

ORDINANCE NO. 86-14

FILED FOR RECORD
86 MAY 15 AM 11 24

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MANATEE COUNTY COURT
MANATEE COUNTY, FLORIDA

AN ORDINANCE OF MANATEE COUNTY REGULATING THE MANUFACTURE OF FIREWORKS AND SPARKLERS AS DEFINED BY FLORIDA LAW; REGULATING SALE AT WHOLESALE OF FIREWORKS AND SPARKLERS AS DEFINED BY FLORIDA LAW; REGULATING RETAIL SALE OF SPARKLERS AND USE OF FIREWORKS AND SPARKLERS; PROHIBITING RETAIL SALE OF FIREWORKS AND SPARKLERS; RESTRICTING SALES OF FIREWORKS AND SPARKLERS TO MINORS; PROVIDING PROCEDURES FOR PERMITTING LAWFUL FIREWORKS DISPLAYS; RESTRICTING SALES AND USE OF FIREWORKS OR SPARKLERS DURING EMERGENCY DROUGHT CONDITIONS; PROVIDING FOR ENFORCEMENT REMEDIES; PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 100.01(1)(b)

2005

WHEREAS, many injuries to both property and persons occur each year as a result of improper manufacturing, handling, and use of fireworks and sparklers; and

WHEREAS, deception of the general public occurs by the illegal sale of items being sold as lawful fireworks; and

WHEREAS, the Board of County Commissioners finds that regulation and control of the manufacture and sale of fireworks and sparklers is necessary for the protection of life and property and is in the best interest of the safety and welfare of the public in Manatee County; and

WHEREAS, the Board of County Commissioners has the authority, under Section 125.01(d), Florida Statutes, to provide for fire protection and, under Section 125.01(w), Florida Statutes, to perform any other acts not inconsistent with law which are in the common interest of the people of the County, and to exercise all powers and privileges not specifically prohibited by law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, that:

PART I. DEFINITIONS

As used in this Ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

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

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Fireworks

2. **Sparkler**: Shall have the same meaning as set forth in Section 792.01(2), Florida Statutes.

3. **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.

4. **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 2 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.

5. **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.

PART II. APPLICATION

1. **Geographical Area**. This Ordinance shall be effective throughout Manatee County, including incorporated portions thereof; provided that if this Ordinance is in conflict with a municipal ordinance of any municipality in Manatee County, then this Ordinance shall not be effective within the municipality to the extent of such conflict.

2. **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 or regulation shall be whichever imposes the higher requirements or more stringent restrictions.

PART III. MANUFACTURING OPERATIONS

1. Basic Requirements. The manufacture of sparklers and fireworks, including common fireworks and special or display fireworks, all as defined in Part I of this Ordinance, is unlawful and shall not be allowed unless the manufacturer is duly licensed under all applicable federal and state laws and regulations, and the manufacturer and the manufacturing plant and operation are in compliance with this Ordinance.

2. Location. No fireworks or sparklers may be manufactured within the city limits of any incorporated municipality in Manatee County unless authorized by law and appropriate governing authorities within such municipality. Plants within the unincorporated areas of Manatee County where fireworks and sparklers are manufactured shall be considered a "very heavy manufacturing establishment" and, in the unincorporated areas of Manatee County, no fireworks manufacturing plant shall be permitted except in M-2 districts pursuant to a special permit issued in accordance with Manatee County Ordinance No. 81-4 as amended.

3. Building Code. All fireworks and sparkler manufacturing plants in the unincorporated area of Manatee County shall comply with Section 407 of the Manatee County Building Code pertaining to Hazardous Occupancy.

4. NFPA Code. The following portions of NFPA Code 1124, a copy of which is filed with the Clerk of the Circuit Court for Manatee County, are hereby adopted and incorporated into this ordinance: Section 1-4 Definitions, except for the definitions of "fireworks", "Common Fireworks" and "Special Fireworks" included therein; Chapter 2, "Manufacturing Operations" in its entirety; Chapter 3, "Storage of Special Fireworks and Black Powder" in its entirety; Chapter 4, "Storage of Common Fireworks" in its entirety; and Chapter 5, "Transportation of Fireworks" in its entirety.

5. Inspections.

A. Routine Inspections. Inspections of all fireworks manufacturing plants shall be conducted on an annual basis by the appropriate respective Fire Marshals, Fire Chiefs or Fire Inspectors to ensure the safety of the public and compliance with this Ordinance. Upon detecting a violation of this Ordinance, the Fire Marshal, Fire Chief or Fire Inspector shall order such corrective measures as are necessary to ensure compliance herewith and shall make subsequent inspections to ensure that the corrective measures are implemented.

B. Inspections for Cause. Upon obtaining reasonable grounds to believe that a fireworks manufacturing plant is operating in violation of this Ordinance, the Fire Marshal, Fire Chief, or Fire Inspector may conduct unannounced inspections of said premises.

C. No Forcible Entries. Notwithstanding paragraphs 5A and 5B, no Fire Marshal, Fire Chief or Fire Inspector shall effect forcible entry of any fireworks manufacturing plant, unless authorized to do so by warrant or order of a court of competent jurisdiction.

D. Remedies. Upon refusal of a plant owner, operator or other person in charge thereof to allow entry for purposes of an inspection hereunder, the Fire Marshal, Fire Chief, Fire Inspector, Sheriff or other governing authority, in addition to any other remedies provided by law, may seek a warrant pursuant to Section 933.20, et seq., Florida Statutes or other applicable law or a court order restraining or enjoining said person from refusing entry to said fireworks manufacturing plant for purposes of such inspections.

6. Label Requirement. Any fireworks or sparklers manufactured in Manatee County shall have printed on the label or container in English, by the manufacturer, the total weight per unit of combustible substance, explosive composition, and pyrotechnic composition contained therein, the name of the said substance or

composition, and a brief statement defining its action when ignited, including the potential for igniting a fire through use of the product.

PART IV. WHOLESALE OF FIREWORKS AND SPARKLERS

1. **Basic Requirements.** The sale at wholesale of sparklers and fireworks, including common fireworks and special or display fireworks, all as defined in Part I of this Ordinance, is unlawful and shall not be allowed unless the seller is duly licensed under all applicable federal and state laws and regulations and the premises where the products are sold or held for sale are in compliance with this Ordinance.

2. **Location.** It shall be a violation of this Ordinance to sell fireworks or sparklers at wholesale from any premises in Manatee County, except in accordance with Manatee County Ordinance No. 81-4 as amended and from any premises within the city limits of any municipality in Manatee County unless authorized by law and appropriate authority within the municipality.

3. **Premises.** The sale of sparklers or fireworks at wholesale shall not be conducted from the same premises or immediately adjacent to premises where the manufacture or retail sale of fireworks or sparklers occurs, nor shall the manufacture of sparklers or fireworks be conducted from the same premises or immediately adjacent to premises where retail sale of sparklers or fireworks occurs.

4. **Building Code.** All establishments selling fireworks or sparklers at wholesale in the unincorporated area of Manatee County shall comply with Section 407 of the Manatee County Building Code pertaining to Hazardous Occupancy.

5. **Application of NFPA Code; Storage Requirements.** The following paragraphs of the NFPA Code referred to in Part III shall be applicable to all establishments which sell or hold fireworks or sparklers for sale at wholesale: 2-9.1; 2-9.2; 2-9.2.1; 2-9.3.2; 2-9.3.4; 2-9.4; 2-11.1; 2-11.1.1; 2-11.1.2; 2-11.2.1; 2-11.2.2; 2-12.1; 2-12.2; 2-12.3; 2-12.3.1; 4-2.4; 4-2.5; 4-3.1; 4-3.2; 4-3.3; 4-3.4; 4-3.5; 4-3.6; 4-3.7; 4-3.8;

4-3.10; and 4-3.12. Additionally, such establishments shall not store or keep for sale fireworks or sparklers in any premises:

A. In which paints, oils, or varnishes are manufactured or kept for use or sale unless the paints, oils, or varnishes are in unbroken containers;

B. In which resin, turpentine, gasoline, or flammable substances or substances which may generate vapors are used, stored, or offered for sale unless the resin, turpentine, gasoline, or substances are in unbroken containers; and

C. In which there is not at least one approved chemical fire extinguisher ready, available, and equipped for use in extinguishing fires.

6. **Fire Protection Systems.** Wherever a building is located for the storage or sale of fireworks or sparklers at wholesale, the Fire Marshal, Fire Chief, or Fire Inspector of the respective jurisdiction shall designate the type and number of fire appliances or safety equipment to be installed and maintained in and upon the building in accordance with the provisions of the Standard Fire Prevention Code as adopted in the respective jurisdiction.

7. **Inspections.**

A. **Routine Inspections.** Inspections of all fireworks wholesale establishments shall be conducted on an annual basis by the appropriate respective Fire Marshals, Fire Chiefs or Fire Inspectors to ensure the safety of the public and compliance with this Ordinance. Upon detecting a violation of this Ordinance, the Fire Marshal, Fire Chief, or Fire Inspector shall order such corrective measures as are necessary to ensure compliance herewith and shall make subsequent inspections to ensure that the corrective measures are implemented.

B. **Inspections for Cause.** Upon obtaining reasonable grounds to believe that a fireworks wholesale establishment is operating in violation of this Ordinance, the Fire Marshal, Fire Chief or Fire Inspector may conduct unannounced inspections of said premises.

C. No Forcible Entries. Notwithstanding paragraphs 5A and 5B, no Fire Marshal, Fire Chief or Fire Inspector shall effect forcible entry of any fireworks wholesale establishment, unless authorized to do so by warrant or order of a court of competent jurisdiction.

D. Remedies. Upon refusal of a plant owner, operator or other person in charge thereof to allow entry for purposes of an inspection hereunder, the Fire Marshal, Fire Chief, Fire Inspector, Sheriff or other governing authority, in addition to any other remedies provided by law, may seek a warrant pursuant to Section 933.20, et seq., Florida Statutes, or other applicable law or a court order restraining or enjoining said person from refusing entry to said fireworks wholesale establishment for purposes of such inspections.

8. Sales. Nothing in this Ordinance shall be construed to prohibit any resident wholesaler, dealer, or jobber to sell at wholesale such fireworks as are not prohibited under Florida law; or the sale of any kind of fireworks provided the same are to be shipped directly out of state; or are to be used by a person holding a permit from the board of county commissioners or other governing body of the applicable jurisdiction at the display covered by such permit, or 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.

PART V. PUBLIC DISPLAYS

Public Displays. Permits for supervised public display of fireworks in the unincorporated area of Manatee County by fair associations, amusement parks, and other organizations or groups of 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. The display will be conducted by a competent operator approved by the Sheriff and the Fire Marshal or Fire Chief of the jurisdiction where the display will be located;

B. The display shall be of such a character and so located, discharged and fired as in the opinion of the Fire Marshal or Fire Chief shall not be hazardous to property or endanger any person.

C. Written application for the permit shall be submitted at least 15 days in advance of the date of the display.

D. The permit shall not be transferrable.

E. The applicant shall furnish a bond in a sum not less than \$500.00 conditioned for the payment of all damages which may be caused either to a person or to property by reason of the display and arising from the act of the permittee, his agents, employees or subcontractors.

F. The application for Fireworks Display Permit and approval thereof shall substantially conform to the format in the form attached to this Ordinance as Exhibit A and incorporated herein by reference.

PART VI. RETAIL SALE OR USE OF FIREWORKS AND SPARKLERS

1. **Basic Requirement.** Except as herein provided it shall be unlawful for any person, firm, copartnership or corporation to offer for sale, expose for sale, sell at retail, or use or explode any fireworks.

2. **Location.** Sparklers shall not be held or offered for retail sale except in the following locations:

A. A permanent structure located in unincorporated Manatee County wherein such activity is permitted under the provisions of Manatee County Ordinance 81-4, as amended; or in a municipality in a permanent structure, or otherwise as permitted under the applicable law of the municipality; or

B. In any zone in the unincorporated area of Manatee County where permitted as a commercial vendor, provided a commercial vending permit has been obtained by the seller in accordance with Manatee County Ordinance No. 86-13 prior to selling or offering for sale any such sparklers, and the

applicable requirements of NFPA Code 1124, Chapter 5 as to Transportation of Fireworks have been met by the seller.

3. **Building and Fire Code.** No sparklers shall be sold or held or offered for sale at retail in or from a permanent structure unless the structure is in compliance with all applicable provisions of the Building Code and the Standard Fire Prevention Code in effect in the jurisdiction where said structure is located.

4. **Accessibility.** It shall be unlawful for any dealer, seller or merchant who sells sparklers at retail, or who holds, offers or displays such items for sale at retail, to store or display such merchandise in a way that such items are accessible to customers or the public. Sparklers shall be stored and displayed in a secure manner so as to require assistance of personnel of the dealer, seller or merchant prior to the customer or members of the public being able to physically handle the sparklers.

5. **Storage.** Sparklers shall not be stored or kept for sale in any store:

A. In which paints, oils or varnishes are manufactured or kept for use or sale unless the paints, oils, or varnishes are in unbroken containers;

B. In which resin, turpentine, gasoline, or flammable substances or substances which may generate vapors are used, stored, or offered for sale unless the resin, turpentine, gasoline, or substances are in unbroken containers;

C. In which there is not at least one approved chemical fire extinguisher ready, available, and equipped for use in extinguishing fires.

6. **Sign Requirement.** When sparklers are in storage to be offered for sale at retail, a sign shall be conspicuously displayed over the entrance to the room in which they are stored, which sign reads: "CAUTION SPARKLERS-NO SMOKING". No person shall be in such room while in possession of a lighted cigar, cigarette, or pipe.

7. Retail Sales of Fireworks Prohibited. No person, firm, copartnership or corporation shall offer for sale, expose for sale or sell at retail any fireworks as defined in Section 791.01, Florida Statutes and this Ordinance.

PART VII. SALES TO MINORS

Sales to Minors Prohibited. It shall be unlawful in Manatee County for any person, firm, copartnership, or corporation to offer for sale, expose for sale, or sell at wholesale or retail, any fireworks or sparklers to a minor and prior to sales to a person whose majority status may reasonably be questioned, the seller shall require a reliable form of identification as proof of age.

PART VIII. DROUGHT RESTRICTIONS OR EMERGENCY CONDITIONS

1. Drought Restrictions or Emergency Conditions. At any time that the Southwest Florida Water Management District, due to drought or other conditions, imposes water use restrictions in Manatee County, or the Florida Forest Service Zone 9 Fire Readiness Level is set at 3 or its Fire Buildup Index or Fire Spread Index is set at "high", the following provisions are automatically effectuated without further notice:

A. Wholesale and retail sales of fireworks or sparklers are prohibited during the duration of the time that said water use restrictions or fire readiness level or fire indices are in effect; except that sales of fireworks or sparklers to be shipped directly out of the state may be permitted where said items are delivered by the seller directly to a common carrier pursuant to a written bill or shipping order with an out of state destination; and

B. The use, igniting and explosion of fireworks and sparklers are prohibited in Manatee County during the duration of the period that said water use restrictions or fire readiness level or fire indices are in effect, unless permitted under Part V of this ordinance.

PART IX. ENFORCEMENT

1. By Whom. This Ordinance shall be enforced by the Sheriff's Department, or by any law enforcement officer and the Fire

Marshals, Fire Chiefs or Fire Inspectors of the respective jurisdictions within Manatee County.

2. **Penalties.** In accordance with the provisions of Section 125.69, Florida Statutes, violations of this Ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 60 days, or by both such fine and imprisonment.

3. **Violation.** Fireworks and sparklers that are sold, held, used or exploded in violation of this Ordinance are subject to confiscation by law enforcement authorities in addition to the other enforcement measures provided in this Ordinance.

4. **Injunction of Public Nuisance or Threat of Irreparable Harm.** The County or any Fire Marshal, Fire Chief or law enforcement agency, in addition to any other remedies provided by law, may seek in a court of competent jurisdiction an injunction against any business operation or person engaged in the manufacture, sale at wholesale or retail, or storage of fireworks and sparklers when that said activity creates or is about to create a public nuisance under Section 823.05, Florida Statutes, or there is a threat of irreparable harm or damage to the public health, safety and welfare if the activity is not enjoined.

PART X. SEVERABILITY

Severability. Should any paragraph, section, sentence or portion of this Ordinance be held invalid or unconstitutional, such portion shall be severed from the remaining portions hereof and such invalidity or unconstitutionality shall not be construed to render invalid or unconstitutional the remaining provisions of this Ordinance.

PART XI. EFFECTIVE DATE

Effective Date. This Ordinance shall become effective immediately upon receipt of the official acknowledgment from the

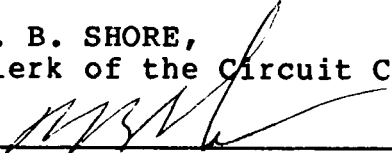
Office of the Secretary of State in Tallahassee, Florida, that this Ordinance has been filed with that office.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Manatee County, Florida, this the 6th day of May, 1986.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: 
Chairman 5/6/86

ATTEST: R. B. SHORE,
Clerk of the Circuit Court



APPLICATION FOR FIREWORKS DISPLAY PERMIT

Date of application (must be at least 15 days before proposed display):

Date of proposed display:

Name of organization or person sponsoring proposed display:

Location of proposed display:

Approximate starting and ending time of proposed display:

From _____

To _____

Name of person actually conducting and supervising display:

License No.

Fire Marshal or Fire Chief Approval

Applicable Jurisdiction: _____

Approving Official:

Type/Print Name and Title

Signature

Date

Sheriff's approval

Approving Official

Type/Print Name and Title

Signature

Date

Date

Signature of Applicant

Title/Relationship of Person Signing if Different from Applicant

APPROVAL

Pursuant to Chapter 791, Florida Statutes, and Manatee County Ordinance 86-14, the foregoing application is hereby approved and said fireworks display is permitted for the date, time and place indicated in the application, PROVIDED said display is conducted and supervised by the licensed operator as indicated in the application and PROVIDED further that applicant shall furnish and attach to this permit a bond in the amount of \$_____ approved by the Manatee County Director of Risk Management and the Board of County Commissioners and conditioned to pay all damages to person or property caused by reason of said fireworks display or arising from any act of the applicant or agents, employees or subcontractors of the applicant.

This permit is not valid unless said bond is attached hereto. This permit is not transferrable to any other person or entity nor applicable to the sale, possession, use or distribution of fireworks at any date, time or place other than set forth in the foregoing application.

Approved with a quorum present and voting this _____ day of _____, 19__.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: _____
Chairman

ATTEST: R. B. SHORE,
Clerk of the Circuit Court

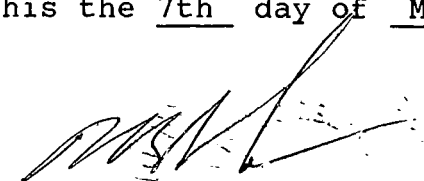
STATE OF FLORIDA

COUNTY OF MANATEE

I, R. B. Shore, Clerk of Circuit Court, in and for the County of Manatee, State of Florida, do hereby certify that the foregoing is a true copy of an ORDINANCE adopted by the Board of County Commissioners of said County in session on the 6th day of May, 1986.

SUBJECT: ORDINANCE 86-14
AN ORDINANCE OF MANATEE COUNTY, FLORIDA,
REGULATING THE MANUFACTURE OF FIREWORKS AND
SPARKLERS AS DEFINED BY FLORIDA LAW; REGULATING
SALE AT WHOLESALE OF FIREWORKS AND SPARKLERS AS
DEFINED BY FLORIDA LAW; REGULATING RETAIL SALE
OF SPARKLERS AND USE OF FIREWORKS AND SPARKLERS;
PROHIBITING RETAIL SALE OF FIREWORKS AND SPARKLERS;
RESTRICTIONS SALES OF FIREWORKS AND SPARKLERS TO
MINORS; PROVIDING PROCEDURES FOR PERMITTING LAWFUL
FIREWORKS DISPLAYS; RESTRICTING SALES AND USE OF
FIREWORKS OR SPARKLERS DURING EMERGENCY DROUGHT
CONDITIONS PROVIDING FOR ENFORCEMENT REMEDIES;
PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY;
AND PROVIDING FOR AN EFFECTIVE DATE.

WITNESS My Hand and Official Seal this the 7th day of May,
1986, in Bradenton, Florida.



R. B. Shore, Clerk of Circuit Court
Manatee County, Florida.



FLORIDA DEPARTMENT OF STATE
George Firestone
Secretary of State

FILED FOR RECORD
85 MAY 15 AM 11 23

May 12, 1986


Honorable R. B. "Chips" Shore
Clerk of Circuit Court
Manatee County Courthouse
Post Office Box 1000
Bradenton, Florida 33506

P. B. L. RE.
CLERK CIRCUIT COURT
MANATEE CO. FLORIDA

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge:

1. Receipt of letter/s of May 5, & May 8, 1986
and certified copy/ies of Manatee Zoning Ord.
County Ordinance(s) #Z-86-42 & Regular Ordinances
86-2, 86-13, and 86-14
2. Receipt of _____ County Ordinance(s)
relative to:
(a) _____
which we have numbered _____
(b) _____
which we have numbered _____
3. We have filed this/these Ordinance(s) in this office
on May 12, 1986.
4. The original/duplicate copy/ies showing the filing date
is/are being returned for your records.

Cordially,

(Mrs.) Liz Cloud, Chief
Bureau of Administrative Code

LC/ mb

"F" Fireworks (sparklers)

FLORIDA-State of the Arts

86-14