

**IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI**

**AN ORDINANCE** repealing sections 5620., 5621., and 5627., Jackson County Code, relating to fireworks sales, storage and possession, and enacting, in lieu thereof, three new sections relating to the same subject.

**ORDINANCE #4188**, February 1, 2010

**INTRODUCED BY** Henry C. Rizzo and Dan Tarwater, County Legislators

WHEREAS, the County Legislature did, by Ordinance 4082, dated January 20, 2009, adopt amendments to Chapter 56 of the Jackson County Code providing for the issuance of licenses and permits for the wholesale and retail sales of consumer fireworks; and,

WHEREAS, those amendments envision the purchase of consumer fireworks and possession and storage of such fireworks by consumers; and,

WHEREAS, Sections 5620. and 5621. presently prohibit storage and possession of any fireworks, and could lead to the arrest and prosecution of consumers who have lawfully purchased consumer fireworks; and,

WHEREAS, Section 5627. presently provides exceptions for non-profit organizations Fourth of July seasonal sales; and,

WHEREAS, the proposed changes to these sections are consistent with the code provisions of area municipalities that permit the sale of consumer fireworks; and,

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

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

Section A. Enacting Clause. Sections 5620., 5621., and 5627., Jackson County Code, 1984, are hereby repealed and three new sections enacted in lieu thereof, to be known as sections 5620., 5621., and 5627., to read as follows:

#### PROHIBITED ACTIVITIES

5620. Fireworks Sale Prohibited; Unlawful Discharge.

5620.1 It shall be unlawful for any person, firm, or 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.

5620.2 It shall be unlawful for any person to throw or place any fireworks, including pyrotechnic devices, in such a manner that the discharge or explosion of the same will be likely to endanger or cause injury or damage to any person or property, or to store, possess or discharge such fireworks except as provided in Section 5621.

5620.3 It shall be unlawful for any person under the age of sixteen (16) years, unless under the supervision of a parent or guardian, to purchase, possess or discharge

Division 1.4G fireworks within the portion of Jackson County to which this chapter applies.

5621. Storage or Possession Prohibited; Exception.

[The storage or possession of any fireworks] It shall be unlawful for any person to possess, store, handle, or use Division 1.4G fireworks, more specifically described as (a) bottle rockets, aerial missiles and similar devices, (b) Sparkler bombs, and (c) altered or combined fireworks in or on any building, structure or premise in that portion of Jackson County to which this chapter applies [is prohibited] except:

5621.1 [for these] Storage and possession of those items that are to be used for discharge in a pyrotechnical display with approval and permission of the Director[.]; or

5621.2 Storage, possession or discharge of consumer fireworks lawfully purchased from a distributor or seasonal sales organization with a Jackson County license or permit that are intended for personal use in the discharge of such fireworks during the periods on the third (3<sup>rd</sup>) day and fifth (5<sup>th</sup>) day of July of each year between the hours of 10:00 a.m. and 11:00 p.m., and on the fourth (4<sup>th</sup>) day of July of each year between the hours of 10:00 a.m. and midnight.

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 21<sup>st</sup> day of

May and including the first (1<sup>st</sup>), second (2<sup>nd</sup>), third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) days of July and ending at 3:00 P.M. on the fifth (5<sup>th</sup>) 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 give 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<sup>th</sup> 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<sup>st</sup> 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 with 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 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. Security Required.

At the temporary sale site, the applicant shall provide armed security officers, who shall be qualified and approved by the Jackson County Sheriff. Said security shall be provided during all hours of operation.

5627.3.[2]3 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 1<sup>st</sup> of each year. The Clerk shall notify the Legislature of the available permits proposed to be issued on or before March 16<sup>th</sup>. The Legislature shall have fifteen (15) days in which to reject any proposed permit. The Clerk shall issue the permits with 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.

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

APPROVED AS TO FORM:

Angela M. Wilton  
Deputy/Assistant County Counselor

William J. Sanders  
Acting County Counselor

I hereby certify that the attached Ordinance, Ordinance #4188 introduced on February 1, 2010, was duly ~~passed~~ on WITHDRAWN FEB 01 2010, 2010 by the Jackson County Legislature. The votes thereon were as follows:

WITHDRAWN FEB 01 2010

Yeas \_\_\_\_\_

Nays \_\_\_\_\_

Abstaining \_\_\_\_\_

Absent \_\_\_\_\_

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance #4188.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michael D. Sanders, County Executive