

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2019-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, CREATING CHAPTER 83, FIREWORKS PERMITTING, AUTHORIZING THE COUNTY MANAGER OR DESIGNEE TO ISSUE A SPECIAL PERMIT FOR THE DISCHARGE OF FIREWORKS UPON WRITTEN APPLICATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR MODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 7, 1978 the Board of County Commissioners issued a resolution entitled "A Resolution Providing for the Issuance of a Special Permit to Discharge Fireworks Upon Stated Conditions"; and

WHEREAS, this Resolution provided that it was unlawful to sell, fire or discharge fireworks of any kind as defined under Section 791.01 provided that the county manager was authorized to issue a special permit for displays of fireworks; and

WHEREAS, Chapter 2007-67 Laws Of Florida has limited the ability of local governments to modify laws which were valid and continue to be valid after the passage of this law other than as expressly permitted by state law; and

WHEREAS, Sec. 791.02(1) allows the Board of County Commissioners to provide for the reasonable permitting of displays of fireworks outside of municipal boundaries; and

WHEREAS, the Alachua Board of County Commissioners wishes to update its rules concerning the display of fireworks without changing its prohibition on the sale of fireworks except as otherwise permitted pursuant to chapter 2007-67.

1 **NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY**
2 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:**

3 SECTION 1. Chapter 83 of the Alachua County Code of Ordinances is created as
4 follows:

5 **Title 7. – Health and Safety**

6 **Chapter 83. FIREWORKS PERMITTING**

7 **Sec. 83.01 – Title; purpose; applicability.**

8 This chapter shall be known as the "Fireworks Display Special Permitting Ordinance".

9 The purpose of this chapter is to ensure that persons discharging fireworks are experienced,
10 trained, insured, bonded and promise to adhere to the National Fire Protection Association (NFPA) code
11 for fireworks display.

12 The provisions of this chapter shall apply to all unincorporated areas of the County.

13 **Sec. 83.02 – Authorization of County Manager.**

14 The County Manager or their designee shall be authorized to issue a special permit for the
15 discharge of fireworks upon written application therefor and such discharge of fireworks pursuant
16 to such permit shall not fall within the prohibitions of state law.

17 **Sec. 83.03 – Issuance of special permit.**

18 The County Manager is hereby authorized to issue the special permit upon the
19 following conditions:

- 20 (1) Written application for same must be made not less than fifteen (15) business
21 days prior to its use.
- 22 (2) The applicant must demonstrate to the satisfaction of the County Manager
23 that they and all personnel under their supervision have sufficient experience,
24 background and training in the discharge of fireworks to not endanger
25 persons or property.
- 26 (3) The applicant must furnish Alachua County, Florida, with a certified copy of an
27 insurance policy or a certificate of insurance issued by an insurance agency authorized
28 to do business in the State of Florida showing general comprehensive liability and
29 property damage insurance with policy limits of not less than \$100,000,000, no less
30 than \$100,000 property damage coverage for each loss that may be occasioned in
31 connection with the use of such special permit by the permit holder. The County

1 Manager may, in their discretion, require such additional insurance coverages as they
2 deem necessary under the circumstances.

3 (4) The applicant must prepare and execute an agreement holding the County
4 harmless from any and all claims growing out of the use of such permit and
5 shall purchase contractual liability insurance under this agreement.

6 (5) The applicant shall provide a bond in a sum not less than \$5000 conditioned for the
7 payment of all damages which may be caused either to a person or to property by reason
8 of the applicant's display, and arising from any acts of the applicant, his agents,
9 employees, or subcontractors. If the policy of insurance required contains a deductible,
10 the amount of the bond shall be increased to the amount of the deductible. The County
11 Manager may, in their discretion, require such additional bond coverage as they deem
12 necessary under the circumstances.

13 (6) Such written application must have the written approval of the Alachua County's Fire
14 Marshall along with any other agency having jurisdiction.

15 (7) Such written application must have the written approval of the Sheriff of Alachua
16 County, Florida.

17 (8) The County Administrator is authorized to promulgate such other reasonable rules
18 and regulations are deemed necessary to protect the health and welfare and safety
19 of persons and property.

20 I. Any such permit issued pursuant to the provisions of this Ordinance is non-
21 transferrable and is good only for the event(s) and the time and place
22 designated on such permit.

23 II. The use and display of such fireworks shall be in accordance with the current
24 version of the NFPA 1123 as adopted by F.A.C. 69A-3 as it may be amended
25 from time to time.

26 III. Permit Submittal Requirement. The following items are required to be filled
27 out and provided to the Alachua County Office of Codes Enforcement for
28 "Application for a Special Permit to Discharge Fireworks".

29 i. Application for Fireworks Display Form.

30 ii. Certified Copy of Insurance Policy

31 iii. Bond or Check in the amount of \$500.00

32 **Sec. 83.04 – Violations and Penalties.**

33 Violations of this Chapter may be enforced pursuant to section 10.08 of the Alachua County
34 Code of Ordinances. Continued violation, each violation, and every day in which a violation occurs
35 or continues, shall constitute a separate offense.

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2 SECTION 2. Inclusion in the Code, Scrivener's Error. It is the intention of the Board of
3 County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions
4 of this ordinance shall become and be made a part of the Code of Laws and Ordinances of
5 Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to
6 accomplish such intention; and that the word "ordinance" may be changed to "section," "article,"
7 or other appropriate designation. The correction of typographical errors which do not affect the
8 intent of the ordinance may be authorized by the County Manager or designee without public
9 hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.

10 SECTION 3. Repealing Clause. All ordinances or portions thereof in conflict herewith
11 are, to the extent of such conflict, hereby repealed.

12 SECTION 4. Modification. It is the intent of the Board of County Commissioners that
13 the provisions of this ordinance may be modified as a result of considerations that may arise
14 during public hearings. Such modifications shall be incorporated into the final version of the
15 ordinance adopted by the Board and filed by the Clerk to the Board.

16 SECTION 5. Severability. If any word, phrase, clause, paragraph, section or provision of
17 this ordinance or the application hereof to any person or circumstance is held invalid or
18 unconstitutional, such finding shall not affect the other provisions or applications of the
19 ordinance which can be given effect without the invalid or unconstitutional provisions or
20 application, and to this end the provisions of this ordinance are declared severable.

21 SECTION 6. Effective Date. This ordinance shall take effect upon adoption.

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1 **DULY ADOPTED** in regular session, this ____ day of _____, 2019.
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4 **BOARD OF COUNTY COMMISSIONERS OF**
5 **ALACHUA COUNTY, FLORIDA**
6

7 ATTEST:

8 BY: _____
9 Charles S. Chestnut, IV
10 Chair, Board of County Commissioners

11 _____
12 J. K. "Jess" Irby, Esq.
13 Clerk of Court

14 APPROVED AS TO FORM

15
16 _____
17 County Attorney

18 (SEAL)