

ORDINANCE NO. 95-9

AN ORDINANCE RELATING TO FIREWORKS; PROHIBITING THE USE AND EXPLODING OF FIREWORKS IN HERNANDO COUNTY WITHOUT A PERMIT; ESTABLISHING A PERMIT APPLICATION PROCESS; PROVIDING FOR PENALTIES; AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY TO ISSUE PERMITS; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

SECRETARY OF STATE

JUN 20 11 22 AM '95

FILED

WHEREAS, the exploding, detonating and display of fireworks presents a serious danger to the public, unless same is properly regulated and supervised, and;

WHEREAS, Chapter 791, Florida Statutes, provides for the regulation of use and exploding of fireworks, and authorizes Boards of County Commissioners to set forth rules and regulations for the granting of permits for supervised public display of fireworks, and;

WHEREAS, the Hernando County Board of County Commissioners hereby invokes its authority to regulate and permit fireworks pursuant to said law.

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

SECTION 1. DEFINITIONS.

A. Fireworks - Shall have the same meaning as set forth in Section 791.01(1)(a) and Section 791.01(1)(b), Florida Statutes.

B. Sparklers - Shall have the same meaning as set forth in Section 792.01(8), Florida Statutes.

C. "Seasonal Retailer" - means any person, firm, partnership, corporation engaged in the business of selling sparklers at retail in Hernando County from June 20 through July 5 and December 10 through January 2, each year.

D. Common Fireworks - The term "common fireworks" shall mean 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.

E. Special or Display Fireworks - Special or display fireworks shall mean 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 grains (130 mg) of explosive composition, aerial shells containing more than 40 g 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.

F. NFPA Code - NFPA refers to 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.

G. Permits - Official form provided by the Board of County Commissioners authorizing display/discharge of requested fireworks.

SECTION 2. APPLICABILITY.

A. Geographical Area - This ordinance shall be effective throughout the unincorporated portions of Hernando County.

B. Interpretation of Ordinance - This ordinance is not intended to interfere with, repeal, or abrogate any other federal, state or local law or regulation. Where any provision of this Ordinance 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 regulation shall be whichever imposes the higher requirements or more stringent restrictions.

SECTION 3. PROHIBITION(S)

A. It is unlawful for any person, firm co-partnership, or corporation to have in possession, to offer for sale, expose for sale, sell at retail or use or explode any fireworks.

1. Except as may be duly permitted pursuant to the procedures of this Ordinance, the detonation, explosion, or use of fireworks within the unincorporated areas of Hernando County, Florida by any person is hereby declared prohibited and unlawful without the issuance of a permit by the Board of County Commissioners.

2. Sale at wholesale, exempted. Nothing in this ordinance shall be construed to prohibit any manufacturer, distributor, or wholesaler who has registered with the State Fire Marshal's Office pursuant to Section 791.015, Florida Statutes, 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 State Fire Marshall's Office pursuant to Section 791.015, Florida Statutes, 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 any board of county commissioners 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 chapter 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.

B. It is unlawful for any seasonal retailer to sell any sparklers that is not approved by the Division of the State Fire Marshall of the Department of Insurance.

1. No seasonal retailer shall engage in the sale of sparklers without first obtaining an occupational license and a Land Use Permit.

2. Prior to the issuance of any occupational license, a seasonal retailer shall execute an affidavit stating that the seasonal retailer will sell only sparklers that have currently been approved by the Division of the State Fire Marshall.

SECTION 4. PUBLIC DISPLAY REQUIREMENTS

Permits for supervised public display of fireworks in the unincorporated area of Hernando County by fair associations, amusement parks, and other organizations, groups, or individuals may be granted by the Board of County Commissioners in accordance with this ordinance and Chapter 791, Florida Statutes. The following conditions shall apply to any permit granted hereunder:

A. **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 by the Department of Public Works, Planning Department, Community Services Department, Development Department's Commercial Fire Inspections, appropriate fire district and other as directed by the County Administrator.

B. **Pyrotechnic Qualification** - an operator qualification review 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. 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:

1. Current State Fire Marshal License or permit pursuant to Chapter 552, Florida Statutes, as a manufacturer, distributor, user or blaster of explosives.

2. Professional pyrotechnic fireworks shooting instruction, minimum of eighty (80) hours documented training and five (5) years documented experience.

3. Special Board of County Commissioner exception with a written examination of laws, regulations and safety practice.

C. **Traffic and Crowd Control** - an adequate traffic parking and crowd control plan shall be submitted by the applicant and shall be reviewed by the Sheriff's Office, Department of Public Works and other County staff as directed by the County Administrator.

D. **Evidence of Financial Responsibility** - an insurance policy showing general,

comprehensive, liability, and property damage insurance coverage with policy minimum limits of not less than \$1,000,000 combined single limit coverage for each loss that may be occasioned in connection with the use of such permit by the permit holder.

E. Indemnity Agreement - the President or Chairman of the organization 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, its officers and employees, harmless from any and all claims occurring out of the use of such permit.

F. Permit - official form provided by the Board of County Commissioners authorizing display/discharge of requested fireworks.

SECTION 5. PERMIT APPLICATIONS.

A. An application for permits shall be made in writing on a form provided by the Hernando County Development Department at least forty-five (45) days in advance of the date of the fireworks event. The application shall set forth the following information:

1. The name, address and telephone number of the organization, group or individuals seeking to conduct the fireworks display.

2. The names of the individual, individuals, group or organization which will be actually supervising and in control of the detonation, explosion and use of the fireworks. A description of such person(s) experience and expertise with pyrotechnics per NFPA-1123, Chapter 5 and Section 4(B) of this ordinance.

3. The location of the proposed display, 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.
6. The manner and place of storage of fireworks prior to delivery to the display site.
7. Plan for traffic/crowd control.

B. Upon completion of the formal permit application and required supplementary documents, the application shall be submitted to the Hernando County Development Department along with a non-refundable fee of fifty (\$50.00) dollars. The Development Department will disseminate and coordinate the application to the Hernando County Sheriff's Office, the Commercial Fire Inspector, appropriate Fire Department and other County staff for sufficiency review.

The Development Department 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 deny, grant, or grant with conditions, the permit. The Board of County Commissioners shall consider the recommendations made by 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. Upon denial or approval for the application by the Board of County Commissioners, the applicant will be notified in writing of the Board's decision.

SECTION 6. PERMITS.

Upon approval of the application by the Board of County Commissioners, a fireworks display permit will be issued by the Hernando County Development 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 pursuant to the provisions of the Ordinance is non-transferrable 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 time of the fireworks display. 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 Ordinance.

SECTION 7. PENALTIES

Any person violating any provisions of this Ordinance shall be subject to the penalties set forth in Florida Statutes 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 for civil relief, either in law or equity, and no bond shall be required. Proof of scienter of intent shall not be required.

SECTION 8. 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 chapter.

SECTION 9. SEVERABILITY

It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase or portion 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 10. CONFLICTING PROVISIONS

All prior Ordinances, Resolutions, and Policies adopted by the Board of County Commissioners regarding fireworks display permits are hereby repealed.

SECTION 11. INCLUSION IN THE CODE

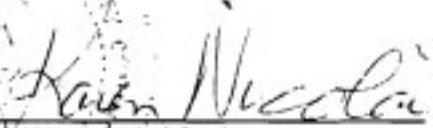
It is the intention of the Board of County Commissioners of Hernando County, Florida, and is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this Ordinance may be renumbered or relettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article", or other appropriate designation.

SECTION 12. EFFECTIVE DATE

This Ordinance is effective immediately upon its being filed with the Secretary of State.

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

Attest:


KAREN NICOLAI
Clerk

By:


JOHN RICHARDSON
Chairman