. 5091, Eff. 4-30-18)

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. (Ord. 4082, Eff. 1-26-09)

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 agricultural, commercial, or industrial use and which has obtained any required special use permits or zoning variances; and the actual stand, tent or facility shall meet the following conditions: it shall be at least fifty (50) feet from any permanent building, at least one hundred (100) feet from any adult entertainment business as defined and permitted under chapter 43 of this code, and at least one hundred (100) feet from any commercial petroleum dispensing device (gas pump). The applicant must provide the Clerk with documentation of these facts. (Ord. 5091, Eff. 4-30-18)

5627.4 Hours of Operation.

Temporary site permitted under this section may open and operate between the hours of 7:00 am and 11:00 pm, except that on July 3 and July 4, such sites may be open until 1:00 am (on July 5 in the case of July 4 operations). (Ord. 5091, Eff. 4-30-18)

5627.5. Permit Renewals and New Applications.

In the event fireworks permits are available, the Clerk shall give preference to applicants for a fireworks permit who were permit holders 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. (Ord. 4304, Eff. 4-12-11; Ord. 5091, Eff. 4-30-18)

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. (Ord. 4082, Eff. 1-26-09).

5627.7. Distribution of Fees.

All fees collected from fireworks permits shall go to the General Fund. (Ord. 4082, Eff. 1-26-09)

5627.8. Application Fee.

Any such person making application for a permit to the Clerk of the Legislature shall accompany said application with a fee of seven hundred fifty dollars (\$750.00) for each location that a permit is sought. If the issuance of the permit is denied by the Clerk or rejected by the Legislature, six hundred dollars (\$600.00) of the fee shall be returned to the applicant with one hundred fifty dollars (\$150.00) retained by the Clerk as an administrative fee. If such application is approved, then the total fee shall be retained by the County. (Ord. 5091, Eff. 4-30-18)

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. (Ord. 4082, Eff. 1-26-09)

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. (Ord. 4082, Eff. 1-26-09)

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 must have a permanent business location in Jackson County and its proposed sites for temporary operations must be physically located within the unincorporated area of the County and owned or leased by the applicant for at least one (1) year prior to filing of the application. (Ord. 5091, Eff. 4-30-18)

5628.3. Application Fee.

The initial application fee will be \$1500.00 for any proposed wholesale storage and sales location and an additional seven hundred fifty dollars (\$ 750.00) for each proposed retail sales location, including the retail sales at the wholesale location, if located in the unincorporated area of the County, for a total possible annual license fee of four thousand five hundred dollars (\$4,500.00). The fee must accompany the application to the Clerk, with a copy to the Compliance Review Officer, on a form required by the Clerk. The Clerk and Compliance Review Officer shall review the

application and notify the Legislature of the proposed issuance or denial 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 three hundred dollars (\$300.00) shall be retained by the Clerk as an administrative fee and the balance of one thousand two hundred dollars (\$1,200.00) shall be refunded to the applicant. If such application is approved, then the total fee shall be retained by the County. If any proposed retail sales location is denied or rejected, a portion of the fee shall be refunded as described in section 5627.8. (Ord. 5212, Eff. 3-18-19)

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. (Ord. 4082, Eff. 1-26-09)

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. (Ord. 4082, Eff. 1-26-09)

5628.6. Distributorship License and Distributor Retail License Issuance.

Any qualified distributor will make application through the Clerk of the Legislature on or before April 29 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 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 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 no later than May 20. The Legislature is the sole judge of the basis for rejection of a proposed wholesale or retail license. (Ord. 5212, Eff. 3-18-19)

5628.7. Wholesale and Retail License Renewable Annually.

Wholesale fireworks distributor and distributor retail licenses shall be renewable annually by payment of the annual fees specified in this chapter. (Ord. 5091, Eff. 4-30-18)

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. (Ord. 4082, Eff 1-26-09)

PENALTY

5630. Penalty, Violation of Fireworks Code.

Any person, firm or corporation violating any of the provisions of this chapter shall on conviction, be fined not less than fifty dollars (\$50) and not more than one thousand dollars (\$1,000) for each offense. (Ord. 128, Sec. 7.71a., Eff. 1-2-74)

5631. - 5639. RESERVED

FIREWORKS DISPLAY PERMITS

5640. Display of Fireworks, Permit Applications.

All applications for pyrotechnic display permits shall be addressed to the Director. (Ord. 128, Sec. 7.69, Eff. 1-2-74)

5641. Signature Required.

Any person, firm or corporation applying for a permit under this chapter shall be required personally to sign the application for the pyrotechnic display permit. (Ord. 128, Sec. 7.70, Eff. 1-2-74)

5642. Effect of Signature.

The signature of any applicant for a pyrotechnic display permit shall be deemed consent by the applicant for the Director or any of his duly authorized agents to enter into have full access to and search all places where fireworks for pyrotechnic displays are stored. (Ord. 128, Sec. 7.70, Eff. 1-2-74)

5643. Investigation Prior to Issuance.

Before issuing the pyrotechnic display permit, the Director shall investigate the application.

(Ord. 128, Sec. 7.69, Eff. 1-2-74)

5644. When Issue.

If the Director finds that the public safety will not be endangered by the pyrotechnic display, the Director shall issue the permit. (Ord. 128, Sec. 7.69, Eff. 1-2-74)

5645. - 5649. RESERVED

POWERS OF THE DIRECTOR

5650. Entry and Search by Director.

The entry and search authorized by section 5642.00 shall be conducted only for the purpose of determining the existence of a violation of this chapter. (Ord. 128, Sec. 7.70, Eff. 1-2-74)

5651. Power to Seize Fireworks.

The Director or any of his duly authorized agents shall have the power to seize, confiscate, and take and hold for destruction or disposal pursuant to a court order, any fireworks belonging to any person, firm or corporation violating any provision of this chapter. (Ord. 128, Sec. 7.716, Eff. 1-2-74)

5652. Promulgate Rules and Regulations.

The Director may promulgate reasonable rules and regulations governing pyrotechnic displays as are deemed necessary to insure public safety and welfare. (Ord. 128, Sec. 7.69, Eff. 1-2-74)

5653. - 5659. RESERVED