

ORDINANCE NO. 2012- Q

AN ORDINANCE AMENDING CHAPTER 18 (LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS) OF THE HERNANDO COUNTY CODE OF ORDINANCES, ARTICLE IV (FIREWORKS). BY PROVIDING FOR AMENDED DEFINITIONS; BY PROVIDING FOR SEASONAL SALES; BY PROVIDING FOR PUBLIC DISPLAYS; BY PROVIDING FOR PERMIT REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

DEPARTMENT OF STATE  
HISpanic  
FLORIDA

2012 SEP -4 PM 3:39

FILED

WHEREAS, the County desires to update and modernize its code of ordinances to provide regulations for fireworks displays as provided for herein.

NOW THEREFORE:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

SECTION I. AMENDING CHAPTER 18 (LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS) OF THE HERNANDO COUNTY CODE OF ORDINANCES, ARTICLE IV (FIREWORKS). Chapter 18 (Licenses, Permits and Miscellaneous Business Regulations), of the Hernando County Code of Ordinances, Article IV (Fireworks), is amended to read as follows, with underlined matter added and strike through deleted:

ARTICLE IV. FIREWORKS

\*Editor's note: Section 10 of Ord. No. 95-9, adopted June 20, 1995, provided that "all prior ordinances, resolutions, and policies adopted by the board of county commissioners regarding fireworks display permits are hereby repealed." Therefore, provisions formerly codified as Art. IV, §§ 18-121--18-129, of Ch. 18, pertaining to fireworks and derived from Ord. No. 92-02, §§ 1--9, adopted April 7, 1992, have been removed from the Code and §§ 1--8 of Ord. No. 95-9 have been substituted in lieu thereof.

Cross references: Fire prevention and protection, Ch. 12.

Sec. 18-121. Definitions.

The following definitions shall apply to this article:

*Common fireworks:* Any small firework device designed primarily to produce visible effects by combustion and which must comply with the construction, chemical composition and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in Title 16, Code of Federal Regulations, Parts 1500 and 1507, or which are classified as Class C explosives by the United States Department of Transportation.

*Fireworks* shall have the meaning as set forth in section ~~791.01(1)(a)~~791.01 and ~~section 791.01(1)(b)~~791.01(4)(b), & 791.01(4)(c) Florida Statutes, as may be amended or renumbered from time to time.

*NFPA Code:* The most recent edition of the rules and regulations of the National Fire Protection Association, ~~Batterymarch Park, Quincy, Massachusetts, 02269.~~ NFPA Code ~~1124~~ means the NFPA Publication 1124, Code for the Manufacture, Transportation and Storage of Fireworks, 1988 Edition. NFPA Code ~~1123~~ means the NFPA Publication ~~1123~~, Code for the Outdoor Display of Fireworks, 1990 Edition.

*Permits:* Official form provided by the ~~board of county commissioners~~ Zoning Department authorizing the display/discharge or sales of ~~requested~~ fireworks.

*Seasonal retailer:* Any person, firm, partnership, corporation engaged in the business of selling ~~sparklers~~ retail fireworks in accordance with the terms of this Article at retail in the ~~county~~County, ~~for~~ from June 20 through July 5 and December 10 through January 2, each year.

~~Sparklers~~ shall have the same meaning as set forth in section ~~792.01(8)~~ Florida Statutes.

*Special or display fireworks:* Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes, but is not limited to, firecrackers containing more than two (2) grains (130 mg) of explosive composition, aerial shells containing more than forty (40) grains of pyrotechnic

composition, and other display pieces which exceed the limits for classification as "common fireworks" or which are classified as Class B explosives by the United States Department of Transportation.

(Ord. No. 95-9, § 1, 6-20-95)

Sec. 18-122. Applicability.

(a) *Geographical area.* This article shall be effective throughout the unincorporated ~~portions~~area of Hernando County.

(b) *Interpretation of article.* This article is not intended to interfere with, repeal, or abrogate any other federal, state or local law or regulation. Where any provision of this article imposes restrictions or requirements different from those imposed by any other applicable provision of law or regulation, all such restrictions or requirements shall be imposed concurrently, unless to do so would result in conflicting or impossible restrictions or requirements, in which case the controlling law ~~of~~ or regulation shall be whichever imposes the higher requirements or more stringent restrictions.

(Ord. No. 95-9, § 2, 6-20-95)

Sec. 18-123. Prohibition(s).

(a) *Prohibition generally.* It is unlawful for any person, firm, co-partnership, or corporation to have in its possession, to offer for sale, expose for sale, sell at retail or use or explode any fireworks.

(b) *Use without permit prohibited.* Except as may be duly permitted pursuant to the procedures of this article, the sale, detonation, explosion, or use of fireworks within the unincorporated areas of the county by any person is hereby declared prohibited and

unlawful without the issuance of a permit ~~by the board of county commissioners~~ by the Zoning Department.

(c) *Sale at wholesale exempted.* Nothing in this article shall be construed to prohibit any manufacturer, distributor, or wholesaler who has registered with the Sstate Ffire Mmarshal's Ooffice pursuant to Florida Statutes, section 791.015, to sell at wholesale such fireworks as are not herein prohibited; to prohibit the sale of any kind of fireworks at wholesale between the manufacturers, distributors, and wholesalers who have registered with the Sstate Ffire Mmarshal's Ooffice pursuant to Florida Statutes, section 791.015, provided that a copy of such registration be presented at the time of sale to said manufacturer, distributor, or wholesaler; to prohibit the sale of any kind of fireworks provided the same are to be shipped directly out of the state within seventy-two (72) hours of purchase by such manufacturer, distributor, or wholesaler; to prohibit the sale of fireworks to be used by a person holding a permit from ~~the any board of county commissioners~~ Zoning Department at the display covered by such permit, or to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes or illumination or when used in quarrying or for blasting or other industrial use, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or organizations composed of the Armed Forces of the United States; provided, nothing in this article shall be construed as barring the operations of manufacturers, duly licensed, from manufacturing, experimenting, exploding, and storing such fireworks in their compounds or proving grounds.

(d) *Sales by seasonal retailers.* It is unlawful for any seasonal retailer to sell any ~~sparklers–fireworks~~ that are not approved by the ~~division of the state~~ State fire-Fire marshal-Marshall's Office, of the ~~Department of Insurance~~ .

(Ord. No. 95-9, § 3, 6-20-95; Ord. No. 2007-05, § 8, 4-17-07)

Sec. 18-124. ~~Public display requirements~~ Permit Requirements .

*(a) Permit Requirements for Public Displays-*Permit for supervised public display of fireworks in the unincorporated area of the county by fair associations, amusement parks, and other organizations, groups, or individuals may be granted by ~~the board of county commissioners-~~ the Zoning Department in accordance with this article and any applicable Florida Statutes, chapter 791. The following conditions shall apply to any permit granted hereunder:

(1) *Site selection.* The site area selected for the festivities, discharge of fireworks site, spectator viewing area, parking area and the fallout area shall be reviewed and ~~recommendation made as appropriate~~ approved by the Zoning Department, department of public works, planning department, community services department, development department's commercial fire inspections, appropriate fire district and other departments as directed by the county administrator-Administrative Official. All permit applications shall be coordinated for review with the applicable regulatory agencies and County departments.

(2) *Pyrotechnic qualification.* An operator qualification review shall be conducted to determine that the individual(s) discharging the fireworks is qualified for such activities in accordance with NFPA, 1123, chapter 5, and in connection with subsection (1) of section 791.02(1), Florida Statutes, and ~~The commercial fire inspector will be the~~

county representative for the fire department except for Spring Hill Fire and Rescue District and Brooksville Fire Department. There are basically three (3) methods of qualifying the following:

- a. Current state fire marshal license or permit pursuant to Florida Statutes, Chapter 552, as a manufacturer, distributor, user or blaster of explosives and/or:
- b. Professional pyrotechnic fireworks shooting instruction, minimum of eighty (80) hours documented training and five (5) years documented experience.
- c. ~~Special board of county commissioners exception with a written examination of laws, regulations and safety practice.~~

(3) *Traffic and crowd control.* An adequate traffic parking and crowd control plan shall be submitted by the applicant and shall be reviewed and approved by the ~~sheriff's office~~ Sheriff's Department and Zoning Department, as directed by the ~~of public works and other county staff as directed by the county administrator~~ Administrative Official.

(4) *Evidence of financial responsibility.* An insurance policy showing general, comprehensive, liability, and property damage insurance coverage with minimum policy ~~minimum limits of not less than one million dollars (\$1,000,000.00) combined single limit coverage for each loss that may be occasioned in connection with the use of such permit by the permit holder~~ as prescribed by the office of risk management for the County.

(5) *Indemnity agreement.* The ~~president or chairman of the organization~~ entity making application ~~applying~~ for the permit, or the individual applying for their permit, shall execute an indemnity agreement which will be provided with the permit application, holding the County and its employees, the sheriff's office Sheriff's Department, its

officers and employees, harmless from any and all claims occurring out of the use of such permit.

(6) Permit. The applicant will be notified in writing of the application status.

Approved sites must display the Official form provided by the board of county commissioners Zoning Department authorizing display/discharge or sale of requested fireworks.

(b) Permit Requirements for Seasonal Retailers- The following requirements shall apply to applications for Seasonal Retail Permits:

(1) An application shall be made to the Zoning Department.

(2) The application shall include a site plan showing the temporary occupied parking spaces including size and dimensions of a proposed tent (including all widths and exits), RV (if included), existing buildings, fences, driveway aisles, and electric services.

(3) Authorization from property owner stating approval or non-objection for the use of the site for a temporary use as seasonal sales.

(4) A Certificate of Flame retardant certification for the tent to be utilized including the date the fabric was treated, the chemical used, and the person or company who conducted the treatment.

(5) A list of all items to be sold.

(6) Permit. The applicant will be notified in writing of the application status. Approved sites must display the official form provided by the Zoning Department authorizing the temporary seasonal sale of requested fireworks.

(Ord. No. 95-9, § 4, 6-20-95)

Sec. 18-125. Permit applications and Issuance.

(a) An application for permits shall be made in writing on a form provided by the county ~~development department~~ Zoning Department at least forty-five (45) days in advance of the date of the fireworks event or temporary seasonal sales. The application shall set forth the following information:

(1) The name, address and telephone number of the entity, organization, group or individuals seeking to conduct ~~the~~ fireworks display or temporary seasonal sales.

(2) The names of the individual, individuals, entity, group or organization which will be actually supervising and in control of the detonation, explosion and use of the fireworks, and ~~A~~ a description of such person's or persons' experience with pyrotechnics; or the names of the individual, individuals, entity, group or organization which will be conducting the temporary seasonal sales per NFPA 1123, chapter 5 and subsection 18-124(2) of this article.

(3) The location of the proposed display or temporary seasonal sales, including a physical address and complete description of the property.

(4) The date of the proposed display and alternate rain-out date.

(5) A description of the type and the number of fireworks to be used or sold.

(6) The manner and place of storage of fireworks prior to delivery to the display site.

(7) Plan for traffic/crowd control for the proposed display of fireworks.

(b) Upon completion of the formal permit application and required supplementary documents, the application shall be submitted to the ~~county development department~~ Zoning Department along with a nonrefundable fee of ~~fifty two hundred~~ two hundred dollars (\$~~50~~ 200.00). The ~~development department~~ Zoning Department will disseminate and

coordinate the application to the county sheriff's office, the commercial fire inspector, ~~appropriate fire department~~ and other applicable county staff departments and other agencies for sufficiency review and comment.

The ~~development department~~ Zoning Department Administrative Official, or designee, shall ~~then prepare a written report with staff's recommendations for approval or denial and present recommendations to the board of county commissioners.~~ The board of county commissioners shall ~~hear the application and may~~ has the authority to deny, or grant, or grant the permit application with conditions ~~the permit.~~ The board of county commissioners Zoning Department Administrative Official shall consider the comments and recommendations made by those departments, offices and agencies reviewing the application, the sheriff's office, fire department and county staff's information supplied by the applicant and any other information deemed relevant in making its decision a determination regarding the permit application. Upon denial or approval ~~for~~ of the application by the board of county commissioners, the applicant will be notified in writing of the board's decision along with any required conditions of approval.

(Ord. No. 95-9, § 5, 6-20-95)

Sec. 18-126. Permits.

Upon approval of the application ~~by the board of county commissioners~~, a fireworks ~~display permit~~ will be issued by the ~~county development department~~ Zoning Department.

Upon the issuance of a permit, the sale, possession, use and distribution of the fireworks shall be lawful only for the purposes, and the time under the conditions set forth in the application approval. Such permit issued for the application sought pursuant to the provisions of this article is nontransferable ~~and is good only for the single event at the~~

~~time and place demonstrated on such permit.~~ The fireworks ~~display~~ permit must be available for review at ~~the~~ all times of the fireworks display during the event or temporary seasonal sales. The permittee shall comply with all applicable provisions of the National Fire Protection Association standards. A violation of this section shall be deemed a violation of this article.

(Ord. No. 95-9, § 6, 6-20-95)

Sec. 18-127. Penalties.

Any person violating any provisions of this article shall be subject to the penalties set forth in Florida Statutes, ~~section 791.06, and~~ as such statute may be from time to time amended or renumbered. Additionally, and alternatively, ~~the county may apply to a court of civil relief, either in law or equity, and no bond shall be required~~ any violation hereunder may be prosecuted as described in Chapter 2, Article III of the Hernando County Code of Ordinances, as may be amended or renumbered from time to time. ~~Proof of scienter of intent shall not be required.~~

(Ord. No. 95-9, § 7, 6-20-95)

Sec. 18-128. Seizure of illegal fireworks.

Each sheriff, or his appointee, or any other police officer shall seize, take, remove or cause to be removed and destroyed at the expense of the owner all stocks of fireworks or combustibles offered for sale, stored, or held in violation of this article.

(Ord. No. 95-9, § 8, 6-20-95)

Secs. 18-129--18-140. Reserved.

**SECTION II. SEVERABILITY.** It is declared to be the intent of the Board of County Commissioners that if any section, subsection, clause, sentence, phrase, or provision of

this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

**SECTION III. INCLUSION IN THE CODE.** It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, any section or subsection of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate designation.

**SECTION IV. EFFECTIVE DATE.** This ordinance shall take effect immediately upon filing with the Department of State.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY** in Regular Session this 28 day of August, 2012.

**BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA**

Attest: Karen Nicolai By: Wayne Dukes  
KAREN NICOLAI, CLERK WAYNE DUKES, CHAIRMAN

(SEAL)



**Approved as to Form and  
Legal Sufficiency**

By: [Signature]  
County Attorney's Office