

FIRE PROTECTION DISTRICTS:
PROSECUTIONS:

Violations of the ordinances, rules and regulations of the Hickman Mills' Fire Protection District should be prosecuted through the office of the prosecuting attorney of Jackson County.



August 5, 1957



Honorable Austin F. Shute
Assistant Prosecuting Attorney
Jackson County
415 East 12th Street
Kansas City, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"This office has had a request from the Fire Chief of the Hickman Mills, Missouri, Fire Protection District for a warrant, said warrant to be issued for the violation of an ordinance duly passed and approved by the Fire Commissioners of the said fire district.

"This district was originated and incorporated under the provisions of Chapter 321 RSMo, 49 as amended and is located within Jackson County, i.e., a class '1' county.

"Section 321.220 gives the Board the power to enact ordinances among other things and makes the violation of such ordinances a misdemeanor. This particular district has enacted ordinances suggested by the Missouri Inspection Bureau.

"This office would like to have your opinion as to whether or not warrants should issue from our office for violations of said ordinances."

Your question is whether violations of the ordinances, rules and regulations of the Hickman Mills' Fire Protection District of Jackson County are to be prosecuted through the office of the prosecuting attorney of Jackson County.

All references to statutes herein will be to RSMo 1949.

Numbered paragraph 1 of Section 321.010 reads:

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"1. A fire protection district is one to supply protection against fire by any available means. Such district must be wholly within a county of class one, must consist of contiguous tracts or parcels of property, and may include within its boundaries, or may be contiguous with any city, town or village."

Numbered paragraph 12 of Section 321.220 reads:

"(12) To adopt and amend bylaws, fire protection and fire prevention ordinances, and any other rules and regulations not in conflict with the constitution and laws of this state, necessary for the carrying on of the business, objects and affairs of the board and of the district, and refer to the proper authorities for prosecution any infraction thereof detrimental to the district. Any person violating any such ordinance, rules and regulations is hereby declared to be guilty of a misdemeanor, and upon conviction thereof shall be punished as is provided by law therefor;"

From the above, it will be seen that a violation of any ordinances, rules and regulations of the fire protection district is a misdemeanor.

Section 56.060 reads in part as follows:

"The prosecuting attorneys shall commence and prosecute all civil and criminal actions in their respective counties in which the county or state may be concerned, * * *."

Section 545.010 reads in part as follows:

"All felonies shall be prosecuted by indictment or information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; and all misdemeanors shall be prosecuted by indictment or by information in the courts having jurisdiction thereof. * * *."

Section 545.240 reads in part as follows:

"Informations may be filed by the prosecuting attorney as informant during term time, or with the clerk in vacation, of the court having

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jurisdiction of the offense specified therein. All informations shall be signed by the prosecuting attorney * * *."

From the above, it will be seen that all criminal actions, which include misdemeanors, shall be prosecuted by the prosecuting attorney and that all misdemeanors shall be prosecuted by indictment or information and that all indictments or informations must be signed by the prosecuting attorney. Since violations of the ordinances, rules and regulations of the fire protection district are made misdemeanors, it follows that proceedings for their violation shall be by the prosecuting attorney of Jackson County.

CONCLUSION

It is, therefore, the opinion of this office that violations of the ordinances, rules and regulations of the Hickman Mills' Fire Protection District should be prosecuted through the office of the prosecuting attorney of Jackson County.

The foregoing opinion, which is hereby approved, was prepared by Assistant Attorney General Hugh P. Williamson.

Yours very truly,

John M. Dalton
Attorney General

By

Robert R. Welborn
Assistant Attorney General

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