

COMMUNITY DEVELOPMENT**MEMORANDUM**

To: Planning and Zoning Commission
From: Andrew Fangman, City Planner
Date: May 25, 2017
Re: Zoning for Fireworks Sales

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

Near the end of the recently concluded legislative session the Iowa Legislature approved Senate File 489 (<https://www.legis.iowa.gov/legislation/BillBook?ba=SF%20489&ga=87>) which legalizes the sale and use of consumer fireworks. Consumer fireworks include items such as firecrackers, bottle rockets, roman candles, sky rockets, aerial shell kits, reloadable tubes, multiple tube devices, mine and shell devices, etc. This new state law will permit sale and potentially the use of consumer fireworks within the City of Muscatine starting on June 1st of this year.

SF 489 has left many important aspects of the sale and use of consumer fireworks up to local jurisdictions, and as such the City Code needs to be amended to address this change in state law. Because this law goes into effect on June 1st, City Council intends to make the necessary changes to City Code at its June 1st meeting. Prior to this the Planning and Zoning Commission needs to make a recommendation on where and how the sale of fireworks should be allowed within the City of Muscatine. To do this the Commission needs to answer the following three questions.

Should the City of Muscatine allow for the sale of fireworks to occur in areas beyond those zoned for general industrial use (the M-2 Zoning District)?

While SF 489 did give local jurisdictions the option of prohibiting or limiting the use of consumer fireworks, it does not give the same local control to questions of permitting the sale of fireworks. Local jurisdictions must permit the sale of consumer fireworks between June 1 and July 8 when sold from a permanent building and between June 10 and July 8 when sold from a temporary structure such as a tent. However, so long as sale of consumer fireworks is permitted somewhere within a local jurisdiction, they retain the right to zone for it, the same as any other commercial activity.

The City of Muscatine Zoning Ordinance as currently written does not distinguish between consumer fireworks and other types of explosives. Therefore, until the zoning ordinance is amended, the sale of fireworks is limited to the General Industry (M-2) District, and then only with an approved conditional use permit. Should the sale of fireworks occur in other zoning districts in which retail sales are permitted?

Should there be a restriction on how close a temporary structure selling fireworks can be to an existing residential structure?

If it is decided to allow for the sale of consumer fireworks in zoning districts other than the M-2 district, staff recommends that a restriction be placed on how close a temporary structure selling fireworks can be placed to an existing residential structure. The reason for this recommendation is two-fold. First is safety, a tent or trailer containing hazardous material, such as consumer fireworks, should always be kept a safe distance away from all residences. Second, typically residences located near retail operations are buffered from the noise, light, commotion and other potential negative impacts of a nearby retail operation by the fact that most of this occurs inside of a building. When it occurs within in temporary structure such as a tent, further distance to mitigate the impact on surrounding residences is appropriate.

Should a conditional use permit be required for the sale of consumer fireworks?

In whatever zoning districts in which the sale of consumer fireworks in, should a conditional use permit also be required? Conditional Use permits are approved by the Zoning Board of Adjustment after a public hearing. All property owners within 200 feet are notified of the proposed conditional use permit and public hearing regarding it. The benefits of requiring a conditional use permit are that it would allow for individual review and approval of each proposed site for the sale of consumer fireworks, and it would also give neighbors and the general public a chance to offer input prior to any approval. The major drawback to requiring a conditional use permit is that it requires anyone looking to sell consumer fireworks to make their plans well in advance. The ZBA only meets once a month, and applications are required to be submitted two week prior to the hearing date. This means that for this year, May 23rd is the latest that an application for a conditional use permit to sell fireworks could be turned in.

