

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing sections 5612., 5627., and 5628., Jackson County Code, 1984, relating to fireworks, and enacting, in lieu thereof, five new sections relating to the same subject.

ORDINANCE NO. 5091, April 30, 2018

INTRODUCED BY Dan Tarwater, III, County Legislator

WHEREAS, certain revisions to the code provisions regarding the distribution, sale, and use of fireworks in unincorporated Jackson County have been proposed; and,

WHEREAS, such revisions are in the best interests of the health, welfare, and safety of the citizens of Jackson County; now therefore,

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

Section A. Enacting Clause. Sections 5612., 5627., and 5628., Jackson County, 1984, is hereby repealed, and four new sections enacted in lieu thereof, to be known as sections 5612., 5613., 5614., 5627., and 5628., to read as follows:

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 of detonation.

5612.1. Examples.

The term "fireworks" includes but is not limited to: Blank cartridges; toy pistols, toy cannons, toy canes or toy guns in which explosives are used; balloons which require fire underneath to propel them; fire crackers; torpedoes; sky rockets; roman candles; [dago bombs;] 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.

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.

5613. Person

The term "Person" includes individuals, partnerships, and corporations, both for-profit and not-for-profit.

[5626.2.] 5614 "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] 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.

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]. 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.

5627.2. Permit, Application and Issuance.

Any [non-profit organization] 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.

5627.3. Procedures [for Initial Permits for 2009].

[Commencing with the 2009 permit year,] Any [qualified non-profit organization] Person will make application through the Clerk of the Legislature on or before [March 1] 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 [, firm or corporation] making application for a permit [in 2009 or subsequent years] shall accompany provide with 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 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) from any [temporary or] permanent building, at least one hundred (100) feet from any adult entertainment business as defined and permitted under chapter 43 of the code, and at least one hundred feet from any commercial petroleum dispensing device (gas pump). The applicant must provide the Clerk with documentation of these facts.

5627.4 Hours of Operation

Temporary sites 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 1:00am (on July 5 in the case of July 4 operations):

[5627.5 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] seven hundred fifty dollars (\$[500]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, [four] six hundred (\$[4]600.00) of the [five hundred dollars (\$500.00)] fee shall be returned to the applicant with one hundred fifty dollars (\$1[0]50.00) 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 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 [within] for at least one (1) year of the [adoption of this section] filing of the application.

5628.3. Application Fee.

The initial application fee will be \$1[0]500.00 for any proposed wholesale storage and sales location and an additional [five] seven hundred fifty dollars (\$[50]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 [three] four thousand five hundred dollars (\$[30]4500.00). 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 [two] three hundred dollars (\$[2]300.00) shall be retained by the Clerk as an administrative fee and the balance of one thousand [eight] two hundred dollars (\$[8]1,200.00) 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 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] a portion of the fee shall be refunded as described in section 5627.7.

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; 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 1 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 1 of each year. The Clerk shall notify the Legislature of the available permits proposed to be issued on or before March 16. 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 fees specified in this chapter [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].

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

APPROVED AS TO FORM:

Jay D. Harden
Chief Deputy County Counselor

W. Stephen Niles
County Counselor

I hereby certify that the attached Ordinance, Ordinance No. 5091 introduced on April 30, 2018, was duly passed on April 30, 2018 by the Jackson County Legislature. 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.

4/30/18
Date

Mary Jo Spino
Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 5091.

4.30.2018
Date

Frank White, Jr.
Frank White, Jr., County Executive